SENATE—*Thursday, November 9, 1989*

(Legislative day of Monday, November 6, 1989)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

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

Let us pray:

I will say of the Lord, He is my refuge and my fortress: my God; in him will I trust.—Psalm 91:2.

Almighty God, eternal refuge, on behalf of the Senators, their families, and all support staffs on the Hill, thank You for the Capitol Police, their faithful, tireless labor for the security of people and place. Participants in the Capitol Police awards ceremony yesterday revealed unusual dedication. Almost daily, demonstrators demanding arrest, dangerous persons with weapons, and many other incidents threaten the Senators. Often at risk of life, these committed men and women respond courageously, quietly, efficiently. Meanwhile, business as usual goes on in offices and Chamber, oblivious to the events, minor and major, which require instant action. Heroism is a common occurrence, though to those not involved, police work seems routine. They save lives and property unknown to us, yet their attitude is they are simply doing their duty.

Thank You, God, for these extraordinary servants who hourly walk the fine line of hospitality and security, diplomacy and protection. Help us never to take them and their service for granted. Bless them and their loved ones. Protect and preserve them in their daily round. In the name of the Servant of servants, Jesus. 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, November 9, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

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, following the time reserved for the two leaders this morning, there will be a period for morning business until 11 o'clock with Senators permitted to speak therein for up to 5 minutes each.

At 11 a.m., the Senate will resume consideration of H.R. 3014, the legislative appropriations conference report, under the provisions of a unanimous-consent agreement of last evening. This agreement provides that the only amendment in order is one to be offered by Senator WILSON to the House amendment to Senate amendment No. 6, the subject of which is mass mail. The Wilson amendment will be considered under a 1-hour time limitation with the vote occurring when the time is used or yielded back.

Mr. President, Senators should therefore be alerted that a rollcall vote could occur around noon today.

Once we have disposed of the legislative conference report, the pending business will be the Poland-Hungary assistance bill. I hope we can make some progress on that matter today before completing our business.

Tomorrow is the day on which the Veterans Day holiday is formally celebrated, and the Senate will not be in session tomorrow.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time. I yield to the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. The time for the majority leader is reserved.

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

The ACTING PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for morning business not to extend beyond 11 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. I thank the Chair.

(The remarks of Mr. REID pertaining to the introduction of S. 1861 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

UNION OF AMERICAN HEBREW CONGREGATIONS PASSES ARMENIAN GENOCIDE RESOLUTION

Mr. DOLE. Mr. President, the Union of American Hebrew Congregations—a major reform Jewish organization—met recently in New Orleans for its annual convention.

Among other actions taken by the convention was passage of a joint resolution commemorating the victims of the Armenian genocide, and urging passage of Senate Joint Resolution 212—the Armenian genocide resolution I introduced.

Last week, in remarks on the floor, I indicated my disappointment that some Jewish Americans had chosen to oppose and work against my joint resolution.

For that reason, I especially want to take note of the convention's action; to commend it for its decision; and to express appreciation for its support of Senate Joint Resolution 212. I also want to note the fact that the distinguished Senator from Michigan [Mr. LEVIN] was there and spoke to the

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

group, and I think, in large part turned them around from what I thought might be the response of the convention. I appreciate the support of Senate Joint Resolution 212.

I ask to have printed in the RECORD the text of an article from the Fresno Bee newspaper, which provides some interesting insights into the convention's consideration of its own resolution; and which also includes the text of the resolution passed by the convention.

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

[From the Fresno Bee, Nov. 7, 1989]

FRESNANS WIN GENOCIDE RESOLUTION

(By John G. Taylor)

NEW ORLEANS.—A drive for national recognition of the Armenian genocide surged forward Monday when a resolution pushed relentlessly by Fresno's Temple Beth Israel was unanimously approved by the Union of American Hebrew Congregations.

After 20 minutes of debate, delegates stopped a political seesaw that as late as Sunday night seemed destined to doom the resolution because of the Fresno temple's insistence on using the word "genocide" instead of "tragedy" or "massacre."

In adopting the resolution, the group, which represents as many as 1.5 million Reform Jews in the United States and Canada, approved:

A commendation to the U.S. Holocaust Memorial Museum for "its announced decision to include reference to the Armenian and other genocides to the extent that they help illuminate or relate to the story of the Holocaust."

An instruction to the Reform movement's Religious Action Center in Washington, a lobbying group, "to encourage passage of S.J. Res. 212, a joint resolution now before the U.S. Senate designating April 24, 1990, as "National Day of Remembrance of the 75th Anniversary of the Armenian Genocide of 1915-1923."

An exhortation to Jewish congregations to become educated "as to the facts and the lessons of these tragic chapters of modern history."

Additional background information was approved that noted the "shameful chapter" of Ottoman Turkish history, in which 1.5 million Armenians were exterminated.

Also drawn was a distinction between the Ottomans and modern-day Turkey: "Our respect for modern Turkey's traditions of pluralism should not deter us from learning the lessons of past mistakes."

The resolution that was first put to the floor had erased all mentions of genocide, replacing them with "tragedies" and "massacre." Robin Fox, Fresno Temple Beth Israel sisterhood president, rose to amend that resolution and reintroduce language that the resolutions committee had refused to allow.

Several speakers strongly opposed use of the term "genocide," the notion of endorsing a Senate resolution and even the watered-down version of the proposal.

A delegate from Detroit cited terrorism from Armenian groups, the insistence by some Armenians on "vengeance," and "the giving up of identity of our own people."

Another delegate from Massachusetts who said he was speaking on behalf of his rabbi, who was born in Turkey, claimed that the "facts of the genocide are not well-known."

But the dominating arguments by far came from supporters of the genocide resolution.

Fresno Rabbi Kenneth I. Segel, who spent countless hours lobbying on the convention floor and by telephone, spoke from impassioned speeches by Elie Wiesel and the congregation's own leader, Rabbi Alexander Schindler.

Schindler's Armenian Martyrs' Day speech of 1987 and eloquent and unexpected remarks made by U.S. Sen. Carl Levin, D-Mich., here Sunday night were widely believed to have signaled a change in the resolution's outlook.

Rising to support the genocide resolution were delegates from New Jersey, Virginia and Rabbi Alfred Gottschalk, a Holocaust survivor and president of Hebrew Union College in Cincinnati.

Gottschalk said: "This resolution shows solidarity with those who suffered before our own people . . . and that these crimes cannot be engaged in again."

Segel, his voice breaking with emotion, said that because of "truculent resistance" and denials by the Turks, Armenians have been denied the access to punishment and recognition of tragedy that the Jewish people have been accorded.

"It happened. It is real. It must not be denied," Segel said.

Although some of the 3,500 delegates attending the five-day convention had left when the genocide resolution was heard shortly after noon Monday, many of its vocal backers remained.

Hugs, handshakes and congratulations were pressed on Segel, his wife, Sandra, and Fox. Congregation President Marc Wilson and his wife, Sandy, who had been active in trying to round up delegates, were forced to leave early Monday.

A weary but beaming Segel said afterward: "I'm not a power broker. Fresno is not San Francisco or L.A. We brought something to the convention because it was right and moral, and it prevailed. Morality prevailed. . . . I'm proud to be a Reform Jew and a rabbi.

"The real winners are the Armenians, the self-respect and the Armenian community. The real losers are tyrants and despots who shed blood, who suppress human rights and dignity," said Segel, who may try to bring forward similar resolutions at rabbinate conferences.

"I hope as a result that other groups will follow and that in some way, a crescendo will rise in expressing moral outrage (and in support) on the Senate resolution. And that, maybe, the Turkish government will finally express culpability."

ARMENIAN GENOCIDE RESOLUTION

This is the exact text of the Armenian genocide resolution passed unanimously by the Union of American Hebrew Congregations.

TITLE: 1915 GENOCIDE OF OVER 1 MILLION ARMENIANS

The massacre of over 1.5 million Armenians beginning in 1915 by the Ottoman Turks and the subsequent exile of an additional 500,000 Armenians is one of the most shameful chapters of modern history.

Elie Wiesel, a past U.S. Holocaust Memorial Council chairman said, "Before the planning of the final solution, Hitler said, 'Who remembers the Armenians.' He was right. No one remembered them, as no one remembered the Jews. Rejected by everyone, they felt expelled from history."

The U.S. Holocaust Memorial Museum Executive Council has unanimously agreed to include reference to the Armenian and other genocides to help illuminate or relate to the story of the holocaust.

We recognize that the Turkey of today is vastly different from the Ottoman Empire of 1915. Our respect for modern Turkey's traditions of pluralism should not deter us from learning the lessons of past mistakes.

The genocide is one of those instances of mass destruction which has both preceded and followed the holocaust to which the U.A.H.C. has drawn notice over the years, that their lessons might not be forgotten (among them Biafra and Cambodia).

Therefore, the Union of American Hebrew Congregations resolves to:

1. Commend the executive committee of the U.S. Holocaust Memorial Museum for its announced decision to include reference to the Armenian and other genocides to the extent that they help illuminate or relate to the story of the holocaust.

2. Instruct the reform movement's Religious Action Center in Washington to encourage passage of S.J. Resolution 212, a joint resolution now before the U.S. Senate designating April 24, 1990 as "National Day of Remembrance of the 75th Anniversary of the Armenian Genocide of 1915-1923."

3. Educate our congregants as to the facts and the lessons of these tragic chapters of modern history.

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

The ACTING PRESIDENT pro tempore. Without objection, the remainder of the Republican leader's time is reserved.

TRANS-ANTARCTICA EXPEDITION—DAY 107

Mr. DURENBERGER. Mr. President, I rise once again to give my colleagues an update on the 4,000-mile Trans-Antarctica expedition.

Today is day 107 for the six-man team. They have dogsledded nearly 1,275 miles since they began in August and nearly 200 miles in the last 7 days. The daily average is about 20 miles per day. Their average should improve as they reach the continental plateau. Thus, although they are about three weeks behind their schedule the team is still optimistic that they can complete the 4,000-mile trek by March 1990.

The team is past their newly established base camp at Patriot Hills on the back side of the Ellsworth Mountains. This range contains the highest mountains on the continent, including the 4,900-foot Mount Vinson. To reach the new camp their path took them through a mountain pass with many dangerous crevasses. In fact on Sunday, November 4, the team ran into a crevasse that was over 200 meters deep—that, when combined with the bad weather, forced them to stop for the day.

Besides crevasses, the team has another problem. The only female of the

42 dogs the team brought with them is in heat! That dog, Thule is very strong and smart, serving as lead dog for the trek. Thus, as the team leader Will Steger put it, "the dogs have a new incentive to pull with vigor." Mr. President, I believe that is an understatement. It must be chaos. Imagine all those male dogs, most of them part wolf, chasing the only female. In fact, it became so disruptive that Thule had to be moved to the back of the last sled.

Last Friday was the team's 100th day on the ice. They had hoped to celebrate with vodka that the Soviet team member Victor Boyarsky had brought along. But the vodka was one of the sacrifices the team made when it sent nearly half of its equipment back to the Chilean head camp to lighten the load and speed travel. So, they celebrated with herb tea instead.

Mr. President, after 100 days together the team has developed a routine that has them traveling from 8 to 12 hours a day as weather, daylight, and terrain permit. During the day they stop only a half-hour lunch break. They divide the chores into three parts: Feeding the dogs, cooking the meals, and setting up camp. At about 6 p.m. each day the team stops for the day and makes camp, eats, contacts the rest of the world, reads, writes in their diaries, and prepares for the next day.

Mr. President, the six adventurers are pursuing a difficult dream, one that I share, and I hope that my colleagues will begin to appreciate some of the wonders that the good Lord has created in all of us, as exemplified by these adventurers from six of the nations of the world.

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

Mr. CONRAD. I thank the Chair.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 1862 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CONRAD. I appreciate the indulgence of the Chair and I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from North Carolina [Mr. SANFORD].

MASSIVE DEBT AND BUSINESS

Mr. SANFORD. Mr. President, when I think of our $3 trillion debt, and our annual interest to service that debt of a quarter of a trillion dollars, compounding like an avalanche, I think of three groups:

First, the Social Security beneficiaries of the year 2000 and beyond, who are going to find that the nest has been robbed of the eggs, and the chicken along with it. We have borrowed their funds in past years to spend on military and other government, and now we are borrowing it all each year just to pay the interest.

Second, I do not envy the eager, hard-working generation—age 25 to 40—who are going to be in control of a nation bankrupt and declining in wealth and influence. Before any one of them can reach the age of 50 our national debt could equal our gross national product, and then surpass it. How will they handle that debt? What will they think of our betrayal of them in piling up for them massive secret debt?

Third, I shudder for business, built by hard work and faith. This week I held a Budget Committee hearing in Charlotte, NC. Here is what they said:

An executive of a large electric utility company:

> The budget deficit exerts upward pressure on interest rates. [These] higher interest rates contribute to a higher cost of building the generating, transmission and distribution systems required to meet the demand for electricity. Over time, the deficit's effect on capital costs means higher rates for customers. [Also] higher interest rates add to the cost of electricity which then adds to the costs of industrial and other business customers, reducing their competitiveness.

An executive of a major national insurance company:

> Simply put, if inflation and interest rates are running too high, a sense of hopelessness can develop which leads our citizens to conclude there is nothing worthwhile that they can do to help themselves save for retirement.

The CEO of a major food company:

> The problem for most businesses in dealing with the deficit is the huge hidden loss. We are always playing defense. Everyone you deal with borrows money and is affected by high interest rates and limitations on growth that come from deficit.

A young woman, CEO of textile related investments, with a number of companies:

> Despite all the major strides the textile industry has made to invest to become more competitive, including the investment in over $2 billion in new equipment in 1988, this industry and others that are import sensitive are bearing the brunt of our budget deficit. Until we address the budget deficit problem, we cannot solve our trade deficit troubles.

The head of an Afro-American business organization, and a successful Chrysler dealer:

> The budget deficit has been costly to black Americans. President Reagan decided to allow the U.S. budget to run into the red and borrow money to make ends meet. . . . Black Americans lost the chance that gave us the opportunity to break out of the cycle of poverty.

An executive of a major regional bank:

> Chronic deficits are of grave concerns to bankers. Those deficits have impaired our ability to compete in world markets, undermined the credit worthiness of our customers and blurred our vision for the future. The 1980s are likely to go down in history as the decade of "debt mania." We bankers are beginning to wonder if we've become unwitting "pushers" to a nation of "debt junkies."

So business ought to be concerned. And we ought to be concerned for business. Jobs and future careers and stable homes are at stake when American business is threatened.

How bad is it? The budget sent to Congress had built into it a deficit of $270 billion, and a coverup of all but $100 billion, once again visiting vast fraud and deceit on the American public. How bad is it? Of every dollar we collect in nondedicated taxes this year, 40 cents will go just to pay interest on the national debt.

How bad is it? As one executive at this hearing commented, it is an implicit mortgage of $45,000 owed by every family in America.

It is time that we had an honest budget. It is time to strip away the deceit and fraud. That is the first step.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Minnesota [Mr. BOSCHWITZ].

EXTENSION OF MORNING BUSINESS

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that morning business be extended for an additional 15 minutes.

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

CAPITAL GAINS

Mr. BOSCHWITZ. Mr. President, I rise to speak about capital gains and the need for lowering the capital gains rates that is before the Senate but probably will not be passed, as I read the tea leaves, in this particular session of the Senate, though I am most hopeful that it will occur later on.

Much is made, Mr. President, of the fact that capital gains are supposed to inure largely to the rich. I would like to address that for just a moment. It may indeed be that many capital gains or most capital gains do inure to those people whose incomes exceed $100,000, and I would like to also examine them.

But one must consider first that capital gains inure principally from assets that are held by American citizens. The principal assets of Americans are their homes and the capital gains from homes have been largely excluded from taxation. If you sell your home and you make a capital gain and you invest in a new home that has a value that exceeds the value of the old home, there is no capital gains reported at that moment. If you are over 55 and you have a capital gain on your home, the first $125,000 of that gain is exempted from taxation. So the principal asset of most Americans is exempted from capital gains taxation for all practical purposes.

Second, the second largest asset that most Americans have is the value of their pensions and the pension funds that are put together, either through their own savings or the contributions of an employer or a combination of the two. That is a huge part of the pool of capital in this country. I have read it is in the 25- to 30-percent range of the total capital in the country. That, too, is exempted from capital gains taxation.

So when you take the principal assets of most Americans, exempt them from taxation, what do you have left? You have left the gains that inured to Americans from savings or investments that they have made. And indeed that may inure, as I say, to people whose income is higher. Capital gains, almost by definition, are entrepreneurial, risk taking. They are the results of taking risks. Many Americans choose not to do that. Capital gains are also the results of investing savings, savings that are the result of after-tax income. You have to accumulate those savings after taxes. And so that when you tax a capital gain, you are really taxing the same income for a second time.

Then one would have to ask, who are these people who are wealthy? Does it include a farmer who works his land for 30 or 40 years and purchased it at a low rate and has 300 or 400 acres and sells it then for the present price, most of which is an inflated price that has occurred over the 30 or 40 years? In that year, indeed, that farmer has a pretty good income and is among the rich. He would like to be among the rich every year, but it is in that year that he is counted among the rich.

The person who has built a business and perhaps owns the real estate associated with the business, and it is a small business—it could be a shoe store, hardware store, lumber yard—works at it and finally gets the ability to pay for it, also gets the inventory in pretty good shape and over the years paid down his obligation, sells the business in that year, indeed, he is among the rich or she is among the rich, but not necessarily in other years. But yet they are counted in this calculation.

So, Mr. President, the people who come in and talk to me about capital gains are not principally those who we would consider the captains of industry, those who are managers of large funds, those who can get proper advice on how to minimize their taxes. But most of the people who talk to me about capital gains are these entrepreneurs, normally single proprietors who have put a lifetime of work into their particular business or their land and are now going to translate that into capital gain.

I think that the fairest approach to capital gains is to allow the inflation part not to be taxed and any gain in excess of inflation to be taxed at regular rates or to reduce the amount of the capital gains that will be taxed by a longer holding period. That is a proposal that has been made by the distinguished Senator from Oregon [Mr. PACKWOOD] and that is a proposal that I support.

I think that capital gains for many reasons do deserve an incentive type of tax treatment, and some of those reasons I have delineated this morning.

I thank the Chair, and I yield the floor.

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

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

The legislative clerk proceeded to call the roll.

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

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

SENATOR COHEN COSPONSOR OF SENATE JOINT RESOLUTION 159, EARTH DAY

Mr. CHAFEE. Mr. President, I would like to take a brief moment to set the record straight regarding Senator COHEN's cosponsorship of Senate Joint Resolution 159, a joint resolution designating April 22, 1990, as Earth Day. On October 26, 1989, the senior Senator from Maine was added as a cosponsor to this resolution. The record should show that Senator COHEN should have been listed as a cosponsor prior to passage of Senate Joint Resolution 159; however, inadvertently, his name was not included on the list of cosponsors at that time.

STOCK PRICE VOLATILITY

Mr. LEAHY. Mr. President, the sudden and unexpected drop of 190 points in the Dow Jones Industrial Average mostly during the last 75 minutes of trading on Friday, October 13, 1989, has raised concerns among small and large investors alike. Are our stock and related futures and option markets a safe place for individuals to place their savings? Are the regulators of these markets coordinating their functions effectively? Have reforms put into place following the market crash of "Black Monday," October 19, 1987, worked properly?

On October 17, 1989, during hearings before the Committee on Agriculture, Nutrition, and Forestry on S. 1729, the Futures Trading Practices Act of 1989, I asked the Chairman of the Commodity Futures Trading Commission, Dr. Wendy Gramm, for an analysis of these matters in light of the "Friday the 13th" experience. In doing so, I told her that I wanted to receive at least a preliminary response to my inquiry before bringing S. 1729—which was reported from the committee last week—to the Senate floor. If the CFTC found that immediate reforms were necessary, I wanted to be able to enact them quickly.

Two days ago, I received a letter from Chairman Gramm setting forth her preliminary findings.

Because of the great interest in this issue both among the public and among my colleagues, I ask unanimous consent that my October 17, 1989, letter to Chairman Gramm requesting her analysis, and her November 7, 1989, response, be printed in the RECORD.

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

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, DC, October 17, 1989.

Hon. WENDY L. GRAMM,
Chairman, Commodity Futures Trading Commission, Washington, DC.

DEAR CHAIRMAN GRAMM: The severe volatility in stock and related futures markets during the past few days, including the 190-point loss in the Dow Jones Industrial Average on Friday, October 13, 1989, underscores the central theme of S. 1729, the Futures Trading Practices Act of 1989 which Senators Lugar, Kerrey, and I introduced two weeks ago. Confidence is essential for these volatile financial markets to function. Without trust in the basic integrity of traders, exchanges, and regulatory systems, participants will stay away and the legitimacy of prices will be questioned. The entire economy suffers as a result.

We cannot finish this reauthorization cycle for the CFTC without examining issues raised by these recent events. For this reason, I ask that the Commodity Futures Trading Commission initiate an examination of them with an eye toward answering three principal questions:

1. How effectively did regulators of the stock and futures markets, both at the exchange and federal agency levels, cooperate and communicate in managing the market events of Friday and Monday, October 13 and 16, 1989?

2. Did reforms instituted after the 1987 crash—"circuit breakers," inter-market surveillance, and enhanced coordination among clearing houses—perform properly during this period? Did circuit breakers in particular have the effect of lessening volatility or increasing it?

3. Did the market effectively maintain its financial integrity in the face of the volatility of those two days? Were margin levels, clearing, and settlement systems sufficient to handle the strain?

The Committee will discuss with you a timetable for completion of this analysis. However, I will want to hear at least a preliminary report before Congress finishes action on the legislation before us. If the CFTC finds that reforms are needed, I want to be able to implement them quickly.

Thank you for your continuing assistance to the Committee on these matters of utmost importance.

Sincerely,

PATRICK LEAHY,
Chairman.

COMMODITY FUTURES
TRADING COMMISSION,
Washington, DC, November 7, 1989.

Hon. PATRICK LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: In your letter of October 17, 1989, you raised several questions regarding the 190-point drop in the stock market on October 13, 1989, and the regulatory response of the Commission, other regulators and the affected exchanges. Before responding to your specific questions, a few general observations may be helpful.

On Friday October 13, 1989, the stock market experienced one of the largest single-day declines in history as the Dow Jones Industrial Average (the "Dow") fell 190 points (−6.9%). Most of that decline occurred in the final hour-and-a-half of trading, during which the Dow fell about 175 points. For the first time the initial levels of the coordinated circuit breaker rules on the stock index futures and option exchanges were triggered. Although the NYSE implemented its "sidecar" rule, which delays the automated routing of program trade orders to individual stock specialists for five mintues, no official trading halt occurred on that exchange. The interaction of the exchange rules that were employed on October 13 is described more fully below, and the sequence of their implementation is illustrated in the attached schedule.

The events surrounding October 13, 1989, were of much smaller magnitude that the events of mid-October 1987. The Price drop essentially was a one-day occurence, although it was followed by considerable intraday volatility on Monday, October 16, and Tuesday, October 24. The stock market recovered about 120 points in the Dow (+4.7%) during the week following October 13, a record one-week advance. Trading volume was considerably smaller, and it appears to be of a significantly different character than in mid-October 1987. The strains on the clearing and settlement systems emanating from the price volatility were less substantial than in 1987. Furthermore, as in 1987, no futures commission merchant failed due to capital impairments stemming from stock index futures price volatility, and no futures customer lost money due to a firm's failure. The futures exchanges' clearing systems responded well to the extraordinary fall in stock prices.

We have initiated a study of stock index futures trading and the relationship between the futures markets and trading on New York Stock Exchange (NYSE) on October 13, 1989. We are coordinating our study with the staffs of the Securities and Exchange Commission (SEC) and the relevant futures exchanges to ensure that the most complete information is available. We will make our findings available to you and your Committee as soon as that study is completed. Our interim response to your questions follows:

1. How effectively did regulators of the stock and futures markets, both at the exchange and the federal agency levels, cooperate and communicate in managing the market events of Friday and Monday, October 13 and 16, 1989?

We believe there was prompt, thorough and effective communication and cooperation regarding these market events, both among regulators and among the securities, futures and options exchanges. All pertinent parties were aware of the rapidly falling stock market before the first futures price limit levels were hit and were in frequent communication throughout the remainder of that Friday afternoon, over the weekend, and throughout the following Monday. Using the directories of home and office telephone numbers of key executives, the CFTC communicated frequently with other federal regulators and self-regulators. Contingency plans previously put into place appeared to operate smoothly, and intensive planning on October 13 and throughout the weekend significantly increased the preparedness of the financial system on October 16.

Our Market Surveillance staff began monitoring the markets more intensively than usual when they heard announcements from the NYSE over the inter-exchange telephone hotline (Information Network for Futures, Options and Equities, "INFOE", more commonly referred to as the "Hoot and Hollar" system) at about 2:40 p.m. EDT that trading was being halted by NYSE specialists in UAL and other airline stocks due to order imbalances. The staff immediately noted on their real-time price screens the rapidly falling values of major stock indexes and stock index futures. When the CME's 12-point price limit was hit, the staff notified the Commissioners and the audit staff in the Division of Trading and Markets of the stock market's rapid fall. The Director of Market Surveillance also contacted his regional staff to make sure they were monitoring the markets and talked to the surveillance director at the Chicago Mercantile Exchange. CFTC staff also went to the trading floors in Chicago and New York to monitor trading directly.

As prices fell, price limits were hit on the various futures exchanges and trading halts were instituted for stock index options on the Chicago Board Option Exchange and the American Stock Exchange. As these events occurred, they were announced by the exchanges over the INFOE system, which was being monitored by the CFTC and SEC. The INFOE system worked effectively to keep all exchanges informed instantaneously of the triggering of the various "circuit breaker" rules and of any other exchange actions.

On October 13 and throughout the period in question, the CFTC was in regular communication with the SEC, the Board of Governors of the Federal Reserve System (Federal Reserve), and futures exchange and clearing organization officials. These communications included telephone discussions between Chairman Breeden of the SEC and me and other appropriate counterparts at other regulatory agencies. I also called, or received calls from, the chief executives of the four exchanges on which stock index futures contracts are actively traded—the Chicago Mercantile Exchange (CME), Chicago Board of Trade (CBT), Kansas City Board of Trade (KCBT), and the New York Futures Exchange (NYFE). These discussions concerned ongoing market developments, such as the operation of circuit breakers and the status of intraday margin collections, as well as planning for the opening of trading on October 16. For example, in my discussions with William Brodsky, CME President, he advised me that the CME had made an intra-day margin call at 2:00 p.m. CDT; that all CME clearing members satisfied this call without apparent problems; that circuit breakers were then in effect; that the exchange had been in communication with the NYSE; that the CME would be considering margin increases; and that the CME had requested the Federal Reserve Bank of Chicago to keep the Fedwire open past its usual closing hour.

At the same time, CFTC staff were in communication with their counterparts at the SEC and the Federal Reserve and with relevant exchange staffs. CFTC financial audit staff initiated major market move procedures, which included making requests of the Chicago Board of Trade Clearing Corporation (BOTCC) and the CME Clearing House for projections of clearing firm exposure based upon projected stock index price movements. The audit staff also contacted the financial surveillance staffs of the futures exchanges, the National Futures Association and the Chicago Board Options Exchange (CBOE) and coordinated financial surveillance efforts.

After the market closed I met with senior staff to review the afternoon's events. Through these meetings and telephone conversations, I was fully advised of the special monitoring activities that were being conducted by CFTC in conjunction with each exchange and the SEC. No significant financial or settlement problems were apparent at that time, but careful evaluation of the financial status of exchange clearing members still was being conducted. Since the information needed to evaluate the situation was not fully available, I scheduled a Commission meeting for Sunday afternoon at 2:00 p.m. to get a better appraisal before the world's financial markets reopened that night and Monday morning.

At our Sunday afternoon meeting the Commission was briefed by its staff regarding the market activity on Friday. The Surveillance staff described the price movements in stocks, bonds and foreign currency markets and the implementation of price limits on futures exchanges. Friday's activity was compared and contrasted with October 1987. The Trading and Markets staff provided information on margin payments at the affected clearing organizations, the impact of the price movements on the capital requirements for futures commission merchants, and plans to facilitate smooth operation of the payments system on October 16. Representatives of the SEC and the Federal Reserve Board attended the meeting.

Also over the weekend Trading and Markets staff were in communication with the SEC, the Options Clearing Corporation and the BOTCC with respect to the contemplated transfer of accounts from a firm dually registered as a futures commission merchant and a broker-dealer. That firm appeared unable to maintain adequate net capital as a result of its securities option positions on the CBOE.

In addition the staff reviewed with exchange and clearing organization officials plans to assure smooth operation of payment and settlement systems on October 16 and other financial surveillance topics. The staff reviewed the ability of clearing member firms to make margin settlements due on Monday morning before the markets opened, the availability of New York and Chicago bankers to make the necessary credit determinations associated with such margin settlements and Fedwire availability.

On Sunday evening the Commissioners and staff monitored the reaction in international markets to the large price movements that had occurred in U.S. markets on Friday afternoon. While Asian, and later European, stock markets fell in response to the U.S. decline, the major foreign markets did not

extend the losses that were registered in New York and Chicago. CFTC staff also monitored trading in U.S. Treasury Bond futures during the CBT's Sunday evening session.

At approximately 7:50 a.m. on Monday, October 16, I was in telephone communication with the president of the CME concerning the CME's morning margin settlement. Immediately following that call, I telephoned SEC Chairman Breeden, Department of the Treasury Undersecretary Robert Glauber, and Council of Economic Advisors Chairman Boskin. Subsequently, I spoke with the CBT concerning its morning margin settlement. An open telephone line to monitor the markets was established that morning between Chairman Breeden at the SEC, President William Brodsky at the CME, President Richard Grasso at the NYSE and me.

By the open of the U.S. markets on Monday morning, the Commission was aware of the current financial status of the futures exchange clearing organizations and their member firms. All payments had been made satisfactorily on futures exchanges. The staff continued to monitor trading closely that day and to share information with the other agencies. A staff member from the Federal Reserve was present in our Surveillance Director's office to monitor the exchange hotline and real-time prices over our electronic market news systems and to relay that information back to the Federal Reserve. After some initial weakness during the first half-hour of trading, the stock index futures and the stock market moved upward without triggering any circuit breakers. The Dow closed up 88 points.

2. Did reforms initiated after the 1987 crash—"circuit breakers," inter-market surveillance, and enhanced coordination among clearing houses—perform properly during this period? Did circuit breakers in particular have the effect of lessening volatility or increasing it?

The coordination and planning efforts of the CFTC, other federal regulators, and self-regulatory organizations were significantly enhanced by the experience of the October 1987 market crash and procedural enhancements put in place in the wake of that event. Consequently we were prepared to act quickly and appropriately when stock prices suddenly fell sharply on October 13.

Intermarket financial surveillance was vigorous and thorough. The CFTC and the SEC exchanged information concerning troubled firms within their respective jurisdictions; the futures and securities self-regulatory organizations also exchanged information concerning developments in their markets. Federal regulatory and self-regulatory coordination efforts were aided by a variety of system enhancements put in place after October 1987. For example, INFOE, the new hotline communication network among exchanges and regulators, was used effectively on October 13 and October 16 by the futures and securities exchanges to communicate the implementation of circuit breaker procedures and to share market information, such as individual stock closings and reopenings. The pay and collect margin information-sharing system, in which all futures exchanges and the Options Clearing Corporation participate, was operational. Data generated by this system were made available to Federal Reserve Board staff on October 16.

Margin settlements reflected a number of procedural and planning enhancements. Intraday margin settlement procedures at both the BOTCC and the CME now provide for routine pay-outs to, and collections from, clearing firms on an intraday basis, thereby reducing burdens on clearing and settlement systems at the daily morning settlement. For example, by the end of the day on October 13, the CME had collected approximately $600 million and paid out approximately $460 million of a total of nearly $850 million in variation payments. Total variation payments and collects due to October 13 trading each equalled $848,315,710, as gains and losses on futures contracts are equal. As a result, more than half of the total settlement variation for the day was in the CME's clearing members' bank accounts prior to the close of the banking system on Friday.

In addition, due in part to experience gained in the October 1987 market break, early attention was paid to extending Fedwire hours on the evening of October 13 and the morning of October 16 to facilitate Chicago futures exchange margin settlements. The Federal Reserve Bank of Chicago kept the Fedwire open more than an hour-and-a-half beyond its normal closing hour on October 13, and it opened a half-hour early on October 16. Efforts also were made to assure that New York bankers would be available sufficiently early on the morning of October 16 to support Chicago futures settlements at 6:40 a.m. CDT, and some banks met over the weekend to make the credit determinations necessary to facilitate the margin settlements on Monday morning.

Coordination between clearing organizations and their settlement banks also was improved. The CME sent margin settlement instructions to its settlement banks earlier than normal on Saturday, October 14. CME Clearing House and settlement bank staff were in their offices on Saturday to review the relevant settlement figures. CME staff reminded the banks that the Fedwire would open early on Monday and emphasized the importance of timely margin settlement that day. By 6:33 a.m. CDT on Monday morning, all four active CME settlement banks had irrevocably committed to honor the CME's settlement instructions for all members.

On October 13, 1989, circuit breakers were implanted on futures and option exchange on an intermarket basis in accordance with the rules each exchange had adopted in response to the recommendation of the President's Working Group on Financial Markets in May 1988. Those recommendations included a unified circuit breaker mechanism to operate in a coordinated fashion across markets, with pre-established trading limitations that only would go into effect on those rare occasions of extraordinary price volatility and market stress. The basic coordinated circuit breaker rules adopted by all exchanges are designed to become effective when the Dow falls 250 and 400 points or when other stock indices fall by comparable amounts. The circuit breaker mechanisms include price limits and trading halts of specified durations followed by coordinated reopening procedures across markets.

Several futures and options exchanges also adopted additional circuit breaker (or "shock absorber") provisions that would become effective before the Dow fell 250 points or the equivalent 30 S&P index points. For example, the CME's rules include an opening price limit of five S&P index futures points for the first ten minutes of trading in that futures contract. Thereafter, another interim downward price limit of 12 index points would be in effect for a maximum of 30 minutes.

On October 13, 1989, the CME's 12 and 30 point price limits were triggered, as were price limits on all other stock index futures markets. The CME's stock index future fell to its 12 point limit at about 3:07 p.m. EDT, which remained in effect until 3:30 EDT, after which the 30 point limit went into effect. While these price limits inhibit trading by setting temporary price floors that may be higher than the true market level, they do not require a trading halt. Futures markets only would halt trading under their circuit breaker rules if the Dow fell by 250 points and the NYSE ordered a trading halt under its rules. The Dow never fell far enough to cause such a halt on October 13. However, trading in index options was halted on a discretionary basis by the Chicago Board Options Exchange and the American Stock Exchange. A list of the various exchange circuit breaker actions and their implementation times is attached.

In response to your question as to the effect of circuit breakers on volatility, we plan to analyze intraday price volatility and trading volume in the stock index futures contracts and their underlying stock indexes to assess the role of the various circuit breaker rules. Under the current rules the stock index futures and option markets may effectively close while the NYSE and other stock exchanges remain open. When such an occurrence takes place, sell orders that can no longer be transacted on the CME, for example, could be transferred to other markets that remain open. This, critics argue, may exacerbate trading problems at these other exchanges at a time when they are already overburdened, thereby increasing volatility.

To assess the validity of this concern our staff will conduct an analysis of price volatility and trading volume in stocks at the NYSE and index futures at CBT for those periods during which trading was and was not subject to price limits on the CME. The analysis will focus on determining whether price volatility and trading volume on the exchanges which remained open increased during these periods. The second approach will be to look at changes in any trends in volatility and volume which may have taken place as the periods of trading limitations were entered and exited.

Since October 13, 1989, was the first real test of these various circuit breakers, we believe it is still to early to judge their efficacy. Such a judgment requires a more careful review of the markets' interactions and consultation among the affected exchanges and regulators. Our initial reaction, however, is that the various rules and procedures implemented since October 1987 worked as designed, and their net effect appears to have been beneficial to both market performance and regulatory oversight. We were particularly pleased with the extent of interexchange and interagency coordination and the operation of the futures clearing systems.

3. Did the market effectively maintain its financial integrity in the face of the volatility of those two days? Were margin levels, clearing, and settlement systems sufficient to handle the strain?

Our review to date indicates that the futures markets effectively maintained their financial integrity in the face of the October 13-16 market volatility. Clearing and settlement systems functioned effectively to match trades and to settle margin payments on an intra-day basis as well as at daily morning settlements. The futures exchanges reported no defaults or delays in

the payment or margin by their clearing members. No futures commission merchant (FCM) failed. Two firms were closely watched, however, because of financial losses on securities options. One such firm is dually registered as an FCM and a securities broker-dealer; the second is a securities broker-dealer affiliate of an FCM. A more detailed review follows.

The Interim Report of the President's Working Group on Financial Markets discussed that "[t]he existing structure of maintenance margins appears to be adequate for prudential purposes even if one were to assume that protection against 95 or 99 percent of all price declines was required." Appendix B, p.5. The $4000 maintenance margin requirement in effect for the CME' S&P 500 futures contract during the October 13 trading day had been exceeded by a one-day price movement only once during the preceding year, representing protection against 99.5 percent of price declines over that period.

Because margin on futures contracts is collected on a daily and intra-day basis, margin levels generally are established by reference to historical and projected price volatility and secure open contracts against at least one day's losses. At the beginning of trading on October 13, the CME Clearing House held margin deposits of over three billion dollars securing all open contracts, an amount that would have covered losses of CME member firms generated by even an extreme market plunge. The October 13 trading activity actually resulted in losses and gains (which net to zero in the futures markets) of $848,315,710, an amount collected promptly and in full, as discussed below, by 6:40 a.m. CDT on October 16.

To provide a further cushion against extraordinary market volatility in light of the market events of October 13, all four exchanges on which stock index futures contracts are actively traded increased margin requirements for those contracts. The CME adopted increased margin requirements for the S&P 500 futures contract on a phased-in basis, following consultation with the Federal Reserve Bank of Chicago. As a result, effective at the close of business on October 13, the initial margin requirement for the S&P 500 futures contract was increased from $9,000 (about 5% of contract value) to $12,000 (about 7% of contract value) and the maintenance margin requirement was increased from $4,000 to $5,000. Effective at the close of business on October 16, the maintenance margin requirement was increased from $5,000 to $6,000. The CBT, NYFE and KCBT also raised both initial and maintenance margin requirements for their respective stock index contracts.

Trade clearance and margin settlements. The data available to date indicate that clearance and settlement systems performed effectively during the October 13-16 period. The CME reports that trade matching was accomplished for all trades executed on October 13, including error trades, prior to the opening of trading on October 16. This result was facilitiated by the CME's use of a special session on Saturday morning to address trades resulting from Friday's activity that had not been matched and cleared due to errors or other reasons. Prompt trade matching enables exchanges to complete trade clearing and to assess financial exposure more quickly, which is particularly important in volatile, high volume markets.

Daily and intra-day margin settlements appear to have been completed without delay or disruption. Prior to the opening of trading on Monday, October 16, the CME had effected all variation margin settlements representing profits and losses from Friday, October 13 trading activity, a total of $848,315,710. This included margin collected in two intra-day margin calls, a routine intra-day call at 2:00 p.m. CDT ($122,316,000) and a second intra-day call at 3:00 p.m. CDT ($476,277,000), as well as the regular daily morning settlement at 6:40 a.m. CDT on October 16 ($249,722,710). As noted above, pursuant to procedures put in place in response to the October 1987 market break, the CME (like the BOTC) now routinely pays out to its clearing members, as well as collects from its clearing members, variation margin on an intra-day basis. Intra-day payment and collection of margin serve to reduce the burdens imposed upon the settlement system by concentrated payment flows at daily morning settlements. In accordance with these procedures, the CME paid to its clearing members variation margin in intra-day settlements on October 13 of $105,610,000 and $354,360,000.

The CME effective settlement of a total of $522,452,203 in variation margin payments representing profits and losses on trading activity on October 16. This total includes approximately $424,606,000 collected in an intra-day settlement on October 16 and $97,846,203 collected at the 6:40 a.m. CDT daily settlement on October 17.

The BOTCC also reported that margin settlements on October 13 and 16 proceeded smoothly. BOTCC collected $75,665,000 by means of a routine intra-day margin call at 2:00 p.m. CDT on October 13 and $1,609,000 at daily settlement at 6:40 a.m. CDT on October 16. With respect to trading on October 16, the BOTCC collected $61,495,000 in an intra-day margin call and $14,375,000 at the 6:40 a.m. CDT daily settlement on October 17. As noted above, the BOTCC pays as well as collects variation margin on an intra-day basis. Pursuant to this procedure, the BOTCC paid $59,575,000 to its clearing members intra-day on October 13 and $47,120,000 intra-day on October 16.

I believe that the Commission and our staff acted quickly and deligently in response to the sudden drop in stock prices on October 13. Coordination among exchanges and government agencies also was prompt and thorough. As noted, we continue to evaluate a number of issues, both independently and through the Working Group. If you have any additional questions prior to the completion of our study, please let me know.

Sincerely,

WENDY L. GRAMM,
Chairman.

CHRONOLOGY OF CIRCUIT BREAKERS ON OCT. 13, 1989

Time e.d.t.	Exchange	Event	Relative price change [1] (percent)
3:06:19	NYFE	7-point limit hit on NYSE Composite Index Futures.	−3.5
3:06:55	CME	12-point limit hit on S&P 500 Stock Index Futures.	−3.3
3:09	NYSE	"Side-car" procedure implemented.	
3:14	NYSE	"Side-car" removed	
3:15:24	CBT	50-point limit hit on AMEX MMI Stock Index Futures.	−9.2
3:16	CBOE	Trading halt in S&P 100 and S&P 500 index options.	
3:17	AMEX	Trading halt in MMI index options.	
3:30	CME	Announces 12-point limit is off and is superseded by 30-point limit.	

CHRONOLOGY OF CIRCUIT BREAKERS ON OCT. 13, 1989—Continued

Time e.d.t.	Exchange	Event	Relative price change [1] (percent)
3:37:19	NYFE	NYSE Composite Index Futures hit 18-point limit.	−9.0
3:45	CME	S&P 500 Futures hit 30-point limit. Trades off limit.	−8.4
3:49:31	KCBT	Value Line Index Futures hit 30-point limit.	−9.8
3:52	CME	S&P 500 Futures lock at limit	

[1] Calculated from closing values on Oct. 12, 1989.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, on this, the 1,699th day that Terry Anderson has been held in captivity in Beirut, I ask my colleagues to continue to keep him in their thoughts.

Each day, Terry Anderson's struggle continues. Each day, we must renew our commitment and our resolve to see him released.

CRISIS IN EMERGENCY MEDICAL CARE

Mr. CRANSTON. Mr. President, over the last few months there have been increasing reports of trauma centers closing and emergency departments turning away patients. Surveys by the American College of Emergency Physicians and the National Association of Public Hospitals have found that emergency departments throughout the country are routinely experiencing overcrowding. Many emergency departments in urban areas are crippled by medical gridlock.

I want to share with my colleagues a recent article in the November 13 U.S. New World Report. Entitled "Help! This is an Emergency! this article describes graphically the crisis facing emergency medical services in the United States. I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CRANSTON. Mr. President, we have seen miracles of survival during the Sioux City plane disaster and the recent California earthquake because comprehensive trauma care systems were in place. At the same time, people may be dying needlessly because emergency medical care is unavailable. According to the article, as many as 25 percent of the residents in Los Angeles may not be able to get timely emergency care; 10 out of 23 trauma centers in Los Angeles have closed and the remaining 13 are filled to capacity on weekend evenings.

The cause of this crisis is primarily financial. The rising number of patients who cannot pay is resulting in

large financial losses for trauma centers forcing many to close.

Mr. President, legislation is pending in the Senate Labor and Human Resources Committee which would begin to address this serious health care issue. I introduced S. 15, the Emergency Medical Services and Trauma Care Improvement Act on the first day of the Congress. It would provide much needed assistance to communities and States to set up trauma systems. Equally important, it would provide for needed financial relief to trauma centers that are most severely financially stressed.

In terms of financial assistance to trauma centers, S. 15 is a modest bill and certainly would not solve the systemic problems associated with uncompensated care, which our nation's hospitals are facing. Those issues must be addressed comprehensively and nationwide. However, in the meantime we must help ensure that trauma centers are able to continue to provide lifesaving care to all who are in need. That is what S. 15 is intended to do.

I urge all my colleagues to support S. 15 and urge the Senate Labor and Human Resources Committee to act on the bill as expeditiously as possible.

EXHIBIT 1

[From U.S. News & World Report, Nov. 13, 1989]

HELP! THIS IS AN EMERGENCY!

(By Steven Findlay)

After the rumbling ceased and the dust settled, rescue squads and paramedics took center stage last month in Oakland at the grisly site on Interstate 880 where thousands of tons of concrete crushed dozens of cars at rush hour. They first pried 6-year-old Julio Berumen, after amputating part of one of his legs, from the wreckage. Three days later, they pulled out 57-year-old Buck Helm. Both owe their lives to the persistence and skills of paramedic teams and to the emergency care they received at Oakland's Highland and Children's hospitals.

Such decisive emergency response—and a bit of luck—was also evident in the hours after United Airlines Flight 232 slammed into a cornfield outside Sioux City, Iowa, last July. On impact, the plane tumbled over, broke apart and erupted into flames. Bodies were strewn for half a mile. Fortunately, the crash site was just 10 miles from three hospitals, one with a trauma center. Within 3 hours, rescue workers had found all 184 surviving passengers and had delivered them to hospitals for treatment. "At least 15 had only minutes to live when they hit our doors, and 30 others probably wouldn't have made it another half hour," says Dr. David Greco, who coordinated response to the crash at Sioux City's Marian Health Center.

COMING APART

These kinds of dramatic successes and heroics, however, have obscured growing problems in emergency care. That care is now itself in need of rescue: Ambulance service in many places has become slow and inefficient; beset by financial losses, between 50 and 100 trauma centers nationwide have closed, and emergency rooms, inundated with victims of drug-related violence and the poor desperate for some medical care, are understaffed and overflowing. A recent survey by the American College of Emergency Physicians found that the problem is not confined to the big cities. The report showed that emergency rooms in 41 states, including those in hundreds of smaller cities and towns, were so overcrowded that the health of patients was threatened. "The system is coming apart at the seams," says Dr. Henry Cleveland, president of the American Trauma Society. "It's that simple."

The benefits of prompt response to medical emergencies have been known since the early 1800s, when Napoleon's physician had medics follow advancing troops to treat the wounded as soon as they fell. But it was not until after World War I that the whine of an ambulance became a regular part of the landscape. In ensuing years, as medical advances enabled doctors to save more lives, hundreds of hospitals opened emergency rooms and trauma units to treat accident victims who have life-threatening injuries. Trauma units have surgeons and specially trained staff on hand or on call 24 hours a day, and the emphasis is on rapid-fire diagnosis of a patient's needs and immediate treatment. Emergency rooms and trauma units were also widely seen as smart financial moves because they assured a steady flow of patients.

But social trends and economic realities have conspired to overwhelm the system, and that steady flow of patients has turned into a torrent in some places. The 37 million Americans who have no health insurance or inadequate coverage use emergency rooms as their main source of health care, and by law cannot be turned away. In true emergencies, the care they get is warranted. But "the emergency room has supplanted the family doctor for these people," says Virginia Price-Hastings, chief of paramedic and trauma hospital programs for Los Angeles County. The poor and uninsured are not the only ones affected. In fact, the difficulties encountered by middle-class and wealthy people in emergency medical situations have focused new attention on the issue.

BUDGET PROBLEMS

Not surprisingly, money is a big part of the problem. Federal and state efforts to cut costs in the giant medicare and medicaid programs have reduced reimbursements for emergency care so drastically that even if all patients were insured, many emergency rooms would still be squeezed. Both government programs reimburse hospitals for 60 to 70 cents for every dollar of emergency care delivered. That translates into a $5,000 loss on the average trauma-patient's bill of $13,000. Innercity hospitals lose between $2 million and $3 million a year on their trauma-care and emergency-room operations. Budget pressures have also prevented hosptials from expanding the number of beds in intensive-care wards, where severely injured patients are eventually transferred. When intensive-care beds get filled, the backup in the emergency room often means patients languish in noisy halls for days at a time. Getting qualified doctors and nurses to staff trauma centers and emergency rooms under these conditions is not easy.

As a result, many hospitals are getting out of the trauma-care business. The laws of most states permit hospitals to downgrade trauma units to regular emergency rooms, which need not have a surgeon present. In Los Angeles, for example, 10 of 23 hospitals with trauma centers have downgraded in the last three years; so have dozens of hospitals in New York, Chicago, Detroit, Miami and many smaller cities. Emergency-care experts concede that in a few larger cities the rush by hospitals in the 1970s to establish trauma centers led to an excess and that a shakeout was inevitable. Los Angeles officials want only four of those 10 former trauma centers reopened, for example. In the meantime, they say about 25 percent of the city's population is at risk of not being able to get timely emergency care. On most weekend nights, all of L.A.'s remaining 13 trauma centers and as many as half of its 93 emergency rooms are filled. Ambulances have to roam the city trying to find a hospital room for their passengers.

ELDERLY PATIENTS

In smaller cities and rural areas, the uninsured poor and the old, many of whom have chronic illnesses and either cannot afford or cannot find room in a nursing home, are regular visitors to emergency rooms. Saginaw, Mich., is a good example. A blue-collar city of 85,000, Saginaw has three hospitals with emergency rooms. In the past year, all three have had to divert patients to each other primarily because their intensive-care beds were filled with elderly people with chronic ailments. "No one has died yet while riding around in an ambulance," says Dr. J. Brian Hancock, Saginaw's director of emergency medical services. "But it's going to happen."

In rural areas, geographic barriers and the lack of modern equipment are often major obstacles to speedy emergency care. In some places, ambulances have not been updated in a decade. And emergency helicopters that can service remote areas are in short supply. Two thirds of the country geographically lies 50 miles or more from a trauma center or suitable emergency room, and 40 percent of the U.S. population, most in rural areas, has no access to emergency 911 telephone systems. Yet many rural states, including Arkansas, Kansas, Minnesota, South Dakota and Wyoming, neither designate trauma centers nor have any system for coordinating emergency response, in the event, for example, of a major accident in a remote area.

The capable terms of medical personnel that are depicted on television shows such as "St. Elsewhere," "Rescue 911" and "M*A*S*H" are also a far cry from the reality in many communities. Emergency-care experts say only a minority of paramedics in many small towns are trained in advanced life support, which includes instruction in the use of the most sophisticated, modern lifesaving equipment. Response time may also be lax. The standard is to answer 90 percent of calls within 10 minutes. But recent studies indicate that many ambulance services average 15 to 30 minutes per call, and that they meet the 10-minute target in only about half the cases. Patients share some of the blame. About one third of ambulance calls nationwide are for nonemergencies—everything from menstrual cramps to minor cuts and scratches.

What sort of rescue the emergency-care system needs is not altogether clear. Short of major expansion of public and private health insurance—not likely in a time of tight budgets—hospitals can expect growing losses from uncompensated care. Future cutbacks in medicaid and medicare may be in store, too. "It certainly may get worse before it gets better," says Dr. Cleveland of the trauma society. But lawmakers are starting to pay attention, and there is broad agreement that emergency care has been on the back burner too long. In California, Governor George Deukmejian has signed

off on a plan to divert $220 million from a new surtax on cigarettes to help counties pay for uncompensated hospital emergency care.

Some states are also considering raising taxes on alcohol, which is involved in about 30 percent of all accidents, and using the money to defray emergency and trauma-care costs. At the same time, Congress is studying two bills aimed at improving the nation's fragmented trauma system. Both would require states to develop comprehensive trauma networks and to designate centers that meet certain minimum standards. Only about 400 of the nation's 1,050 trauma centers currently meet criteria set by the American College of Surgeons. As earthquakes, plane crashes and hurricanes make abundantly clear, nothing concentrates the mind and attention of public officials like a catastrophe. Now, with the emergency medical system itself in disarray, something may be done about it.

CONCLUSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, morning business is closed.

LEGISLATIVE BRANCH APPROPRIATIONS, 1990—CONFERENCE REPORT

The PRESIDING OFFICER. The Senate will now resume consideration of the amendments in disagreement to H.R. 3014 which the clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3014) making appropriations for the legislative branch for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. Under the previous order, the Senate concurs in all of the House amendments en bloc, with the exception of House amendment to Senate amendment No. 6.

The House amendments to the Senate amendments in disagreement agreed to en bloc are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert the following:

SENATE

MILEAGE AND EXPENSE ALLOWANCES

MILEAGE OF THE VICE PRESIDENT AND SENATORS

For mileage of the Vice President and Senators of the United States, $60,000.

EXPENSE ALLOWANCES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $15,000 for each such Leader; in all, $30,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others are authorized by law, including agency contributions, $55,019,000 which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,216,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, $296,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $1,474,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $458,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $661,500 for each such committee; in all, $1,323,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $290,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $147,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $8,852,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $28,000,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $983,000.

AGENCY CONTRIBUTIONS

For agency contributions for employee benefits, as authorized by law, $11,980,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $2,079,000: Provided, That $100,000 of the amount appropriated to the Office of the Legislative Council of the Senate for fiscal year 1989 shall remain available until September 30, 1990.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $676,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000, which shall remain available until September 30, 1991: Provided, That at the end of the paragraph preceding the heading "Contingent Expenses of the Senate" in subtitle A of the Congressional Operations Appropriations Act, 1989, strike the period and insert the following: ", which shall remain available until September 30, 1991."

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $1,101,500 for each such committee; in all, $2,203,000.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96-304 and Senate Resolution 281, agreed to March 11, 1980, $69,442,000.

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, $325,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $727,200.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $74,389,000 of which $6,000,000 shall remain available until expended.

MISCELLANEOUS ITEMS

For miscellaneous items, $7,506,000: Provided, That effective in the case of fiscal years beginning after September 30, 1989, section 120 of Public Law 97-51 is amended by striking out "$40,000" and inserting in lieu thereof "$50,000".

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, $161,124,000.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000.

ADMINISTRATIVE PROVISIONS

SECTION 1. The Chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1990, at his election, transfer not more than $50,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall

specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

SEC. 2. Funds appropriated to the Conference of the Majority and funds appropriated to the Conference of the Minority for the fiscal year ending September 30, 1990, may be utilized in such amounts as the Chairman of each Conference deems appropriate for the specialized training of professional staff, subject to such limitations, insofar as they are applicable, as are imposed by the Committee on Rules and Administration with respect to such training when provided to professional staff of standing committees of the Senate.

SEC. 3. Subsection (d) of section 2 of Public Law 100-123 (2 U.S.C. 58a-1), is amended by inserting immediately after "by the Sergeant at Arms)," the following: "and all other moneys received by the Sergeant at Arms as charges or commissions for telephone services,".

SEC. 4. (a) The Sergeant at Arms and Doorkeeper of the Senate is authorized to establish an Office of Senate Health Promotion.

(b)(1) In carrying out this section, the Sergeant at Arms and Doorkeeper of the Senate is authorized to establish, or provide for the establishment of, exercise classes and other health services and activities on a continuing and regular basis. In providing for such classes, services, and activities, the Sergeant at Arms and Doorkeeper of the Senate is authorized to impose and collect fees, assessments, and other charges to defray the costs involved in promoting the health of Members, officers, and employees of the Senate. For purposes of this section, the term "employees of the Senate" shall have such meaning as the Sergeant at Arms, by regulation, may prescribe.

(2) All fees, assessments, and charges imposed and collected by the Sergeant at Arms pursuant to paragraph (1) shall be deposited in the revolving fund established pursuant to subsection (c) and shall be available for purposes of this section.

(c) There is established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Senate Health Promotion Revolving Fund (hereinafter referred to in this section as the "fund"). The fund shall consist of all amounts collected or received by the Sergeant at Arms and Doorkeeper of the Senate as fees, assessments, and other charges for activities and services to carry out the provisions of this section. All moneys in the fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for promoting the health of Members, officers, and employees of the Senate.

(d) Disbursements from the revolving fund shall be made upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate.

(e) The provisions of section 4 of the Act of July 31, 1946 (40 U.S.C. 193d) shall not be applicable to any class, service, or other activity carried out pursuant to the provisions of this section.

(f) The provisions of this section shall be carried out in accordance with regulations which shall be promulgated by the Sergeant at Arms and Doorkeeper of the Senate and subject to approval at the beginning of each Congress by the Committee on Rules and Administration of the Senate.

SEC. 5. (a) Paragraph (3) of section 506(a) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)) is amended to read as follows:

"(3)(A) postage on, and fees and charges in connection with, mail matter sent through the mail under the franking privilege in excess of amounts provided from the appropriation of official mail costs, upon certification by the Senate Sergeant at Arms and subject to such regulations as may be promulgated by the Committee on Rules and Administration, (B) postage on, and fees and charges in connection with official mail matter sent through the mail other than the franking privilege upon certification by the Senate Sergeant at Arms and subject to such regulations as may be promulgated by the Committee on Rules and Administration, and (C) reimbursement to each Senator for costs incurred in the preparation of required official reports, and the acquisition of mailing lists to be used for official purposes, and in the mailing, delivery, or transmitting of matters relating to official business;".

(b) Receipts paid to the Sergeant at Arms from sales of postage on, and fees and charges in connection with mail matter sent through the mail by Senators, Senate committees, or other Senate offices (including joint committees and commissions funded from the contingent fund of the Senate), other than under the franking privilege, as cash or check payments directly from such Senators, committees, or offices, or as reimbursement from the Financial Clerk of the Senate pursuant to certification by the Sergeant at Arms of charges to be made to such funds available to such Senators, committees, or offices for such postage, fees and charges shall be used by the Sergeant at Arms for payment to the United States Postal Service for such postage, fees, and charges.

SEC. 6. On and after the date this Act becomes law, the Secretary of the Senate, subject to the approval of the Committee on Appropriations of the Senate, is authorized to provide up to $1,000,000 for capitalization purposes to the revolving fund established by the last paragraph under the heading "Contingent Expenses of the Senate" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a-1), by transferring to such revolving fund any funds available from any Senate appropriation account, with respect to which he has disbursement authority, for the fiscal year in which the transfer is made (or for any preceding fiscal year) or which have been made available until expended; and any moneys so transferred shall be available for use in like manner and to the same extent as the moneys in such revolving fund which were not transferred thereto pursuant to this section.

SEC. 7. The Secretary of the Senate may enter into an agreement with the Secretary of Education to provide closed captioning of the Senate floor proceedings, subject to the approval of the Senate Committee on Rules and Administration. The Senate authorizes the Secretary of Education to have access to the audio and video broadcast of the Senate floor proceedings for the purpose of captioning. Such funds as may be necessary to carry out the purposes of this section are authorized to be paid from the appropriation account for "Miscellaneous Items" within the contingent fund of the Senate.

SEC. 8. (1) The Secretary of the Senate and the Sergeant at Arms and Doorkeeper of the Senate are authorized to acquire goods, services, or space from government agencies and units by agreement under the provisions of the Economy Act, 31 U.S.C. 1535, and to make advance payments in conjunction therewith, if required by the providing agency or establishment.

(2) No advance payment may be made under paragraph (1) unless specifically provided for in the agreement. No agreement providing for advance payment may be entered into unless it contains a provision requiring the refund of any unobligated balance of the advance.

(3) No agreement may be entered into under paragraph (1) without the approval of the Senate Committee on Rules and Administration and the Senate Committee on Appropriations.

SEC. 9. The provisions of Senate Resolution 89, of the One Hundredth Congress, agreed to January 28, 1987, are hereby enacted into law, effective on the date such Senate Resolution 89 was agreed to.

SEC. 10. The second provision, under the headings "SENATE" and "Office of the Chaplain", of the Legislative Branch Appropriation Act, 1970 (Public Law 91-145) is amended by striking out "a secretary" and inserting in lieu thereof "such employees as he deems appropriate, except that the amount which may be paid for any fiscal year as gross compensation for personnel in such Office for any fiscal year shall not exceed $147,000".

SEC. 11. (a) For purposes of subchapters I and II of chapter 37 of title 31, United States Code (relating to claims of or against the United States Government), the United States Senate shall be considered to be a legislative agency (as defined in section 3701(a)(4) of such title), and the Secretary of the Senate shall be deemed to be the head of such legislative agency.

(b) Regulations prescribed by the Secretary of the Senate pursuant to section 3716 of title 31, United States Code, shall not become effective until they are approved by the Senate Committee on Rules and Administration.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 8 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken by said amendment, insert the following:

SPECIAL SERVICES OFFICE

For salaries and expenses of the Special Services Office, $237,000, to be disbursed by the Secretary of the Senate: Provided, That none of these funds shall be obligated until the Sergeant at Arms and Doorkeeper of the Senate and the Clerk of the House jointly report to the Appropriations Committees of both Houses their recommendation for the establishment, funding, staffing, support, and administration of a Congressional Special Services Office, or December 1, 1989, whichever first occurs.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 315. Effective in the case of this Act and any subsequent Act making appropriations for the Legislative Branch, for pur-

poses of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, or any other Act which requires a uniform percentage reduction in accounts in this Act and any subsequent Act making appropriations for the Legislative Branch, the accounts under the general heading "Senate", and the accounts under the general heading "House of Representatives", shall each be considered to be one appropriation account and one "program, project, and activity".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 36 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 317. At the end of Section 3216 of title 39, United States Code, add the following new subsection:

(e)(1) Not later than two weeks after the last day of each quarter of the fiscal year, or as soon as practicable thereafter, the Postmaster General shall send to the Clerk of the House, the House Commission on Congressional Mailing Standards, the Secretary of the Senate, and the Senate Committee on Rules and Administration a report which shall contain a tabulation of the estimated number of pieces and costs of franked mail, as defined in section 3201 of this Title, in each mail classification sent through the mail for that quarter and for the preceding quarters in the fiscal year, together with separate tabulations of the number of pieces and costs of such mail sent by the House and by the Senate.

Two weeks after the close of the second quarter of the fiscal year, or as soon as practicable thereafter, the Postmaster General shall send to the Clerk of the House, the House Commission on Congressional Mailing Standards, the Committee on House Administration, the Secretary of the Senate, and the Senate Committee on Rules and Administration, a statement of the costs of postage on, and fees and charges in connection with, mail matter sent through the mails as described in subsection (1) of this section for the preceding two quarters together with an estimate of such costs for the balance of the fiscal year. As soon as practicable after receipt of this statement, the House Commission on Congressional Mailing Standards, the Committee on House Administration, and the Senate Committee on Rules and Administration shall consider promulgating such regulations for their respective Houses as may be necessary to ensure that total postage costs, as described in subsection (1) of this section, will not exceed the amounts available for the fiscal year.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the first section number named in said amendment, insert: "318".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 319. (a) (1) The Architect of the Capitol shall be appointed by the President by and with the advice and consent of the Senate for a term of 10 years.

(2) There is established a commission to recommend individuals to the President for appointment to the Office of Architect of the Capitol. The Commission shall be composed of—

(A) the Speaker of the House of Representatives,

(B) the President pro tempore of the Senate,

(C) the majority and minority leaders of the House of Representatives and the Senate, and

(D) the chairmen and the ranking minority member of the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate.

The commission shall recommend at least three individuals for appointment to such office.

(3) An individual appointed Architect of the Capitol under paragraph (1) shall be eligible for reappointment to such office.

(b) Subsection (a) shall be effective in the case of apointments made to fill vacancies in the Office of Architect of the Capitol which occur on or after the date of the enactment of this Act. If no such vacancy occurs within the six-year period which begins on the date of the enactment of this Act, no individual may, after the expiration of such period, hold such office unless the individual is appointed in accordance with subsection (a).

Resolved, That the house recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the first section number named by said amendment, insert "320".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number named by said amendment, insert "321".

SENATE AMENDMENT IN DISAGREEMENT NO. 6

The PRESIDING OFFICER. The clerk will report the remaining amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$100,229,000, of which $23,978,000 is available only for Senate official mail costs, to be disbursed by the Secretary of the Senate, $44,530,000 is available only for House official mail costs, to be disbursed by the Clerk of the House, and $31,721,000 which may only be expended in fiscal year 1990: *Provided,* That, of the amounts appropriated heretofore or in this Act, the following sums that would have otherwise been expended in fiscal year 1990, according to estimates made by the Congressional Budget Office under section 308(a)(2) of the Congressional Budget and Impoundment Control Act of 1974, as amended (P.L. 93-344), shall not be obligated or expended during fiscal year 1990: $998,000 of the amounts provided heretofore or in this Act to the accounts under the heading "Senate", the amount for each to be determined by the Secretary of the Senate, with the concurrence of the Senate Committee on Appropriations; $580,000 of the amounts provided in this Act for reprogramming under the headings "Capitol Police Board", "Capitol Police", "Salaries"; $195,000 of the amounts provided in this Act under the headings "Office of Technology Assessment", "Salaries and Expenses"; $900,000 of the amounts provided heretofore or in this Act under the headings "Biomedical Ethics Board and Biomedical Ethics Advisory Committee", "Salaries and Expenses"; $184,000 of the amounts provided in this Act under the headings "Architect of the Capitol", "Capitol Buildings and Grounds", "Capitol Buildings", with the concurrence of the House and Senate Committees on Appropriations; $282,000 of the amounts provided heretofore or in this Act under the headings "Architect of the Capitol", "Capitol Buildings and Grounds", "Capitol Grounds", with the concurrence of the House and Senate Committees on Appropriations; $6,934,000 of the amounts provided heretofore or in this Act under the headings "Architect of the Capitol", "Capitol Buildings and Grounds", "Senate Office Buildings", with the concurrence of the Senate Committee on Appropriations; $225,000 of the amounts provided in this Act under the headings "Library of Congress", "Congressional Research Service", Salaries and Expenses"; $2,302,000 of the amounts provided heretofore or in this Act under the headings "Government Printing Office", "Congressional Printing and Binding", as approved by the Joint Committee on Printing, with the concurrence of the House and Senate Committees on Appropriations; $111,000 of the amounts provided in this Act under the headings "Library of Congress", "Salaries and Expenses"; and $3,578,000 of the amounts provided heretofore or in this Act under the headings "Government Printing Office", "Office of the Superintendent of Documents", "Salaries and Expenses", the balance".

Mr. REID. It is my understanding that the conference report is before the Senate.

The PRESIDING OFFICER. Pending is the House amendment to the Senate amendment in disagreement No. 6.

Mr. REID. Senator WILSON, I am told, will not be here until 11:30. Recognizing that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Parliamentary inquiry. What is the matter before the Senate at this time?

The PRESIDING OFFICER. The House amendment to Senate amendment No. 6, reported in disagreement, relative to the legislative branch appropriations bill.

Mr. REID. I yield to the Senator from California.

AMENDMENT NO. 1091 TO HOUSE AMENDMENT TO SENATE AMENDMENT IN DISAGREEMENT NO. 6

(Purpose: To eliminate unsolicited mass mailings and transfer savings to treatment of drug-dependent pregnant and post partum women and their children)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 1091 to the House amendment to Senate amendment No. 6.

Mr. WILSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

In amendment number 6, in the text proposed by the House to be inserted, strike out all up to and including "*Provided*, That, of the amounts" and isert in lieu thereof the following:

"$100,229,000 of which $8,978,000 is available only for Senate official mail costs, to be disbursed by the Secretary of the Senate, $14,530,000 is available only for House official mail costs, to be disbursed by the Clerk of the House, $31,721,000, which may only be expended in fiscal year 1990, and $45,000,000 is available for Model Projects Program for Pregnant and Post Partum Women and their Infants to be spent pursuant to 42 U.S.C. 290aa-13 to remain available until expended;

"*Provided*, That subsection (c) of section 3216 of Title 39, United States Code, is repealed;

"*Provided further*, That notwithstanding any other provision of this Act, there is hereby prohibited the use of the franking privilege for unsolicited mass mailings, as described in section 3210(a)(6)(E) of title 39, United States Code;

"*Provided further*, That only monies appropriated by law for official mail costs of the Senate and the House of Representatives may be used to defray such costs;

"*Provided further*, That the Committee on Rules and Administration may establish a minimum allocation of funds for mail costs of Senators representing states with fewer than three million residents and may allocate funds for the mail costs incurred by Senators prior to the date of enactment of this Act prior to making an allocation of funds to each Senator for authorized mail costs; and

"*Provided further*, That of the amounts".

Mr. WILSON. Mr. President, this is an amendment that relates to Senate amendment No. 6. I make that point on behalf of the managers. What I am seeking to do here will in no way affect amendment 35 or 36, which contain the reforms of which they are justly proud and about which they are concerned. However, I will simply state that as far as the reforms go, the ultimate reform, in my judgment, is to divert all the money that is presently being allocated, the hundreds of millions of dollars over the past decade alone that have gone into congressional newsletters, to what is a crying need and one that we have not yet met, though we have increased by tenfold the congressional funding for it.

Mr. President, I am going to take some time to talk about the terrible problem that is beginning to afflict this Nation, and we have seen only the tip of the iceberg. That is the problem of substance abuse by pregnant women resulting in the birth of innocently addicted newborns.

To shortcut this a great deal. I solicited an estimate from State agencies in California as to what the costs would be for the average innocently addicted newborn child addicted by its mother's use of crack cocaine during her pregnancy. It was conservatively estimated that the health care, the special compensatory education of that child would average $130,000 per year throughout childhood and perhaps going on into young adulthood for these children, because what happens is that they are not born healthy children. They are born with diminished capacities, to understate the severity of the irreversible damage they suffer by quite a bit.

They may suffer mental retardation. They may suffer physical deformity. They will almost certainly suffer the kind of neurological damage that makes learning difficult, if not impossible. They will suffer susceptibility to stroke. They will, in short, start life without a decent break and go through life without the kind of break that they would have had had they been born whole, which is to say without sustaining the child abuse through the umbilical cord that their mother's substance abuse inflicts upon them.

We currently have been spending about $4.5 million a year, a pittance, Mr. President, to deal with a problem that now afflicts 15 percent of all newborns in many parts of the country.

It is not purely the problem of the inner city. I went out into the central valley of California, to Fresno, to the medical center there. Fifteen percent of newborns suffer substance abuse. They are born 10 weeks premature at dangerously low birth weights, with cranial circumference smaller than it should be. These are children who are going to be a burden to themselves and, frankly, a burden to taxpayers, but, far worse, they should not be required to suffer as in fact they do, beginning with the suffering of withdrawal that makes the nurseries that hold these children piteous things to behold. You can hold one of these children in the palm of your hand they are so small at birth. I saw one after 2 months that had risen to a weight of 4 pounds.

Mr. President, this is a problem in the State of Florida. Governor Martinez testified before a Senate committee that next year he anticipates there will be 10,000 of these children born in the State of Florida. It is a problem in the city of Milwaukee, where Senator KOHL held a hearing. One of the witnesses was the director of public health.

In the strongest possible terms he advised us that we could expect the return of the orphanage as an American institution because we would be unable to find adequate foster parents to deal with these children that no one would want.

Mr. President, what we ought to be doing is preventing this tragedy and the way to do is it by mandatory rehabilitation, or for those strong enough to seek to get clean by themselves we should have massive outreach, education, and treatment facilities. Mr. President, we do not. We do not.

Let us not delude ourselves. There are isolated instances of success stories; the Mandela House in Oakland; the Phoenix Houses throughout the country know what it means to take someone, even someone unwilling, who comes in voluntarily, committed by an agency, and get them clean in a way that they are a good risk to be able to return to society, and to withstand temptation.

But what we are facing is the necessity to deal with this problem and $4.5 million "ain't" going to cut it. It is a pathetically, ridiculously low amount.

It is true that in the interval since this amendment first was on the floor this year we have substantially increased that. We put into the Office of Substance Abuse Prevention $50 million. Mr. President, that is a better than tenfold increase over what we are presently spending. But it is not nearly enough.

Those of us who come to this floor find that we are often confronted with very difficult choices, and close calls. Mr. President, what I am offering this morning is no close call. It should be easy.

First, for those who are concerned with whether they will be able to respond to mail other than the mass mailings called "congressional newsletters" which are the subject of this amendment, let me assure them that they will have ample funds to do so. Some colleagues have approached me in recent days expressing concern that my amendment would ban unsolicited mass mail and also not provide adequate funds for them to answer their constituents' letters. Well, that simply is not the case. It was not my intent, and it will not occur.

There is perhaps less than adequate information available about mail costs but to be on the safe side, I am modifying my amendment to assure that no Senator or House Member will be cut off from responding to his or her constituents.

First, this amendment will leave a significantly greater amount of money in the mail cost accounts. The amendment will strictly prohibit the franking of unsolicited mass mailings, but an adequate cushion will be left in the mail account for fiscal year 1990.

Second, the Rules Committee will be explicitly granted authority to cover mail costs incurred before the date of enactment prior to making allocations to each Senator. So no one will be embarrassed.

Mr. FORD. Mr. President, will the Senator yield at this point for a question, since he referred to the Rules Committee?

Mr. WILSON. On the Senator's time, but not on my time.

Mr. FORD. I do not have any time.

Mr. WILSON. I am sorry. I have very little. I will be happy to yield time later if there is time.

Mr. FORD. I understand. I thank the Senator for his courtesy.

Mr. WILSON. The Senator is welcome.

This will ensure as well that the committee will be provided the authority to provide a minimum allocation of mail funds to Senators who represent small States.

So there is no one who will be unable to respond to the mail. But what we are talking about are the unsolicited mass mailings, the congressional newsletters which are not asked for by constituents.

I ask you to ask yourselves honestly. How often have you been begged for a newsletter, whether your constituents depend upon that as the sole source of information about what you or anyone else in Government is doing for them?

We are elected to set and to keep priorities. Congressional newsletters, even if they were not, as they are so often, are thinly disguised campaign election pieces. Even if they were not, they simply cannot be considered the priority that we must confront if this Nation is not to see the entire iceberg surface in the most ominous tragic way.

We have not dealt adequately with the problem of substance abuse by pregnant women. We cannot do so unless we spend adequately to provide the kind of education, outreach and treatment that will allow them to get clean voluntarily, or involuntarily, and $50 million is not nearly enough.

Indeed, the increase of $45 million that this would provide will not adequately deal with the problem. But to the extent that we can prevent, we are avoiding all manner of costs, both human and tax, and I solemnly urge my colleagues to do so.

Priorities in this case are very easy to determine. This is not a close case.

How much time remains?

The PRESIDING OFFICER. The Senator has 19 minutes left.

Mr. WILSON. Ninteen minutes?

The PRESIDING OFFICER. That is correct; 1 hour equally divided.

Mr. REID. Will the Senator from California yield? The time had not started running. I know the Senator was under the assumption——

Mr. WILSON. The Senator is definitely under a different impression.

Mr. STEVENS. Will the Senator yield to me? The Senator from California called me and asked if we could start this amendment late. I indicated I had no problem about that. I understood the time would be running. We would have a half hour left.

This Senator has a conference to go to. I had no problem since we started at 25 of, to make it a half hour as we indicated. But I hope we can get this done. I have to go back to the conference.

Mr. WILSON. Mr. President, I will conclude my remarks. I was under the impression that the time had been shortened but I was still within my time.

Let me simply conclude by saying this: It is a privilege to serve in this body. I think everybody on this floor is someone whom I would call a friend. I wish we could spend more time personally than the circumstances permit. This used to be called a "club." It really is not any longer. That is not anyone's fault. It is simply a fact of life.

What I will say is that I think we all should be concerned with the reputation of the Senate. We did not come here to be popular either with one another or with our constituents. We came here, I assume, because of certain basic convictions. It is my basic conviction that the far more urgent priority is to deal with the problem of substance abuse by pregnant women than to send out unwanted congressional newsletters. That is what this attacks.

Let me say Congress has had some bad publicity in recent times. Some would say recent times goes back about two centuries. Will Rogers was not the first to enjoy a joke at our expense. We have provided all kinds such material and in the recent past as well.

What I think our constituents expect of us is to do what we are elected by them to do, to set and to keep priorities, and not to say that the most urgent of our priorities have to do with our own personal perquisites. They did not elect us to put perks above principle. The did not elect us to put perks above their real priorities. They did not elect us to put junk mail ahead of providing the kind of outreach treatment that will solve or go a long way toward solving this tragedy that is exploding in epidemic proportions, of substance abuse by pregnant women.

I can think of no more innocent victim in our society than the innocently addicted newborn who through no possible fault of his own faces a life which, to put it midly, will be one of distinctly diminished capacities and enormous costs both in terms of his own suffering and in terms of the obligation which taxpayers will have to shoulder in order to deal with those diminished capacities.

For those reasons, I hope, Mr. President, that my colleagues will see fit to grant passage to this amendment and send it to the House by the same margin that they gave earlier to a virtually identical amendment.

This contains one additional thing, and that is, it applies the antideficiency judgment or statute to congressional mail costs with the post office. There is no reason why all other agencies have to pay their bills, but we can run a tab with the post office. That is the present law; it should not be. I thank the Chair and yield the floor.

Mr. REID addressed the Chair.

Mr. REID. I am not going to take a lot of time to address all the points raised by the Senator, but there are some points that need to be talked about. First, I appreciate his acknowledgment that what we have in the bill is reform, and I have talked about that at some length last week, because there is real reform in the congressional mailing procedures in this bill. It is the best we are going to get, and we have talked about that before. It is important that we recognize that Members of the Senate recognize that there are real reforms in this bill.

Finally, on this subject of the crack babies. Let the Senate understand that the total funding for the addicted babies program for the last fiscal year was $4.5 million. The money, Mr. President, already in the pipeline for this year, is an almost 2,000-percent increase, a 2,000-percent increase. Yet, the Senator proposes yet another increase for this program—this, before we have any reliable assessment of the effectiveness of a program or the impact of such huge increases of funding. I repeat, a 2,000-percent increase.

I think we have to recognize that these programs have not been evaluated by the department or by the Committee on Labor and Human Resources. They have not indicated their support or rejection of this amendment. The Senator has not consulted with the Labor-HHS, Education Committee about the merits of the increase he is proposing. Importantly, Mr. President, the bipartisan drug agreement included the understanding that there would be no further amendments of shifting funds from one appropriation or bill to another to increase antidrug funding, and that the leadership on both sides would joint in tabling such amendments, if a tabling motion were offered, which it will be, I hope.

Mr. President, I know that the Senator from—I do not see him on the floor—Alaska has other things to do, but let me just say that the Senator indicates that there would be adequate money to mail. We have taken from this bill just about everything, as indicated last week when we spoke, .85 mailings—that is, mailing for newsletters, all that would be allowed under this bill, and if somebody sent something first class, it would be even less than that.

This bill has a tremendous amount taken out. There is just a bare minimum in this bill. I suggest, Mr. President, the amendment purports to ban so-called unsolicited mass mailings, but what does this really mean? Does it prohibit, for example, informational mailings on issues we know to have an important impact on our constituents?

In the State of Nevada, as an example, there was started there a group of people, which has now swept the country, who oppose the catastrophic bill passed approximately 1 year ago. I have received thousands of letters from my State on catastrophic care. The letters I received from those people indicated they want to be kept abreast of what was going on regarding castastrophic care. I have written to those people on more than one occasion. I have done that because that is what I need to do to do a good job at representing them in Washington.

We have other issues like catastrophic. There is abortion, gun control, savings and loan, section 89, capital gains, acid rain, global warming, aid to the Contras, arms control, congressional pay raise, honoraria, the fairness doctrine, pesticides on food, flag burning, various Supreme Court decisions, animal rights, Presidental nominees and, of course, franking, which we are talking about now.

So unsolicited mailings, what does that really mean? Under this proposal by the Senator from California, I would not be able to maintain contact with my constituents who were so concerned and are so concerned even today about catastrophic care, for example.

The unintended effect would be the spawning of a new consultant bureaucracy for the purpose of creating people who have solicited mass mailings. There are definitional questions in this amendment that would keep a battery of lawyers and staff occupied for years to come. At what point does mail become solicited? There are the enforcement questions.

Who will make the determination of whether a mailing is solicited or not, the Postal Service, Rules Committee, Postal Committee in the House or in the courts? We will create more jobs for lawyers, which we are very good at doing.

Under the most narrow interpretation, this could prohibit mass mailings to our constituents on the issues I have mentioned, on drug enforcement, education rehabilitation, aid, the trade deficit, discrimination against products that are American in nature in overseas markets. I could go on, but the point is obvious, Mr. President. Properly limited, newsletters and other mailings dealing with public issues are legitimate. Recognizing that we have so little money in this bill any more anyway, the amendment of the Senator would cut off this channel of communication. This is an unwise and really excessive move.

The amendment, of course, assumes that mass media provides adequate alternatives. People could learn about the issues by reading their newspapers or listening to radio and television coverage. This is obviously not so in many more sparsely populated areas, areas that are all over the State of Nevada and other parts of this country.

Worse yet, this argument betrays what I believe to be a strongly elitist conception of political participation. It says in effect, unless you have the time, interest, the information, energy, the self-confidence, the language skills, and other necessary resources to write to your Senator or Representative, you can forget about having any direct communication with the people elected to represent you in Washington, even when they know that what is about to happen will have a major impact on their life and economic well-being.

If you are not informed and aggressive enough to find out about it and pursue your interests on your own, tough. Mr. President, I reiterate, this is a good bill. It is the best we can get from the House. We have provided a 2,000-percent increase in the funding for this crack baby program that the Senator from California talks about.

I add one additional thing: The Wilson amendment contains a major change in current law which Senators should be fully aware of before they vote, because it could well expose them and their staffs to criminal penalties and fines of up to $5,000 and jail terms for 2 years, because it repeals subsection (d) of section 3216 of the franking statute. It would make Congress subject to this Anti-Deficiency Act with respect to this appropriation, which, as I have indicated before, could certainly obligate you and your staff to exposure to a law that I do not know how it could be enforced. It would preclude, on pain of criminal penalties funding, any overrun of the mail costs.

But one point should be very clear. Congress has never failed to pay its mail bill to the Postal Service. I do not think we want to put ourselves in the position of placing our staffs in a position of going to jail for sending out letters that may or may not be unsolicited.

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

Mr. FORD. On his time.

Mr. REID. The Senator has plenty of time remaining. I am happy to yield to the Senator from California for purposes of a question.

Mr. WILSON. Fine. If I do have time, I will be happy to yield to the Senator from Kentucky.

Do I understand that the Senator is saying he does not want to put Members of Congress in the same position as Members of Congress put all the other agencies of Government, that Congress alone should be immune from the antideficiency statute and we alone should be able to run a tab?

Mr. REID. I respond to the Senator that all other agencies are subject to this. There have been hearings held. I am saying this may be a good provision in the future in the law. It should not be decided here with out time limit on a conference report.

I would say this in response to the Senator: the Senator has contributed greatly to what I feel is a good bill. I have to say that. I think that his persistence and enthusiasm for change has meant a great deal to my subcommittee. I think some of these points the Senator raises in this amendment, and I have to say his amendment has been kind of a moving target, and this new provision may well be something we should put in the law. I would be happy to confer with the ranking member. It may be a good idea, but this is not the place to do it.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, to follow up on what my friend and colleague, Senator REID, said, we will be introducing legislation shortly that is a little different from the one paragraph that deals with the antideficiency law. What it will state is once the appropriate amount has been used, then the only responses that could be used would be in direct response to mail. You could not mail unsolicited mass mailings after the appropriated amount had expired. I think that is a good commonsense approach.

That way even if Congress did use up the appropriated amounts, then the only mailing they go forward with would be response mail. So we could still answer our mail to the constituents, which is part of our job. I think that is an important thing to do.

I also will echo Senator REID's comment in complimenting the Senator from California for his conviction and courage on this issue, and also for the fact that he actually practices what he is preaching. The Senator from California has not made unsolicited mass mailings. Correct me if I am wrong. I think the Senator had almost zero cost when the average cost per Senator was significantly more for the last couple of years. I did not check all the years, but I believe that to be correct. So I compliment him because his colleague and many others from large States could easily spend millions of dollars in mass mailings. I believe the Senator from California, Senator WILSON, has not done so. So I make that comment.

Concerning the pending Wilson amendment, the first thing I will just touch on, looking at the amendment—

and it has changed and been modified on a couple occasions—it would appropriate a little less than $9 million for Senate mail cost. Last year the Senate spent about $28 million. So you can see that we are talking about an amount significantly less than what we had last year and in previous years.

For the House, he would appropriate $14.5 million. Last year the House spent an estimated $57 million. So that is a very significant reduction. The amendment does that, basically.

If you look further down the amendment, he would totally prohibit the use of franking for unsolicited mass mailings. There would be no newsletters or no more mass mailings. That to me is ambiguous. I am not sure that would be an answer to the mail problem.

If you had 2,000 constituents who had written a letter that said "I want you to repeal catastrophic," and they had written you a year ago or maybe 6 months ago, could you write a response to them? I would think that would be legitimate. I would consider that a response.

We looked at the statute. I am not sure it is all that clear. It could be clarified by the Rules Committee, and, incidentally, I think it will be clarified by the Rules Committee following passage of the rule if they do it following this piece of legislation. But that could probably be taken care of. But I would be concerned if we went so far as to say unsolicited mass mailings would prohibit you from responding to your constituent, as Senator REID had mentioned earlier.

The amendment does a couple other things. One, it says we will transfer these savings, estimated to be $45 million, into a model project for pregnant and postpartum women and infants, so-called crack babies. Last year $4.5 million was spent in that program. This year, fiscal year 1990, there will be $85 million. It is probably the biggest expansion or increase in the program I am aware of to go from a little less than $5 million to $85 millon in 1 year. That is a dramatic increase, to say the least.

I will concur with the Senator from California the need is there. There are some real problems with a lot of children born to a drug-dependent mother. There is a problem there.

Concerning one section of the Senator's amendment—and this is a section that causes this Senator a lot of concern because I support it—and that is that subsection (c) of section 3216 of title 39 is repealed. That is the section that allows Congress to continue mailing in spite of the fact that we exceeded our appropriated amount. The last 2 years we actually exceeded the appropriated amount by $31 million. So we have to come back and ask for a supplemental or as in this year in the fiscal year 1990 bill, we actually have $31 million to pay last year's costs. Congress really has not been very astute in budgeting, managing, and trying to figure out how to compute mail cost.

I will say it is obvious at least to the Senate, and I congratulate the Rules Committee for their initiative in the Senate. They have a plan or proposed rule which will allocate the cost and I believe they have every intention of enforcing that allocation to see that Senators do not spend more than the proposed allocation.

I also said when we had the bill originally on the floor that I thought there was little chance that Congress would stay within the apropriated amount. I would still say that that is my guess. Maybe not so much for the Senate. I would doubt that the House will stay with their figure. I hope that they do. I hope that both the House and Senate do. It will require significant restraint as compared to prior years.

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

Mr. NICKLES. I am happy to yield.

Mr. REID. The one thing we have in the bill that will certainly make things easier to track is the fact we have separate accounts. There will be no longer commingling to make our job easier to keep track of the money; is that not true?

Mr. NICKLES. The Senator is correct. We had the situation where the Senate did make reforms. I remember Senator MATHIAS, Senator STEVENS, and Senator FORD, and others, were involved in this. We did enact disclosure in the Senate and we made some savings. Unfortunately, the House spent most of the savings because they did not have disclosure or real reform or caps.

I am optimistic, or somewhat optimistic, that at least in the Senate with the Rules' proposals that are coming about, there can be some significant changes. I want to point out there are two or three different provisions in this bill.

One final point, I do not see the Legislative Branch Subcommittee appropriating money that is going to HHS. The Labor-HHS appropriations bill, if I remember, is about $155 billion. I may be off by a few billion dollars but it is $155 billion, and it provided funds for crack babies.

Mr. WILSON. Will the Senator yield?

Mr. NICKLES. I will in half a moment.

We also had money, I believe, in the drug package that was part of the Treasury-Postal Service bill. Those two bills were the appropriate vehicles. I do not really see that the legislative branch is the appropriate vehicle to deal with that problem.

The section that deals with antideficiency that says we should not mail more than we appropriate, I agree with. I inserted that, not exactly in the same language that the Senator has in his amendment, but we had language with the same result in the bill that passed the Senate. As I stated in my earlier objections, I did not sign the conference report for two reasons. One reason was that we did not come back with this language or something close to it in the conference report. I think it is necessary. I think without it we may not really have mail reform or at least significant enough mail reform.

Without that section of the Senator's amendment, what difference would it make if we appropriate $60 million or $100 million? Congress could continue to mail much more. And the Post Office would have to honor that unless we repeal that section of the statute. So at least as far as that one section of the Senator's amendment, I would be very supportive.

I am happy to yield.

Mr. WILSON. Mr. President, the question I would ask my friend has to do with the comment he made about the Labor-HHS appropriations bill. It is unhappily not as he thought. He mentioned $155 billion for the purposes that we are seeking to address in this amendment.

I am pained to tell him that the Labor-HHS conference report recommended $57.8 million, but of that only $4.75 million for this desperate problem of pregnant addicts.

If I were to ask where is S. 1711 now, well, I am afraid the answer is, the chances are very poor for its passage. That was the second of our omnibus drug efforts this year, and that was one that contained a Wilson-Kennedy-Hatch amendment for an additional $50 million for the Office of Substance Abuse Prevention for this purpose.

But, frankly, the only sure money that is in sight is the Labor-HHS appropriations conference report, and that is $4.75 million.

Mr. NICKLES. Just to respond to the Senator, we have requested this from staff and we were told that they had, between the two bills, $85 million. Labor-HHS had, I do not know if is $40 million or $50 million, and then in the Transportation bill—I think I said the Treasury bill previously—but in the Transportation bill in which we have the drug provision, we had a drug bill that was almost $9 billion. I think that also had some funding.

So the total amount would have been about $85 million.

Mr. WILSON. I think my friend is confusing the fact that there had been money that was recommended, but not for pregnant addicts—for high-risk use, for community use, for community prevention. But the only money that we are absolutely assured seeing

to go toward this problem of pregnant addicts is $4.75 billion contained in the Labor-HHS appropriations.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I yield whatever time the Senator consumes.

Mr. STEVENS. Mr. President, the Senator from California called me and told me he had a problem in getting here at the 11 o'clock time appointed and if we would just agree to shorten the time to a half an hour, he would appreciate it. We are over that time. I do not intend to speak very long, and then I intend to make a motion to table his amendment.

We have been on this bill before. This is an amendment to an amendment in disagreement raising subjects which were not raised before. There are three provisions to this amendment that were not here before. This is no time to bring up new matters dealing with legislative problems.

I thought we had an understanding, not only a gentleman's understanding, but an understanding of Senators—and we had an absolute commitment from the leadership that we would not have amendments transferring moneys from one portion of the budget to another. This one does that.

In order to satisfy the request of the Senator from California, we supported—this Senator and every Senator on the floor supported—increasing allocations for drug moneys to deal with the problem the Senator wants to deal with. The legislative problems that are in this amendment have no business coming before the Senate through the vehicle of an amendment to an amendment in disagreement. They deal with the rules of the Senate. We will have a resolution to follow immediately to establish new rules. If the Senator from California wants to discuss the rules, we will be glad to discuss the rules of the Senate.

This amendment deals with applying the Antideficiency Act to the Congress as a whole. The problems of implementing that act are horrendous, we are dealing with the fact that the act apply controls on the executive branch, people spending money that deal generally with programs and projects of horrendous amounts of money. We are talking about the problem of how do you apply the Antideficiency Act to an individual Member of Congress. Now, that is a Rules Committee problem and we must wrestle with it. This bill deals with that problem.

But the main reason I take the floor is we cannot as a Senate abandon the rules of the Senate and procedures of the Senate in an amendment to an amendment is disagreement now raising the same subject again which the Senator from California raised previously, which we have honored. We have increased the money for this program. The question ought not to be before us now.

I call on the Senate once again to defend the Budget Act itself, and that principle is this: This amendment would take, once again, the same $45 million that the Senator from California wanted to transfer from the legislative appropriations bill before and put it in a drug program. We accommodated that when the drug bill was before the Senate. Now to have as a vehicle, once again, this bill, the legislative bill, and once again raise the question, and the primary question, as I understand it, is the model project program for pregnant and postpartum women and infants. We have dealt with that. We have dealt with it now three times.

I say, enough is enough. That bill will be coming back and when it comes back the Senator from California can raise it then. There will be plenty of amendments to the amendments in disagreement on the drug bill, I can guarantee that. But it should not be on this bill. It is time for this bill to get to the President.

We have already talked about the Antideficiency Act. This bill should have been passed by September 30. We should have had this in place in the beginning of the fiscal year. One of the reasons we have not has been the previous amendment of the Senator from California. I see no reason to send this back to the House and not get it passed at all in this fiscal year.

I believe, speaking for the Rules Committee—and I think I speak for my good friend from Kentucky, the chairman of the Rules Committee—we will be pleased to take up the question in committee of what to do with the Antideficiency Act as it should apply to the Congress. It is so complex, we could never cover it with this one simple amendment that the Senator from California has brought to us today.

I move to table the amendment.

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

The PRESIDING OFFICER. Do the Senators yield back their time?

The motion to table cannot be made while time remains.

Mr. WILSON. Mr. President, I will take a brief time and then allow the Senator to renew his motion.

Mr. STEVENS. Mr. President, the time has expired under the Senator's agreement that we reached that we would have been through by 12 o'clock.

Mr. WILSON. Mr. President, I ask unanimous consent for about 2 minutes.

The PRESIDING OFFICER. Is there objection? Hearing none, the Senator from California is recognized for 2 minutes.

Mr. WILSON. Mr. President, the antideficiency statute should apply to the Congress as it relates to its mailing costs and certainly its junk mailing costs. We have not dealt adequately with the subject of pregnant addicts. Do not let anybody delude you that we have.

The only certain money is $4.5 million. It is a pittance. The Senate voted on September 7 of this year—not that long ago—8 to 7 in favor of this amendment. The House, soon thereafter, voted 245 to 137 to instruct their conferees to agree to this Senate amendment. No wonder the public grows cynical when they see us putting our procedures, our perks, our priorities ahead of their needs. Now, that is what is at stake.

For everyone who voted for this before, this is virtually the identical amendment, only with the antideficiency provisions applying to junk mail, which everyone on this floor has seen before. As, indeed, the Senator from Oklahoma indicated, we passed it. But it was also knocked out of the conference report.

Do not think we are kidding the American people. You may kid yourselves, but you will not fool them. They know when we are putting perks ahead of principle and ahead of their real priority. The vote was 8 to 7 and 245 to 137.

Mr. President, I will allow the Senator from Alaska to renew his motion to table and I will ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. KOHL. Mr. President, let me try to put this issue in context. When the Senate initially considered the legislative appropriation bill, I supported the Wilson amendment to take money from congressional mail and transfer it to programs designed to deal with the crack baby crisis.

But since we adopted that amendment, things have changed. When we initially acted on it, we were really responding to the fact that the administration had proposed an inadequate level of funding for the war on drugs. There was no money in their proposal to aid these babies or their mothers. I concluded that I was willing to restrict the frank in order to help these people and that is why I voted for the Wilson amendment.

Since then, however, we have come up with a plan that does fund the drug war and does direct resources to crack babies. The drug bill we passed last month provides more money for treatment of pregnant women—even though, interestingly enough, the President's proposal did not. When the Senate approved some amendments which I offered, we directed

some of the increased funds to this population. We can now begin to respond to their very real needs. We do not have to make a choice between crack babies and the frank.

And Mr. President, I do not want to make that choice. I believe in the frank, in the ability of Members of Congress to communicate with their constituents. During the debate on the Wilson amendment, I listened to Senator STEVENS and Senator BRADLEY describe the kind of mailings they did. And I concluded that they were doing their constituents a real service with the mail they sent. I do not want to see them denied the right to provide that service in the future. I have not sent out any newsletters on a statewide basis, but I suspect that I ought to—I ought to tell my constituents what I have been doing at least once a year. I also think that the kind of followup mail that I have done—letters to people, often more than 500 at a time, who have contacted me on an issue—makes perfect sense. I want to keep sending them, and I think my constituents want to keep getting them.

Are there abuses of the frank. Yes, no question about it. A new weeks ago, the Senator from New Hampshire took the floor and admitted that he had abused the frank. I suspect that there are other Members who may not have made the confession but have committed the same abuses. And I encourage people who are concerned about the way people use the frank to look at the mailing costs of each Senator rather than the vote on this issue. We ought to respond to the abuse of the frank either on a case-by-case basis or by revising the franking rules—not by eliminating our ability to communicate with constituents.

In short, Mr. President, I do not believe that the arguments by the Senator from California reflect the reality we now face. He does not need to put crack babies against the frank. The only reason to continue to do that is to try to score some political points, not to get aid to these kids on their mothers. I suggest we save the politics for later and get on with the task of helping these people now. And the best way to do that is to reject this amendment.

Mr. KASTEN. Mr. President, today I had the pleasure of meeting with Dr. I. King Jordan, president of Gallaudet University, and about 35 deaf students from Wisconsin. What emerged from our meeting was a clear sense of the desire for the deaf community to participate in our legislative process.

I was, therefore, delighted when, a couple of hours ago, the Senate approved the conference report on legislative branch appropriations—a piece of legislation that provides funding for the first-ever closed-captioning service for Senate proceedings.

In passing this bill, we're extending our hand to all the politically active and aware citizens who are hearing impaired. I hope and believe that it is but another step on the long road toward full participation and communication by this valuable group of Americans.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska [Mr. STEVENS] to table the amendment of the Senator from California [Mr. WILSON]. 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 Montana [Mr. BAUCUS] and the Senator from Hawaii [Mr. MATSUNAGA] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

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

The result was announced—yeas 66, nays 29, as follows:

[Rollcall Vote No. 293 Leg.]

YEAS—66

Adams	Durenberger	Mikulski
Bentsen	Ford	Mitchell
Biden	Fowler	Moynihan
Bingaman	Glenn	Murkowski
Boschwitz	Gore	Nunn
Bradley	Gorton	Packwood
Breaux	Graham	Pell
Bryan	Harkin	Pryor
Bumpers	Hatfield	Reid
Burns	Hollings	Riegle
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Conrad	Kennedy	Sarbanes
Cranston	Kerry	Sasser
D'Amato	Kohl	Shelby
Daschle	Leahy	Simon
DeConcini	Lieberman	Simpson
Dixon	Lott	Stevens
Dodd	Lugar	Symms
Domenici	McClure	Wirth

NAYS—29

Armstrong	Hatch	McConnell
Boren	Heflin	Metzenbaum
Burdick	Heinz	Nickles
Cohen	Helms	Pressler
Danforth	Kasten	Robb
Dole	Kerrey	Specter
Exon	Lautenberg	Thurmond
Garn	Levin	Warner
Gramm	Mack	Wilson
Grassley	McCain	

NOT VOTING—5

Baucus	Humphrey	Wallop
Bond	Matsunaga	

So the motion to lay on the table the amendment (No. 1091) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. REID. I move that the Senate concur in the amendment of the House to the amendment of the Senate numbered 6.

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

The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, this completes action on the conference report. That being the case, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. 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.

FROM PROTEST BACK TO POLITICS

Mr. MOYNIHAN. Mr. President, this was a notable morning for the United States and for our side of the Capitol. For this morning there was a meeting with the majority leader for the newly elected Democratic Members of the House of Representatives and, of course, the newly elected Governor of Virginia and mayor of New York City.

The distinguished Presiding Officer was present for that occasion, as well he should be, as a former Governor of the Commonwealth of Virginia. This Senator was also on hand to greet our mayor-elect, Mr. David Dinkins.

In the New York Times this morning there was a remarkably fine editorial on the election which was reported yesterday on the right-hand column of the front page. There, it said "The first black mayor elected." On the left-hand column it said: "First black Governor elected." And then a banner headline across related to those events.

Today's editorial is entitled "From Protest to Politics." This is the title of a well-known article written by the late Bayard Rustin in Commentary magazine in 1965, in which he said that with the great rising of black Americans—African-Americans, as they now have chosen to call themselves, and people do have a right to choose their own designations—the time had come to move beyond protests. With the enactment of the Civil

Rights Act and the Voting Rights Act of 1965, the time had come to move to the formal politics of coalition building and seeking out majorities that has characterized ethnic politics in America throughout its history.

It took some time for that movement to succeed and yet clearly, in the most dramatic ways, it has done so in the United States. Certainly, there are other instances, such as in Seattle or New Haven, where there were clearly what we would call white majorities or majorities of other groups, where this happened.

And yet, Mr. President, I rise to make a simple point that in the case of David Dinkins in New York City, it is not so much a transition from protest to politics as a transition from protest back to politics.

I was reminded of this by a remarkable column in yesterday's Newsday by Jimmy Breslin in which he describes a conversation he had Tuesday evening with J. Raymond Jones, sometimes chairman of the New York County Democratic Committee, head of the Carver Democratic Club, and now retired to his ancestral home in St. Thomas in the Virgin Islands.

J. Raymond "The Fox" Jones, as he is known, was the founder of the Carver Democratic Club. He arrived in the United States as a citizen of Denmark. He became a chauffeur to Charles Francis Murphy, then head of Tammany Hall at a time when Tammany Hall had a hall. Half a century went by, and he himself had achieved the exact post that Charles Francis Murphy—Mr. Murphy, as he was known—had occupied. Alas, the hall is gone.

I recall that, in 1965, Mr. Jones took me to his then modest office suite at the New York County Democratic Party on Madison Avenue. I looked into a little supply room and there was a large gilt framed oil painting leaning against the wall, and I asked what that was. He tipped it back. He said it was Mr. Murphy. I said, "Why is it not hanging?" He said, "I will not have Mr. Murphy looking upon us in our reduced circustances."

Ray Jones represented the principle of accommodation and coalition building and ethnic succession in New York politics. It was moving along very well until the upheavals of the 1960's, which began elsewhere but were felt in our own city. And it has taken us some time to get to them.

I note with some pleasure that I was a candidate for citywide office in 1965, chosen in effect by Mr. Jones, as was David Dinkins chosen that year to run for the assembly.

So Mr. Dinkins and I have known each other a long time and equally admire that enormously thoughtful, sensitive political leader. I talked with him not 4 weeks ago from the island of St. Croix when I inquired of him through the Governor of the Virgin Islands. The Governor found him and patched together a telephone hookup so I could speak to him there in the Virgin Islands, where his home overlooking the Drake Passage, had its roof blown off in Hurricane Hugo.

But Ray Jones is all right, is well, and has seen a life fulfilled in so many ways. A whole generation of African-American political leaders came out of his organization, out of his training, out of his nurturing, his care, and his dedication.

In that regard, Mr. President, I would like to ask that the column by Mr. Breslin and the editorial from the New York Times be printed in the RECORD at this point.

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

[From the New York Times, Nov. 9, 1989]

FROM PROTEST TO POLITICS

A generation ago, what happened in Tuesday's elections would have been inconceivable. As recently as a year ago, even a Las Vegas bookmaker probably wouldn't have given odds on the results. Even now those results look much closer than had been expected. No matter. They certify a remarkable shift in American politics.

New York City, where blacks are less than a quarter of the electorate, elected a black man as mayor. Virginia, the Old Dominion, with a black population of only 15 percent, appears to have elected a black man as governor. Seattle, where blacks are only 10 percent of the electorate, chose a black mayor by a 16-point margin. And in Houston, where blacks are just a third of the population, a Councilman who seemed sure of reelection two weeks ago was voted out after newspapers reported his use of an outrageous racial slur.

These results don't herald the millennium in race relations. Intolerance still abounds on all sides. In New York, the August slaying by whites of Yusuf Hawkins, an innocent black, is still vivid in public memory. Last weekend, black teen-age girls were arrested for terrorizing nervous white women with pins on Manhattan's Upper West Side.

Yet as New York's Mayor-Elect, David Dinkins, said in his victory speech, "November 7, 1989, is a date that will live in history." It marked "another milestone on freedom's road" and "a victory not just for African-Americans but for . . . all Americans."

How were this victory and the others won? To begin with, by long public service in the trenches. Mr. Dinkins, L. Douglas Wilder in Virginia and Norman Rice in Seattle are professional politicians. All were familiar with the system and familiar to the voters.

More to the racial point, however, each ran as a politician who is black, not as a black politician. Their appeals were across ethnic lines. They built coalitions and made the trade-offs that requires. For Mr. Dinkins and Mr. Wilder, that meant declining the help of the Rev. Jesse Jackson, who inspires blacks but inflames many whites.

But the crucial factor was what Mr. Jackson called "the maturing of white America." Until now, blacks typically have won office where blacks are a voting majority or where, as in Chicago, there was division among whites. On Tuesday, many whites chose to ignore race in assessing who would represent their interests best.

Though the results were narrow, the message is clear. In a generation, black Americans have been able to move, as Bayard Rustin hoped, from protest to politics. In the same generation, many white Americans have moved from hostility to acceptance. That's not perfection, but it is progress—worth celebrating and fighting to preserve.

THE MAN WHO MADE DAVID DINKINS

(By Jimmy Breslin)

I called him at a moment when history moved New York, but as always with the man, manners came first.

"How are you?" asked J. Raymond Jones, who will be 90 in a few days, who started it all, who put organized politics into Harlem, who started David Dinkins.

"Pretty good, and you?" I said.

"Oh, I'm quite all right." He was in St. Thomas, where he has been living.

"And what have you heard?" he asked.

"It looks very good," I said.

"That's wonderful."

"In fact, Dinkins is going to win by a lot. Did you ever think you'd see the day?" I said.

"Oh, certainly, I always had faith that this would happen. You see, the city is much more sophisticated than some people believe."

For a half-century, J. Raymond Jones ran politics in Harlem from the Carver Democratic Club, one flight above 145th and Amsterdam. From an office across the hall from a ballroom, J. Raymond Jones, leader of Harlem, county leader of Manhattan, boss of all he could boss, sent out politicians such as Adam Clayton Powell, Charles Rangel and Percy Sutton. What he ran was supposed to be worthless because he was black. But he believed he always could see a few years ahead of what was going on in front of him in a room.

"It appears that one third of the people who voted for Dinkins are white," I told him.

"That shows that he learned well. I always said that the chances for all of our people were much better if there was no racial tug-of-war. I have never believed that whites have any trouble voting for a black, once they get to know a black and the black doesn't always talk on race. You can't expect to win if you talk like that. Dinkins couldn't have been in the Carver Club all those years and not learned that. He learned we had to make it on the issue of being good Democrats and not the fact that we were black. Maybe Jesse Jackson will learn that now, if it's not too late."

"Did you ever consider running somebody for mayor?"

"Certainly. When I first thought about it, I felt a woman would be the best candidate. My idea was to run the first woman candidate for mayor. I saw Connie Motley in my clubhouse and I thought she could do it. She could attract both blacks and women who weren't black."

Ray Jones' woman candidate, Constance Baker Motley, now is a federal court judge.

Also in the Carver Democratic Club was a young lawyer named David Dinkins.

"Danny Burroughs came in with him the first time," J. Raymond Jones was saying. Burroughs was a state assemblyman out of Harlem and he owned a liquor store. Dinkins worked there while he went to law school. "He had married Danny's daughter by then, I think. I liked Dinkins for two reasons. First, his demeanor. Second, his speech."

J. Raymond Jones meant that Dinkins ran errands and that he kept his mouth shut.

"I had an idea I had a good man in Dinkins when I sent him to the State Assembly," he was saying yesterday. "I told him, 'How do you think you would do for the Assembly? You'll have to convince those down below from us.'" Jones meant the white neighborhoods on the Upper West Side. "'You have to represent them as well.' Dinkins said to me, 'I can't get along in the world with a one-race club. I need them all. I mean to climb."

"He went to the Assembly for one term. Then I went to Albany and was in charge of reapportionment. I had a good feeling about him because I had to inform Dinkins that because of the changes in districts, he would not have a second term in the Assembly. Now, while I was doing the reapportionment, I took the city councilman job, for myself, I though Dinkins would resent that, because that left nothing for him. But when I informed him of this, I remember he stood there and said, 'all right. I'll just have to wait.'"

Waiting seems to be Dinkins' strength. He waited to get in the Marines, waited for J. Raymond Jones, waited 10 years as the city clerk in charge of marriage licenses. He ran for Manhattan borough president in 1977 and lost. He waited until 1981 and ran again and lost again. He waited four more years. Then he won. He waited to announce for mayor. And now last night, at the end of a day in this city when blacks walked on excited feet, when they smiled as if they could see a future, Dinkins of the Carver Democratic Club waited in a hotel suite on Seventh Avenue to hear that he was elected mayor of New York.

And J. Raymond Jones, who started it all, sat in St. Thomas. When the roof of his house blew off during the hurricane, Ray Jones moved in as the guest of the judge of the territorial court of St. Thomas. Jones, who made about 200 judges in his career, likes the custom of black robes because they are easy to grab. Jones, who is in a wheelchair, lives on the second floor. The stairs are too steep for him. The house, however, is directly behind the territorial courthouse and whenever J. Raymond wants to come downstairs, he sends for the courthouse marshals, who carry him down and then take him back up when he's ready.

"I haven't been able to find out much about what's going on," J. Raymond Jones was saying. "The planes are few and far between landing here so I haven't seen the papers in a number of days. The storm knocked out the cable television station so I see nothing, actually. Not that it would matter. I'm too old for politics."

"You didn't want to come up here and see the thing for yourself?"

"I didn't think I could do Dinkins any good. Giuliani would talk about clubhouses and that sort of thing."

"If I don't call you, how were you going to find out if Dinkins won?" I asked him.

"Oh, Charley Rangel or David will be calling me any time now."

THE U.N. RESOLUTION ON ZIONISM

Mr. MOYNIHAN. Finally, Mr. President, I would note that tomorrow is the anniversary, if that is the term, of the adoption by the United Nations of the infamous Resolution 3379 of 1975 that declares Zionism to be a form of racism. No single event has done comparable injury to the United Nations and the prospects for peace in the Middle East.

Several years ago, on October 23, 1986, the Australian Parliament took the initiative of adopting a resolution calling on the United Nations to repeal that resolution. I then sponsored Joint Resolution 205, which contained the exact words of the Australian resolution. It was adopted by the U.S. Senate precisely 1 year after the Australian resolution and was then adopted by the House of Representatives. On this date 2 years ago, it was signed by President Reagan on the occasion of a visit here by the President of Israel, Chaim Herzog, who was Israel's permanent representative to the United Nations at the time this event occurred.

This is an anniversary not only of the Zionism resolution, but also of the tragic events in Germany which began the systematic assaults on the Jewish community on November 9-10, 1938, known as Kristallnacht because the windows of shops and other buildings owned by Jews were smashed all across the country by Nazis that terrible night.

Mr. President, in the Department of State Authorization Act, which the conferees agreed to just 2 days ago, we again addressed the Zionism resolution. We expressed the view that until the General Assembly has repealed that resolution, the United States can have only very limited involvement with that body, and the General Assembly itself can have none, so far as we are concerned, in the Middle East peace process.

I hope, on this occasion, that people around the world might begin to ask, was voting for the Zionism resolution the right thing to do? It was the wrong thing to do, but many nations voted for it nonetheless.

The resolution equating Zionism with racism has its origins in a two-part article which appeared in Pravda on February 18-19, 1971. This marked the commencement of a worldwide campaign. Indeed, within a week, translations of the article in a half dozen languages were available in pamphlet form.

The article was titled "Anti-Sovietism—Profession of Zionists." The 34-year-old author was Vladimir Viktorovich Bolshakov, Deputy Secretary of Pravda's editorial board in charge of the newspaper's international department. Bolshakov asserted, incredibly, that "Zionist agents" in the Soviet Union during World War II had assisted the Nazis. Zionists as accomplices of the Nazis—what lie could be more obscene?

This is the background of the Zionism resolution. It was a weapon waiting to be used, and its moment came in 1975 when another plan was thwarted. The primary plan had been to expel Israel from the United Nations altogether. Throughout 1975, as permanent representative of the United States at the United Nations, I had labored long and hard to resist this. In the end, we were able to prevent it from happening. But the irony was that the Zionism resolution, the second-best, fall-back alternative, was far more devastating to Israel than expulsion from the General Assembly would have been. For the Zionism resolution denied legitimacy to the state of Israel.

Mr. President, the Soviet Union did not give up on plan A, expelling Israel from the United Nations. In fact, the Soviet Union repeatedly cast irresponsible ballots in support of the continued efforts to expel Israel. This year, however, the Soviet Union, with its new, more cooperative approach to the United Nations, refused to go along. On October 17 of this year it abstained on the motion. One may hope that the Soviet Union will one day take the far more appropriate step of joining the 95 nations which actually voted "no" on the motion to expel Israel. Nonetheless, this is progress and should be recognized as such.

Now is, therefore, the time for the Soviet Union to take the next, very important step of repudiating the "Zionism is racism" resolution. The resolution is its handiwork. So long as it stands the protestations of the Soviet Union to have mended its ways will have a hollow ring.

I wish some of the Soviet client states would take note of their recent vote. I wish some of our democratic friends might also say, is it not time that our parliaments adopted the Australian resolution calling on the General Assembly to repeal the infamous and obscene Zionism Act?

Mr. President, I do not observe any other Senator seeking recognition, and, accordingly, 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 PRESIDING OFFICER (Mr. DIXON). Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1990—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report accompanying

H.R. 3015, the transportation appropriations bill.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

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

(The conference report is printed in the House proceedings of the RECORD of October 26, 1989.)

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The distinguished Republican leader.

Mr. DOLE. I think I have a few minutes left in leader time.

I would like to proceed not on the conference report but on another matter.

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

EAST GERMANY'S CRITICAL MOMENT

MR. DOLE. Mr. President, according to news reports, the East German Government has just announced the opening of its borders to all of its citizens—to include the right to free passage of the Berlin Wall.

It appears that the Berlin Wall and all it represents are crumbling, even as the Communist state which built it crumbles, too.

With breathless speed, the people of East Germany have sought to take their own destiny into their own hands.

By the hundreds of thousands, they have taken to the streets, asking only two things: freedom and opportunity.

By the tens of thousands, they have fled their homeland, seeking only two things: freedom and opportunity.

Decades of Communist rule lie in shambles. The government resigns one day, the Communist politburo the next.

And now we have today's dramatic announcement.

The ragtag bag of Communists left trying to regain control are fighting a fight they can't win: A fight against their own people.

They are running a race they can't win: A race against history.

The people of East Germany, and the rapid march of contemporary history, has left them with only one reasonable choice: To go down the path that Poland and Hungary are already taking—the path of transition to a whole new system of government, in which the people are the masters of the state and not its servants.

But are they reasonable men? And will they stay on that path? The jury is still out. Borders can be closed, as well as opened. Talk of free elections can turn out to be nothing more than talk. There is a new politburo, with some dead wood removed; but 7 of the 11 members are holdovers from the old politburo. And there are undoubtedly still powerful forces which will see all the recent developments as abhorrent, and will continue to try to push a Communist government to crack down.

This is an extraordinary moment in the history of central Europe—what happens tomorrow remains as uncertain as what happens next month or next year.

Poland and Hungary, as rapidly as they have moved, did so only after years of evolution in their political, economic, and social systems.

East Germany is faced with making the same kinds of changes, literally overnight.

If there is a misstep in East Germany now, the results could be cataclysmic.

Hopefully, the East Germans' mentors in the Kremlin—who seem to understand how strongly flow the tides of freedom—hopefully, they will counsel common sense on their East German colleagues. Gorbachev, after all, has as much at stake in East Germany as do its Communist leaders.

We should also be clear, but prudent, in our own actions.

There is no equivocation in our goals. We want freedom for East Germany and its people. We want today's announcement to turn out to be the real thing—we want the Berlin Wall torn down, and all other barriers to the free flow of people removed.

And we hope that East Germany's Communist clique will read the handwriting on the wall and cooperate in the transition to a new form of government, as some of their recent comments suggest.

But we should not do anything at this point which might needlessly add fuel to the fire. The issues of the long-term future of East and West Germany, and of central Europe, are critical issues; issues which will be affected by what happens these next days and weeks; issues that we must think about now. But they are not issues for heated rhetoric right now.

Clearly, German history is at a critical crossroads. Profound changes may lie ahead. But let us, for the moment, address first things, first.

The first thing is seeing the East German people achieve their immediate aspirations—will newly open borders remain open—even if the tide of departing Germans turns into a flood? Will there be a real commitment to free elections and a whole new kind of government? That is where our focus should be. That is both the drama, and the task, of the moment.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader.

THE BERLIN WALL

Mr. MITCHELL. Mr. President, I commend the distinguished Republican leader for his remarks, and would like now to address the same subject.

Early on a Sunday morning in June of 1955 I arrived in West Berlin. I was a young officer in the U.S. Army Intelligence Service, and it was a time of deep impression for me. Just a few days before, I had flown in an airplane for the first time, traveling from the United States to Frankfurt, West Germany. Just the night before, I had made a trip in an overnight sleeper on a train, traveling from Frankfurt to West Berlin. But by far the greatest impression made upon me then was coming face to face for the first time with the difference between democracy and totalitarianism, between freedom and communism.

Shortly after arriving in West Berlin, I went to a large refugee center, which was operated there by the United States Army to receive the thousands of refugees fleeing communism in East Germany, Poland, and Czechoslovakia. During my time there, that number reached over 3,000 persons a week. Those brave East Germans, Czechs, Poles, all were demonstrating that the appeal of democracy was and is universal.

In response to that human tide, the East German Government, with the help of their Soviet allies, built the infamous wall. I believed then, and believe now, that the wall is the most tangible symbol of the failure of communism that exists, for it demonstrated for the world to see, in the most stark and even barbaric way, that the only way the East German Government could keep their people within their country was to prevent them from leaving their country.

For nearly 30 years, the Berlin Wall has stood as a symbol of the failure of communism. Many saw that failure occurring over time, and now it is evident to even the Communists themselves and to the East German leaders.

The decision—not an act of democracy, not an act to please or placate the West, but a desperate act of survival by the East German Government—to permit their people to leave, represents the symbolic destruction of the Berlin Wall. It has, in an ironic way, served a useful purpose, because it has reminded, on a daily basis, every person in this world of the vast differ-

ence between democracy and communism.

A system and a society which forces its people to remain cannot ultimately succeed. Now that the Berlin Wall has been symbolically destroyed, all that remains is for it to be physically destroyed. I strongly urge the East German Government, and President Gorbachev of the Soviet Union directly, to take the final step and tear that wall down. It is gone in substance. It should be gone in form.

The East German people are now demonstrating anew, as their parents, and in some cases grandparents, did a quarter of a century ago, that the human longing for freedom is universal and cannot be extinguished, and no wall can support a government that does not respond to the needs of its people.

Mr. President, this is a historic event. It can be made even more so if the East German Government now acts to tear the wall down. I urge them to do so. I urge President Gorbachev to encourage them to do so. Only then, only then, will we know that their proposals of today have substance and meaning.

Mr. President, I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from New Jersey.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1990—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. LAUTENBERG. Mr. President, I bring before the Senate the conference report on H.R. 3015, the Department of Transportation and related agencies appropriation bill for fiscal year 1990.

Now, before discussing the funding provided, Mr. President, I am pleased to report to my colleagues that with the adoption of this report, we will soon clear the smoke-filled skies for virtually every domestic airline flight. No one flying in any flight that is under 6 hours in duration will have to breathe anybody else's cigarette smoke; 96 days after enactment, travelers and flight attendants can all breathe a little bit easier. The Senate sent us to conference with a clear position. The Senate voted for a ban on smoking on all domestic flights. We took that mandate to the conference and reached an agreement that covers 99.8 percent of all the flights that take place within our country.

Mr. President, allowing smoking in the confined space of an airline cabin just does not make sense. It is dangerous and unhealthy. Interestingly, 84 percent of the people who flew in flights that were of 2 hours' duration or less agreed that we should have a total ban on smoking in airplanes.

Funny enough, even the majority of smokers agreed with that conclusion.

Some of them, in fact, have said to me, "Senator, maybe I can finally break the habit that I am accustomed to, do not really like, would love to change, and if you force me to do without smoking for 4 or 5 hours, I can probably do without it forever."

With this legislation, nonsmokers, including children and infants, will be free from secondhand smoke. Working flight attendants will avoid a hazard that has jeopardized their health and their jobs.

By approving this provision, the Congress can make it possible for people to fly smoke-free to virtually any destination in this country.

The approval of this ban is a milestone in efforts to protect those who do not want to put their health at risk by inhaling others' smoke. I am pleased to present this provision to the Senate, and I look forward to the day, now on the horizon, when the smoke clears, and we can all breathe a little easier.

Mr. President, let me now address the funding provided.

The conference agreement contains a total of $15.039 billion in new budget authority and $15.238 billion dollars in obligation limitations. Excluding the $3.183 billion in new emergency drug funding included in title IV, the conference report for the Transportation bill provides $12.028 billion in new obligational authority, which is an increase of $1.111 billion, +10 percent, above fiscal year 1989 enacted levels.

Titles I through III of the conference report are within the subcommittee's 302(b) allocation and are consistent with the Budget summit agreement.

Mr. President, I ask unanimous consent to print in the RECORD a table summarizing the funding agreements reached in conference, including the drug funding offsets.

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

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
TITLE I - DEPARTMENT OF TRANSPORTATION							
Office of the Secretary							
Salaries and expenses	---	56,481,000	---	56,470,000	---	---	---
Immediate Office of the Secretary	1,071,000	---	1,090,000	---	1,090,000	---	1,090,000
Immediate Office of the Deputy Secretary	464,000	---	470,000	---	470,000	---	470,000
Office of the General Counsel	6,000,000	---	6,250,000	---	6,120,000	---	6,120,000
Office of the Assistant Secretary for Policy and International Affairs	7,950,000	---	8,595,000	---	8,250,000	---	8,250,000
Office of the Assistant Secretary for Budget and Programs	2,241,000	---	2,290,000	---	2,325,000	---	2,325,000
Office of the Assistant Secretary for Governmental Affairs	2,265,000	---	2,300,000	---	2,300,000	---	2,300,000
Office of the Assistant Secretary for Administration	24,300,000	---	24,700,000	---	24,700,000	---	24,700,000
Office of the Assistant Secretary for Public Affairs	1,455,000	---	1,290,000	---	1,350,000	---	1,350,000
Executive Secretariat	824,000	---	835,000	---	835,000	---	835,000
Contract Appeals Board	440,000	---	450,000	---	488,000	---	488,000
Office of Civil Rights	1,305,000	---	1,315,000	---	1,315,000	---	1,315,000
Office of Commercial Space Transportation	585,000	---	645,000	---	725,000	---	725,000
Office of Essential Air Service	1,727,000	---	1,127,000	---	1,727,000	---	1,727,000
Office of Small and Disadvantaged Business Utilization	3,915,000	---	3,500,000	---	3,500,000	---	3,500,000
Subtotal, Salaries and expenses	54,542,000	56,481,000	54,857,000	56,470,000	55,195,000	---	55,195,000
Transportation planning, research, and development	5,600,000	8,126,000	6,200,000	8,000,000	6,850,000	-21,000	6,829,000
Working capital fund	3,200,000	6,150,000	4,500,000	4,500,000	4,500,000	-13,000	4,487,000
(Limitation on working capital fund)	(130,350,000)	(144,400,000)	(131,000,000)	(144,400,000)	(137,700,000)	(-413,000)	(137,287,000)
Payments to air carriers	31,600,000	---	12,400,000	35,530,000	30,735,000	-92,000	30,643,000
Commission on Aviation Security and Terrorism	---	---	---	1,200,000	1,000,000	---	1,000,000
Total, Office of the Secretary	94,942,000	70,757,000	77,957,000	105,700,000	98,280,000	-126,000	98,154,000

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
Coast Guard							
Operating expenses	1,912,116,000	2,252,200,000	1,952,000,000	1,952,000,000	1,952,000,000	-5,856,000	1,946,144,000
(By transfer)	(4,500,000)	---	---	---	---	---	---
Funds included in Department of Defense Appropriations Act, 1989 (by transfer)	(206,000,000)	---	---	---	---	---	---
Acquisition, construction, and improvements	395,000,000	682,300,000	423,800,000	455,200,000	438,000,000	-1,314,000	436,686,000
(By transfer)	---	---	---	---	(7,500,000)	(-22,000)	(7,478,000)
Funds included in Military Construction Appropriations Act, 1989	(50,300,000)	---	---	---	---	---	---
Alteration of bridges	8,500,000	2,330,000	2,330,000	2,330,000	2,330,000	-7,000	2,323,000
(By transfer)	(5,000,000)	---	---	---	---	---	---
Retired pay	410,800,000	420,800,000	420,800,000	420,800,000	420,800,000	---	420,800,000
Reserve training	67,000,000	73,800,000	71,800,000	73,800,000	72,800,000	-218,000	72,582,000
Research, development, test, and evaluation	18,800,000	19,000,000	18,800,000	22,800,000	20,800,000	-62,000	20,738,000
Offshore oil pollution compensation fund (limitation)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)	(-180,000)	(59,820,000)
Deepwater port liability fund (limitation)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(-150,000)	(49,850,000)
Boat safety (Aquatic Resources Trust Fund)	---	---	---	30,000,000	30,000,000	-90,000	29,910,000
(Liquidation of contract authorization)	(30,000,000)	(15,000,000)	(30,000,000)	---	---	---	---
(Limitation on obligations)	(30,000,000)	(15,000,000)	(30,000,000)	---	---	---	---
Total, Coast Guard:							
New budget (obligational) authority	2,812,216,000	3,450,430,000	2,889,530,000	2,956,930,000	2,936,730,000	-7,547,000	2,929,183,000
(DoD transfer)	(256,300,000)	---	---	---	---	---	---
(Limitations on obligations)	(30,000,000)	(15,000,000)	(30,000,000)	---	---	---	---
Total	(3,098,516,000)	(3,465,430,000)	(2,919,530,000)	(2,956,930,000)	(2,936,730,000)	(-7,547,000)	(2,929,183,000)

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
Federal Aviation Administration							
Headquarters administration	36,600,000	---	---	---	---	---	---
Operations	3,410,000,000	3,923,000,000	3,836,000,000	3,865,000,000	3,842,000,000	-11,526,000	3,830,474,000
(By transfer)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(-30,000)	(9,970,000)
Subtotal, Headquarters administration and operations	3,446,600,000	3,923,000,000	3,836,000,000	3,865,000,000	3,842,000,000	-11,526,000	3,830,474,000
Facilities and equipment (Airport and Airway Trust Fund)	1,384,528,000	1,955,000,000	1,732,000,000	1,780,131,000	1,746,487,000	-5,239,000	1,741,248,000
Research, engineering, and development (Airport and Airway Trust Fund)	160,000,000	165,000,000	185,000,000	173,000,000	173,000,000	-519,000	172,481,000
Grants-in-aid for airports (Airport and Airway Trust Fund):							
(Liquidation of contract authority)	(1,150,000,000)	(1,166,000,000)	(1,190,000,000)	(1,190,000,000)	(1,190,000,000)	---	(1,190,000,000)
(Limitation on obligations)	(1,400,000,000)	(1,350,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(-75,000,000)	(1,425,000,000)
Rescission of contract authority	-100,000,000	---	---	---	---	-25,000,000	-25,000,000
Aircraft purchase loan guarantee program:							
(Limitation on borrowing authority)	(50,000,000)	(57,000,000)	(50,000,000)	(10,000,000)	(10,000,000)	(-30,000)	(9,970,000)
Appropriations	11,905,941	---	---	---	---	---	---
Portion applied to debt reduction	-10,770,941	---	---	---	---	---	---
Total, Federal Aviation Administration:							
New budget (obligational) authority	4,892,263,000	6,043,000,000	5,753,000,000	5,818,131,000	5,761,487,000	-42,284,000	5,719,203,000
(Limitations on obligations)	(1,400,000,000)	(1,350,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(-75,000,000)	(1,425,000,000)
Total	(6,292,263,000)	(7,393,000,000)	(7,253,000,000)	(7,318,131,000)	(7,261,487,000)	(-117,284,000)	(7,144,203,000)

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
Federal Highway Administration							
(Limitation on general operating expenses)	(217,350,000)	(228,246,000)	(222,600,000)	(236,896,000)	(234,000,000)	(-702,000)	(233,298,000)
University transportation centers (Highway Trust Fund)	---	---	---	5,000,000	5,000,000	-15,000	4,985,000
Highway safety research and development (Highway Trust Fund)	6,080,000	---	6,080,000	---	6,080,000	-18,000	6,062,000
Highway-related safety programs (Highway Trust Fund):							
(Liquidation of contract authorization)	(10,000,000)	(10,000,000)	(9,405,000)	(10,000,000)	(9,405,000)	(-28,000)	(9,377,000)
(Limitation on obligations)	(9,405,000)	(10,000,000)	(9,405,000)	(9,405,000)	(9,405,000)	(-28,000)	(9,377,000)
Railroad-highway crossings demonstration projects	7,560,000	---	15,000,000	7,700,000	15,000,000	-45,000	14,955,000
Federal-aid highways (Highway Trust Fund):							
(Limitation on obligations)	(12,000,000,000)	(11,310,000,000)	(12,463,500,000)	(12,050,000,000)	(12,260,000,000)	(-50,000,000)	(12,210,000,000)
(Liquidation of contract authorization)	(12,700,000,000)	(13,660,000,000)	(13,660,000,000)	(13,660,000,000)	(13,660,000,000)	(-40,980,000)	(13,619,020,000)
Right-of-way Revolving Fund (limitation on direct loans) (Highway Trust Fund)	(46,000,000)	(47,850,000)	(42,500,000)	(47,850,000)	(42,500,000)	(-127,000)	(42,373,000)
Motor carrier safety	27,000,000	32,190,000	32,190,000	33,690,000	33,690,000	---	33,690,000
Motor carrier safety grants (Highway Trust Fund):							
(Liquidation of contract authorization)	(50,000,000)	(52,000,000)	(52,000,000)	(52,000,000)	(52,000,000)	(-156,000)	(51,844,000)
(Limitation on obligations)	(60,000,000)	(60,000,000)	(60,200,000)	(60,000,000)	(60,200,000)	(-181,000)	(60,019,000)
Access highways to public recreation areas on certain lakes	1,291,000	---	---	---	---	---	---
Baltimore-Washington Parkway (Highway Trust Fund)	12,825,000	---	12,000,000	---	12,000,000	-36,000	11,964,000
Intermodal urban demonstration project (Highway Trust Fund)	8,550,000	---	10,000,000	---	10,000,000	-30,000	9,970,000
Highway safety and economic development demonstration projects (Highway Trust Fund)	8,550,000	---	12,000,000	---	12,000,000	-36,000	11,964,000
Airport access demonstration project (Highway Trust Fund)	1,300,000	---	---	---	---	---	---
Highway safety improvement demonstration project (Highway Trust Fund)	1,260,000	---	11,000,000	---	11,000,000	-33,000	10,967,000
Highway-railroad grade crossing safety demonstration project (Highway Trust Fund)	8,100,000	---	9,500,000	---	9,500,000	-28,000	9,472,000
Nuclear waste transportation safety demonstration project (Highway Trust Fund)	3,600,000	---	---	---	---	---	---
Highway widening demonstration project	1,800,000	---	2,000,000	---	2,000,000	-6,000	1,994,000
Bridge improvement demonstration project	8,550,000	---	4,000,000	---	4,000,000	-12,000	3,988,000
Highway widening and improvement demonstration project	4,100,000	---	5,000,000	---	5,000,000	-15,000	4,985,000
Intersection safety demonstration project	900,000	---	---	---	---	---	---
Highway capacity improvement demonstration project	900,000	---	100,000	---	---	---	---
Climbing lane safety demonstration project	450,000	---	2,500,000	---	2,500,000	-7,000	2,493,000
Indiana industrial corridor safety demonstration project	1,000,000	---	2,400,000	---	2,400,000	-7,000	2,393,000
Oklahoma highway widening demonstration project	400,000	---	2,500,000	---	2,500,000	-7,000	2,493,000
Alabama highway bypass demonstration project	3,600,000	---	8,300,000	---	8,300,000	-25,000	8,275,000
Kentucky bridge demonstration project	3,600,000	---	5,000,000	---	5,000,000	-15,000	4,985,000
Virginia HOV safety demonstration project	500,000	---	4,650,000	---	4,650,000	-14,000	4,636,000
Urban highway corridor demonstration project	225,000	---	4,500,000	---	4,500,000	-13,000	4,487,000
Urban airport access safety demonstration project	225,000	---	5,000,000	---	5,000,000	-15,000	4,985,000

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
Ebensburg bypass demonstration project	---	---	13,740,000	---	13,740,000	-41,000	13,699,000
Bridge rehabilitation demonstration project	---	---	350,000	---	---	---	---
Highway demonstration projects - preliminary engineering	---	---	12,400,000	---	5,800,000	-17,000	5,783,000
Corridor safety improvement project (Highway Trust Fund)	28,000,000	---	---	17,300,000	17,300,000	-52,000	17,248,000
Bridge capacity improvements (Highway Trust Fund)	3,763,000	---	---	4,000,000	4,000,000	-12,000	3,988,000
Corridor H improvement project	16,000,000	---	---	32,000,000	32,000,000	-96,000	31,904,000
Road extension demonstration	600,000	---	---	11,000,000	11,000,000	-33,000	10,967,000
Des Moines inner loop demonstration	---	---	---	2,800,000	2,800,000	-8,000	2,792,000
Corridor G improvement project	---	---	---	10,000,000	10,000,000	-30,000	9,970,000
Corning bypass safety demonstration project	---	---	---	20,000,000	20,000,000	-60,000	19,940,000
Spring Mountain demonstration project	---	---	---	2,200,000	2,200,000	-7,000	2,193,000
Manhattan Bridge replacement project	---	---	---	3,210,000	3,210,000	-10,000	3,200,000
Junction City accleration/deceleration lane demonstration project	---	---	---	400,000	400,000	-1,000	399,000
Bridge restoration	2,000,000	---	---	---	---	---	---
Reservation road	3,500,000	---	---	---	---	---	---
Total, Federal Highway Administration:							
New budget (obligational) authority	166,229,000	32,190,000	180,210,000	149,300,000	282,570,000	-744,000	281,826,000
(Limitations on obligations)	(12,069,405,000)	(11,380,000,000)	(12,533,105,000)	(12,119,405,000)	(12,329,605,000)	(-50,209,000)	(12,279,396,000)
Total	(12,235,634,000)	(11,412,190,000)	(12,713,315,000)	(12,268,705,000)	(12,612,175,000)	(-50,953,000)	(12,561,222,000)
National Highway Traffic Safety Administration							
Operations and research	67,899,000	74,933,000	71,684,000	78,400,000	74,550,000	-224,000	74,326,000
Operations and research (Highway Trust Fund)	30,751,000	31,772,000	32,316,000	31,772,000	32,300,000	-97,000	32,203,000
Subtotal, Operations and research	98,650,000	106,705,000	104,000,000	110,172,000	106,850,000	-321,000	106,529,000
Highway traffic safety grants (Highway Trust Fund) (Liquidation of contract authorization)	(130,500,000)	(132,000,000)	(132,000,000)	(132,000,000)	(132,000,000)	(-396,000)	(131,604,000)
State and community highway safety grants: (Limitation on obligations)	(115,000,000)	(115,000,000)	(115,000,000)	(115,000,000)	(115,000,000)	(-345,000)	(114,655,000)
Alcohol safety incentive grants: (Limitation on obligations)	(11,000,000)	(13,500,000)	(11,000,000)	(11,000,000)	(11,000,000)	(-33,000)	(10,967,000)
Education grants (Sec. 209): (Cumulative limitation on obligations)	(4,750,000)	(4,750,000)	(4,750,000)	(4,750,000)	(4,750,000)	(-14,000)	(4,736,000)
Total, National Highway Traffic Safety Administration:							
New budget (obligational) authority	98,650,000	106,705,000	104,000,000	110,172,000	106,850,000	-321,000	106,529,000
(Limitations on obligations)	(126,000,000)	(128,500,000)	(126,000,000)	(126,000,000)	(126,000,000)	(-378,000)	(125,622,000)
Total	(224,650,000)	(235,205,000)	(230,000,000)	(236,172,000)	(232,850,000)	(-699,000)	(232,151,000)

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
Federal Railroad Administration							
Office of the Administrator	20,975,000	15,180,000	14,400,000	15,144,000	14,589,000	---	14,589,000
(By transfer)	(4,000,000)	---	---	---	---	---	---
Local rail service assistance	---	---	---	7,000,000	7,000,000	-21,000	6,979,000
Railroad safety	27,825,000	30,307,000	31,900,000	32,057,000	31,900,000	---	31,900,000
Railroad research and development	9,286,000	9,277,000	9,600,000	9,277,000	9,600,000	-29,000	9,571,000
Northeast corridor improvement program	19,600,000	---	19,600,000	30,000,000	24,800,000	-74,000	24,726,000
Grants to the National Railroad Passenger Corporation.	584,000,000	---	615,000,000	---	---	---	---
Operations	---	---	---	530,000,000	530,000,000	-1,590,000	528,410,000
Capital	---	---	---	85,000,000	85,000,000	-255,000	84,745,000
Railroad Rehabilitation and Improvement Financing Funds: (Railroad credit enhancement)	(99,000,000)	(15,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(-150,000)	(49,850,000)
Regional rail reorganization program	---	101,577,979	101,577,979	101,577,979	101,577,979	-304,979	101,273,000
Portion applied to debt reduction	---	-94,932,979	-94,932,979	-94,932,979	-94,932,979	+284,979	-94,648,000
Conrail commuter transition assistance	4,500,000	---	5,000,000	---	5,000,000	-15,000	4,985,000
Amtrak corridor improvement loans	---	---	3,500,000	---	3,500,000	-10,000	3,490,000
(Loan authorization)	---	---	(3,500,000)	---	(3,500,000)	(-10,000)	(3,490,000)
Total, Federal Railroad Administration	666,186,000	61,409,000	705,645,000	715,123,000	718,034,000	-2,014,000	716,020,000
Urban Mass Transportation Administration							
Administrative expenses	31,882,000	---	31,809,000	31,880,000	31,809,000	---	31,809,000
Research, training, and human resources	10,000,000	---	10,000,000	10,000,000	10,000,000	-30,000	9,970,000
Formula grants	1,605,000,000	---	1,705,000,000	1,605,000,000	1,630,000,000	-4,890,000	1,625,110,000
Formula transit grants (Highway Trust Fund) (limitation on obligations)	---	(1,523,000,000)	---	---	---	---	---
Discretionary grants (Highway Trust Fund) (limitation on obligations)	(1,140,000,000)	---	(1,140,000,000)	(1,140,000,000)	(1,140,000,000)	(-3,420,000)	(1,136,580,000)
Mass transit capital fund (Highway Trust Fund) (liquidation of contract authorization)	(400,000,000)	(900,000,000)	(900,000,000)	(900,000,000)	(900,000,000)	(-2,700,000)	(897,300,000)
Interstate transfer grants - transit	200,000,000	---	180,000,000	160,000,000	160,000,000	-480,000	159,520,000
Washington Metro	168,000,000	42,000,000	100,000,000	73,400,000	85,000,000	-255,000	84,745,000
Total, Urban Mass Transportation Administration:							
New budget (obligational) authority	2,014,882,000	42,000,000	2,026,809,000	1,880,280,000	1,916,809,000	-5,655,000	1,911,154,000
(Limitations on obligations)	(1,140,000,000)	(1,523,000,000)	(1,140,000,000)	(1,140,000,000)	(1,140,000,000)	(-3,420,000)	(1,136,580,000)
Total	(3,154,882,000)	(1,565,000,000)	(3,166,809,000)	(3,020,280,000)	(3,056,809,000)	(-9,075,000)	(3,047,734,000)

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
Saint Lawrence Seaway Development Corporation							
Operations and maintenance (Harbor Maintenance Trust Fund)	11,100,000	11,788,000	11,750,000	11,100,000	11,400,000	---	11,400,000
Research and Special Programs Administration							
Research and special programs	14,800,000	17,541,000	16,800,000	14,715,000	17,373,000	---	17,373,000
Pipeline safety (Pipeline Safety Fund)	9,300,000	9,848,000	10,325,000	9,277,000	10,325,000	-31,000	10,294,000
Total, Reseach and Special Programs Administration	24,100,000	27,389,000	27,125,000	23,992,000	27,698,000	-31,000	27,667,000
Office of the Inspector General							
Salaries and expenses	29,000,000	32,475,000	32,100,000	32,100,000	32,100,000	---	32,100,000
Total, title I, Department of Transportation:							
New budget (obligational) authority (net)	10,809,568,000	9,878,143,000	11,808,126,000	11,802,828,000	11,891,958,000	-58,722,000	11,833,236,000
Appropriations	(10,920,338,941)	(9,973,075,979)	(11,903,058,979)	(11,897,760,979)	(11,986,890,979)	(-34,006,979)	(11,952,884,000)
Appropriations for debt reduction	(-10,770,941)	(-94,932,979)	(-94,932,979)	(-94,932,979)	(-94,932,979)	(+284,979)	(-94,648,000)
Rescission	(-100,000,000)	---	---	---	---	(-25,000,000)	(-25,000,000)
(DoD transfer)	(256,300,000)	---	---	---	---	---	---
(By transfer)	(23,500,000)	(10,000,000)	(10,000,000)	(10,000,000)	(17,500,000)	(-52,000)	(17,448,000)
(Limitations on obligations)	(14,765,405,000)	(14,396,500,000)	(15,329,105,000)	(14,885,405,000)	(15,095,605,000)	(-129,007,000)	(14,966,598,000)
(Appropriations to liquidate contract authorizations)	(14,470,500,000)	(15,935,000,000)	(15,973,405,000)	(15,944,000,000)	(15,943,405,000)	(-44,260,000)	(15,899,145,000)
Total, title I, New budget (obligational) authority, (DoD transfer) and (limitations on obligations)	(25,831,273,000)	(24,274,643,000)	(27,137,231,000)	(26,688,233,000)	(26,987,563,000)	(-104,009,000)	(26,883,554,000)

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
TITLE II - RELATED AGENCIES							
Architectural and Transportation Barriers Compliance Board							
Salaries and expenses	1,891,000	2,000,000	1,950,000	1,950,000	1,950,000	---	1,950,000
National Transportation Safety Board							
Salaries and expenses	25,360,000	25,967,000	26,600,000	28,000,000	27,600,000	---	27,600,000
Interstate Commerce Commission							
Salaries and expenses	43,115,000	44,689,000	43,860,000	42,863,000	44,450,000	---	44,450,000
Payments for directed rail service (limitation on obligations)	(475,000)	(475,000)	(475,000)	(475,000)	(475,000)	---	(475,000)
Total, Interstate Commerce Commission	(43,590,000)	(45,164,000)	(44,335,000)	(43,338,000)	(44,925,000)	---	(44,925,000)
Panama Canal Commission							
Panama Canal Revolving Fund:							
(Administrative expenses)	(50,287,000)	(49,855,000)	(49,842,000)	(49,855,000)	(49,842,000)	(-150,000)	(49,692,000)
(Limitation on operating and capital expenses)	(436,548,000)	---	(452,005,000)	(463,467,000)	(452,005,000)	(-1,356,000)	(450,649,000)
Department of the Treasury							
Rebate of Saint Lawrence Seaway Tolls (Harbor Maintenance Trust Fund)	10,700,000	10,084,000	10,050,000	10,050,000	10,050,000	-30,000	10,020,000
Washington Metropolitan Area Transit Authority							
Interest payments	51,663,569	51,663,569	51,663,569	51,663,569	51,663,569	---	51,663,569
Total, title II, Related Agencies:							
New budget (obligational) authority	132,729,569	134,403,569	134,123,569	134,526,569	135,713,569	-30,000	135,683,569
(Limitation on obligations)	(475,000)	(475,000)	(475,000)	(475,000)	(475,000)	---	(475,000)
Total	(133,204,569)	(134,878,569)	(134,598,569)	(135,001,569)	(136,188,569)	(-30,000)	(136,158,569)

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
TITLE III - GENERAL PROVISIONS							
International Zaragosa Bridge	3,000,000	---	---	---	---	---	---
Rescission	-3,000,000	---	---	---	---	---	---
Alabama Feasibility Study	675,000	---	---	---	---	---	---
Expressway safety improvement demonstration project	2,600,000	---	---	---	---	---	---
Airport emergency relief	100,000	---	---	---	---	---	---
Wisconsin rail service	6,000,000	---	---	---	---	---	---
Consultant services (sec. 347)	-34,171,000	---	---	---	---	---	---
Total, title III, General Provisions:							
New budget (obligational) authority (net)	-24,796,000	---	---	---	---	---	---
Appropriations	(-21,796,000)	---	---	---	---	---	---
Rescission	(-3,000,000)	---	---	---	---	---	---
Grand total:							
New budget (obligational) authority (net)	10,917,501,569	10,012,546,569	11,942,249,569	11,937,354,569	12,027,671,569	-58,752,000	11,968,919,569
Appropriations	(11,031,272,510)	(10,107,479,548)	(12,037,182,548)	(12,032,287,548)	(12,122,604,548)	(-34,036,979)	(12,088,567,569)
Appropriations for debt reduction	(-10,770,941)	(-94,932,979)	(-94,932,979)	(-94,932,979)	(-94,932,979)	(+284,979)	(-94,648,000)
Rescissions	(-103,000,000)	---	---	---	---	(-25,000,000)	(-25,000,000)
(DoD transfer)	(256,300,000)	---	---	---	---	---	---
(By transfer)	(23,500,000)	(10,000,000)	(10,000,000)	(10,000,000)	(17,500,000)	(-52,000)	(17,448,000)
(Limitations on obligations)	(14,765,880,000)	(14,396,975,000)	(15,329,580,000)	(14,885,880,000)	(15,096,080,000)	(-129,007,000)	(14,967,073,000)
(Appropriations to liquidate contract authorizations)	(14,470,500,000)	(15,935,000,000)	(15,973,405,000)	(15,944,000,000)	(15,943,405,000)	(-44,260,000)	(15,899,145,000)
Grand total, New budget (obligational) authority, (DoD transfer) and (limitations on obligations)	(25,939,681,569)	(24,409,521,569)	(27,271,829,569)	(26,823,234,569)	(27,123,751,569)	(-104,040,000)	(27,019,711,569)

H.R. 3015 - DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1990

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Title I-III Conference Agreement	Title IV Drug Funding Offsets	Revised Conference
CONGRESSIONAL BUDGET RECAP							
Scorekeeping adjustments:							
Aircraft purchase loan guarantee program (mand)...	---	150,000	150,000	150,000	150,000	---	150,000
Boat safety	---	15,000,000	30,000,000	---	---	---	---
DoD transfer to Coast Guard	50,300,000	---	---	---	---	---	---
Total, adjustments	50,300,000	15,150,000	30,150,000	150,000	150,000	---	150,000
Total, (including adjustments)	10,967,801,569	10,027,696,569	11,972,399,569	11,937,504,569	12,027,821,569	-58,752,000	11,969,069,569
Amounts in this bill	(10,917,501,569)	(10,012,546,569)	(11,942,249,569)	(11,937,354,569)	(12,027,671,569)	(-58,752,000)	(11,968,919,569)
Scorekeeping adjustments	(50,300,000)	(15,150,000)	(30,150,000)	(150,000)	(150,000)	---	(150,000)
Prior year outlays associated with this bill	---	---	---	---	---	---	---
Total mandatory and discretionary	10,967,801,569	10,027,696,569	11,972,399,569	11,937,504,569	12,027,821,569	-58,752,000	11,969,069,569
Mandatory	(463,598,569)	(472,613,569)	(472,613,569)	(472,613,569)	(472,613,569)	---	(472,613,569)
Discretionary	(10,504,203,000)	(9,555,083,000)	(11,499,786,000)	(11,464,891,000)	(11,555,208,000)	(-58,752,000)	(11,496,456,000)
Discretionary (total)	(10,504,203,000)	(9,555,083,000)	(11,499,786,000)	(11,464,891,000)	(11,555,208,000)	(-58,752,000)	(11,496,456,000)

Mr. LAUTENBERG. Mr. President, the major increases over fiscal year 1989 are for the Federal Aviation Administration and the Coast Guard. The agreement provides a total program of $7.144 billion for FAA. This represents an increase of $852 million or plus 14 percent, over the current level. The agreement funds the continued rebuilding of the controller, aviation security, safety inspector, and maintenance technician work forces. It also includes the funding necessary to move the NAS Plan forward.

For the Coast Guard, the conference agreement provides a total program of $3.229 billion. For the Coast Guard's major operating accounts, this represents an increase of $130 million, or 6 percent, over the enacted level for this fiscal year. Of this amount, $300 million will be derived from the Department of Defense in support of the Coast Guard's defense-related missions. On that point, I wish to say a special word of thanks to my friends, Chairman INOUYE of the Defense Subcommittee and Senator STEVENS, the ranking member.

Other major highlights of the conference agreement include: First, $12.21 billion for the Federal Highway program's obligation ceiling; second, $232.2 million for the National Highway Traffic Safety Administration; third, $3.048 billion for the Urban Mass Transportation Administration; fourth, $716 million for the Federal Railroad Administration, including $613 million for Amtrak; and fifth, $1 million for the Commission on Aviation Security and Terrorism on which I am privileged to serve.

Mr. President, we had 144 amendments in conference. The conferees have agreed to a resolution of all of these amendments. The result is a package that I believe preserves a balanced transportation program for the Nation, despite our severe funding constraints.

Mr. President, I believe this accurately and fairly summarizes the overall contents of our agreement.

Before I yield, however, I thank my friend and ranking member, Senator D'AMATO, from New York, for his help in getting this bill through the committee, the floor, and the conference with the House. Given the funding and other problems we faced, it was very hard to develop a balanced transportation program; for our country without his assistance and cooperation, it would have been impossible.

I also pay tribute to my House counterparts, Chairman BILL LEHMAN and his ranking member, LARRY COUGHLIN from the neighboring State of Pennsylvania. They and their colleagues worked hard to produce a good, solid transportation program and were always courteous and cooperative in working out a reasonable accommodation between the two Houses.

Mr. President, you know that in a bill like transportation, there are lots of requests from Senators and from Congresspersons throughout the entire bill. Everyone in the country—there is not a State, there is not a community that does not have funding needs for either infrastructure, bridges, roads, railroad service, or aviation service.

We have had a very tough time in accommodating those remote communities that need air service, and we have the Government provide an incentive for carriers to continue to service those communities, because the revenue generated just is not enough.

So there is a lot in this, and I am hopeful that we are not going to have any problems in getting this legislation done and getting the appropriations bill passed and over to the President.

We will be holding out a couple of amendments that we will enunciate soon.

I also want to acknowledge with thanks those who serve with me on the Transportation Subcommittee who have been very helpful in getting this complicated bill acceptable to everybody and passed and that includes of course our distinguished chairman of the Appropriations Committee, Senator BYRD, Senator HARKIN, Senator SASSER, Senator MIKULSKI who serve with me on the Democratic side and as I mentioned Senators D'AMATO, KASTEN, DOMENICI, and GRASSLEY as well as the ranking member of the Senate Appropriations Committee, Senator HATFIELD. They have all been a constant source of sensible counsel and good steadfast support.

Mr. President, I believe that Senator D'AMATO has some remarks he would like to offer at this time, and I yield the floor for the remarks.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from New York.

Mr. D'AMATO. Mr. President, let me first congratulate my distinguished colleague and the chairman of the subcommittee, Senator LAUTENBERG, for the hard work and effort that he went through in forging this conference report. Let me also commend him for his leadership in giving all Americans, especially those who work in the transportation area, the ability to travel in a healthy smoke-free environment.

Were it not for Senator LAUTENBERG's undaunted persistence in this area, in light of the many who counseled wait for another time, wait for another vehicle, this landmark legislation would not have been accomplished.

And I say to Senator LAUTENBERG, no efforts are singular but certainly there are people who are the prime movers. There is no dispute that you have been the prime mover in this effort, in an effort that goes a long way toward ensuring the health of American travelers, particularly transportation workers such as flight attendants.

Mr. President, the House approved this conference report on October 31, and I hope we can pass it, if not today, certainly very soon. This bill contains critical funding for the Federal Aviation Administration, including 120 new safety and security positions and for the U.S. Coast Guard.

If we are going to continue our vigilance in drug interdiction, if we are going to do our job as it relates to monitoring pollution and controlling it, it is vital that we pass this bill and provide the support needed for the Coast Guard and other transportation agencies that is contained herein.

For the Federal Highway Administration, Urban Mass Transportation Administration, and other related agencies, the necessary funding to carry out these important jobs and obligations is provided by this legislation.

I am glad that we have been able to provide $30.7 million for the Essential Air Service Program that is so important to the small rural communities who otherwise would be without service. Fortunately, service to some of the communities in New York, such as Watertown, which was placed in jeopardy during the conference, is continued by the conference report.

This report contains $1 million to fund the work of the President's Commission on Aviation Security and Terrorism. As a member of this Commission, along with Senator LAUTENBERG, I am eager to get started on the serious work ahead.

Many issues have been raised with respect to the bombing of Pan Am 103 nearly a year ago, and it is important that the Commission analyze and examine the nature of these issues, review the events that took place, and consider what could have been prevented, and what can be done to guard against terrorist attacks in the future.

Mr. President, I respectfully urge the Senate to approve this conference report as quickly as possible.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, the Senator from Colorado has asked for the floor, and I will therefore yield the floor.

Mr. WIRTH. Mr. President, I wanted to make a few comments as we consider the passage of the conference report on the Transportation appropriations bill for fiscal year 1990. This has been a particularly difficult year in terms of the budget, and I compliment my good friend, the Senator from New Jersey, Chairman LAUTENBERG, in navigating this legislation through the tight channels of this process.

When we pass this bill next week and send it to the President for his approval, we will be enacting a promising trend found in this legislation—an increased emphasis on the need to expand our aviation infrastructure to accommodate the rapid growth of our airline industry. Chairman LAUTENBERG and the other members of the Transportation Appropriations Subcommittee have done good work in balancing important national priorities, such as support for the war on drugs, while at the same time, preserving initiatives that will enhance the safety and convenience of the air-traveling public.

In 1978 Congress deregulated the airline industry. During that year, nearly 276 million passengers flew through our Nation's airports. Within 9 years, this number expanded to more than 450 million fliers per year nationwide, and will clear the 600 million mark by 1997. Yet, while the demand for an adequate and efficient aviation infrastructure has increased, I believe that the Federal Government has been slow to respond to this growing need.

Another consequence of deregulation has been the creation of the well-known hub and spoke system of air transportation, with which we in the Congress—as frequent flyers—are very familiar. This practice of feeding passengers from around the country into central switchboard airports has increased the efficiency of the industry and helped to keep ticket prices affordable.

Unfortunately, the hub and spoke business strategy has accentuated the problems of our inadequate infrastructure. By concentrating a significant portion of the increased passenger traffic to relatively few large airports in the country, delays and inconveniences have become the rule rather than the exception.

According to the Federal Aviation Administration [FAA], there are 21 airports where, at each one, passengers are experiencing more than 20,000 hours of delays annually. At five of these congested facilities, people will wait more than 50,000 hours to land or take off. By the turn of the century, if we do not take steps to expand our Nation's aviation capacity, passengers using the three busiest airports will have delays exceeding 100,000 hours annually—Atlanta, Chicago, and unfortunately, Denver.

This problem is only going to get worse. By the year 2000, the number of passengers flying through these major hubs are expected to rise to 85 percent. For example, Denver's Stapleton Airport, originally constructed to handle 18 million passengers per year, currently plays host to more than 34 million passengers. Recent FAA projects, indicate that by the year 2000, Denver's traffic will top 66 million, making it the fastest growing airport in the country.

Mr. President, Senator LAUTENBERG and the members of the conference, have retained Senate language making nearly $250 million available in fiscal 1990 for projects which enhance the ability of our Nation's airports to handle the growing number of people choosing to fly. This money is sorely needed by States and municipalities to make important contributions to the capacity of our national aviation infrastructure.

As some of you may know, in my own State of Colorado, we are working hard to accomplish just such a task. Last May, the citizens of Denver voted overwhlemingly to start construction of a new international airport to serve the Rocky Mountain region. At the end of September, the project's environmental impact statement received its seal of approval and received a significant grant from the FAA, permitting construction to begin.

The facility will be the first major airport built in 15 years, since the opening of Dallas-Fort Worth in 1974, and will expand the Nation's air capacity by 11 percent. Reductions in delays will be experienced around the country with Denver's increased ability to handle air traffic at times of poor weather and heavy demand. With the fine work by the members of the Appropriations Committee, this airport will open on time in 1993.

Mr. President, again, I wish to thank Senator LAUTENBERG and Senator D'AMATO as the chairman and ranking member of the Subcommittee on Transportation Appropriations. In addition, I know we are all appreciative of the usual hard work and courtesy of the chairman of the Appropriations Committee, Senator BYRD, and the ranking member, Senator HATFIELD.

Thank you, Mr. President. I yield the floor.

Mr. President, again, I thank the distinguished Senator from New Jersey, not only for his courtesy now, but for his remarkable help to Denver and to Colorado and to the Rocky Mountain West.

It is always easier, Mr. President, to say no. All of us are in a business where veto power is a lot easier to generate than power to go ahead and do something. In no case is that clearer than with all of the issues surrounding the new Denver airport. It would have been much easier for everybody who has been involved in this to say no.

Rather, we have had a remarkable example of, I think, very enlightened leadership from the distinguished Senator from New Jersey and his committee in helping us to say yes to the most important transportation program in the history of the Rocky Mountain West. This all started with the resolve in the Denver metropolitan area to build a new airport, and we had a lot of controversy surrounding it.

First, in suburban Adams County, there was a good deal of resistance to the airport. We got that worked out, and we finally had an election, and that election won with a very significant margin, so we solved that problem. The veto power was there. We got it sorted out. We solved that problem.

It then moved to Denver. We went through a similar kind of situation. There were a lot of opponents in Denver for a new airport, a lot of proponents as well. Again, we had an election. Again, that election was managed by members of my staff. That election was successful. Those staff members worked for me and are currently working for me, and I am proud of the job that they did. We solved that problem as well, Mr. President.

Then we got into a kind of final homestretch with putting together the financial package necessary to make the new airport happen. That financial package was very creatively and aggressively honchoed by the distinguished Senator from New Jersey and by the distinguished Senator from New York and the other members of the Appropriations Committee.

There were a lot of people out there who did not think this airport deserved the emphasis it is getting. There was a lot of parochial concern trying to steal the money away from Denver and put it someplace else; a lot of concern about the specious arguments about the Denver airport—it should not be built, was not ready, and so on. Potential veto power was all over the place. But once again, the two distinguished managers of the committee were right there helping us with their enormous persuasiveness and their commitment.

I want just publicly, on behalf of the citizens of Denver, the citizens of Colorado, and the citizens of the whole Rocky Mountain region, to thank them, backed by Senator BYRD's quiet and firm hand. In particular, I want to pay our respects and our thanks to Senator D'AMATO and Senator LAUTENBERG. They were there day after day after day after day. When the going got rough, they were running interference for us. We could not have this project without them.

Why am I emphasizing this? This is the most important economic development program in the history of the Rocky Mountain West. It is the most important public works and transportation program. It is absolutely crucial to the well-being of the Nation's air traffic system, and it is going to be an extraordinary contribution to the country going well into the 21st century. It would not have happened without these Senators and their help.

Again, on behalf of my constituents and literally hundreds and hundreds

of thousands of people in our country and in our region, we want to thank them. I urge my colleagues to join with me in not only passing this bill but in enjoying the new Denver airport when it is there. We can guarantee you there will be no weather delays. We will have an airport that will ease your trips to Aspen and Vail and other points, as well as to the other communities of the Rocky Mountain West and to the beautiful summers and winters in Colorado.

Mr. LAUTENBERG. Mr. President, I thank the Senator from Colorado for his kind remarks. I am sure the record will appropriately reflect that he just advertised Colorado as the vacationland of the world. But when we look at the aviation system, of course, we respect and admire the beauty of the Rocky Mountains and all of the magic that it holds for many.

But the whole aviation system is dependent upon our ability to have airplanes being able to take off from wherever and cross the destinations that they are scheduled to go. That means that as efficiently as possible we have to manage the aviation system. And, therefore, a major new facility like the Denver airport is an integral part of the advancement of a more capable aviation system in this country.

I was very vigorous in my support of that, just as I am in the prospect of a new airport in south Jersey that has been discussed many times, the enlargement of other airports, like Philadelphia and the New York regional airports in the area that Senator D'AMATO and I serve.

So, on behalf of the best interests of the country in both economic, recreational, and business travel considerations, that is the way to go. We want our aviation system to be the best that there is. By enlarging and starting this new airport to be able to absorb the traffic and not have us waiting in sunny Miami while Denver is snowed in because you cannot get the traffic in or out, I think we make an important step forward.

I thank the Senator from Colorado for his diligent work in presenting the case and coming to us with a mandate, with an understanding from the people of Colorado that they are willing to support this, that they are willing to get out there and raise money and they are willing to commit their communities to seeing that this job gets done. Having acquired a massive piece of property so that there can be a proper airport, I think, is testimony to the attitude and the fortitude of the people of Colorado, who say we need this for the enhancement of the general well-being of our State and our region because it is a major community stop in flights to Wyoming, Idaho, and Utah, and places like that.

So we are pleased to have had this chance to add a dimension to our Nation's aviation system. Once again, I thank the Senator from Colorado for his persistence in getting that message across.

EXTENSION OF INTERSTATE HIGHWAY IN UPPER EAST TENNESSEE

Mr. SASSER. Mr. President, the conferees included in the fiscal year 1990 Transportation appropriations conference report language directing the Federal Highway Administration to cooperate with State and local officials on efforts to extend the interstate highway route between the Tri-Cities in upper east Tennessee and Asheville, NC. This project has several aspects. Is it the understanding of the chairman that when the conferees made reference to cooperation on the entire project, they intended to include work on a proposed ramp connecting the extended interstate with the State of Franklin Road in Johnson City, TN?

Mr. LAUTENBERG. That is correct.

LABOR DEPARTMENT ANTIDRUG ABUSE ASSISTANCE PROGRAMS

Mr. SIMON. Would the manager of the bill permit me to clarify an issue with Senator HARKIN concerning a Labor Department component of antidrug abuse legislation since he chairs the Appropriations Subcommittee that funds the Labor Department?

Mr. LAUTENBERG. Yes.

Mr. SIMON. I am concerned that the Department of Labor has narrowly defined in a manner inconsistent with our purposes in enacting this authority, the word "employer" for the purpose of awarding drug abuse program funding under the Employee Assistance Program of the Anti-Drug Abuse Act of 1988. The purpose of this funding is to develop employee drug abuse assistance programs in the workplace. For this reason, Congress intended that grants to employers be interpreted to include any program that would benefit employers by providing such assistance to their employees. This appropriation act should be so interpreted. For example, many employers are part of joint labor-management funds through which employees are provided with health and welfare benefits. This is particularly true in the construction industry where multiemployer funds are required by law. I believe that Congress had intended and now intends that this type of program be eligible for this funding.

Mr. HARKIN. I agree with the Senator that the Labor Department should broadly interpret eligibility criteria under the EAP and that programs which benefit employers by providing such benefits to their employees are eligible for EAP funds. I hope the Department will give due consideration to the particular needs of employers in the construction industry, and award demonstration grants to deal with this critical issue.

PRIORITY REPLACEMENT OF KELLER MEMORIAL BRIDGE

Mr. SHELBY. Mr. President, with respect to the Department of Transportation and related agencies appropriations bill, the Senate and House Appropriations Committee reports identified several bridges to be given priority consideration by the Secretary of Transportation for participation in the bridge discretionary fund. During Senate consideration of the bill, the distinguished manager, Senator LAUTENBERG, indicated that the Keller Memorial Bridge in Decatur, AL, also warranted priority treatment. I notice that in the Transportation appropriations conference report now before the Senate, there is no listing of bridges directed to be given priority consideration.

It is my understanding that the State of Alabama has requested approximately $14 million in discretionary funds to replace the Keller Memorial Bridge which spans the Tennessee River in the vicinity of Decatur, AL. There is a serious need for replacement of the Keller Memorial Bridge. The bridge, which was originally constructed and opened to traffic in 1926, now receives an average of 31,948 vehicles per day, with the predicted average traffic for 2005 at 40,100 vehicles per day according to the Alabama Highway Department. As the lone drawbridge on the Tennessee River, Alabama Highway Department officials fear that the bridge is structurally unable to continue handling the heavy traffic loads.

The Keller Memorial Bridge is an important link between Morgan County and rapidly expanding north Alabama. However, the antiquated structure that has served for 62 years as that vital connection between the north and south banks of the Tennessee River is now a detriment to the entire area. For these reasons, I believe that the 63-year-old Keller Memorial Bridge warrants priority attention.

The distinguished senior Senator from Alabama [Mr. HEFLIN] and I ask the distinguished manager of the Department of Transportation and related agencies appropriations conference report if it is the intent of the conferees that the Keller Memorial Bridge receive the same priority treatment as if it were listed in the committee report.

Mr. HEFLIN. Mr. President, I wish to join my colleague from Alabama in requesting that the Keller Memorial Bridge replacement be given priority consideration by the Secretary of Transportation for participation in the bridge discretionary fund.

I would like to also thank the Senator from New Jersey and the Senator

from New York for their assistance on this matter. I know that solely because of time constraints, the Appropriations Committee was not able to consider this matter when the bill was before the committee; and I certainly appreciate their efforts at this time.

Mr. LAUTENBERG. My good friends from Alabama are correct. The Senate Appropriations Committee has directed the Secretary of Transportation to give priority designation, consistent with existing criteria, to give several bridges which serve as major links for both intrastate and interstate commerce and which directly impact the economic development of an area. The State of Alabama's application for the Keller Memorial Bridge replacement is equally deserving of priority consideration. The Secretary of Transportation should give priority designation to the Keller Memorial Bridge discretionary fund application as submitted by the Alabama Highway Department.

Mr. D'AMATO. I agree with Senator LAUTENBERG's identification of the Keller Memorial Bridge replacement in Decatur, AL, as a priority project.

Mr. SHELBY. I thank my good friends from New Jersey and New York for their assistance in addressing this important situation.

IMPROVING THE RELIABILITY OF AIRWORTHINESS

Mr. HARKIN. Mr. President, no matter how sophisticated our manufacturing techniques become, or how advanced the engineering, quality and reliability of machines are, they can be no better than the materials that they are made of. And, in aircraft, aircraft engines and other components, where there are great strains during the thousands of hours of operation and many landings and takeoffs, materials do deteriorate.

We need better systems to check aircraft components—systems that can check the quality of materials with accuracy and at a price at which they can be used.

The sum of $3 million for this important activity was included in the Senate measure and in the conference report. I expect that this funding and future funding will bring together experts from around the world including experts from various universities and industry. We need a focused technological response to this problem with various sectors working in a cooperative research venture.

Needless to say, a technical review process should be initiated to include the FAA, the aviation industry, universities with significant expertise and perhaps, the National Research Council. The review process would determine the best structure and technical program to address the possible solutions to the problems of aging aircraft. The review process should be implemented in an expedited fashion and be completed as soon as possible.

I am very thankful for the strong support for additional funding in this area that has been provided by Senator LAUTENBERG, a consistent champion for increasing air safety.

Mr. LAUTENBERG. Mr. President, methods to improve the reliability of airworthiness is an important goal. I appreciate Senator HARKIN's work in this area and his expertise as the former chairman of the House Transportation Aviation and Materials Subcommittee. This is an area which should be a high priority. I look forward to seeing the FAA move forward in the area of nondestructive evaluation of aging aircraft.

UNIVERSITY TRANSPORTATIOIN SYSTEMS

Mr. BURDICK. Mr. President, I am pleased that H.R. 3015, the fiscal year 1990 Transportation appropriations bill, contains a provision making a technical correction in the amount of funding available for the University Transportation Centers Program.

The Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17) established the program and provided $5 million in funding annually from the mass transit account of the highway trust fund. It was intended that the same amount would come from the highway account. However, the Reagan administration determined that the legislative language did not permit release of the funds from the highway account.

The DOT appropriations bill accomplishes—at least for fiscal year 1990—what Congress intended in the 1987 Highway Act. Participating universities have had the opportunity to establish their programs with the funding from the mass transit account. With the complementary funding available from the highway account of the highway trust fund, University transportation centers will now be able to fully fund their research activities, as the Congress originally intended.

Dr. Thomas D. Larson, the Federal Highway Administrator, is a strong supporter of the University Transportation Centers Program, calling it "a valuable resource for the transportation community." In addition to his 8 years of service as Pennsylvania's transportation secretary, Dr. Larson has spent nearly 20 years on the faculty of the Pennsylvania State University. He has had the opportunity firsthand to observe the benefits of university transportation research, as have many of our Nation's transportation leaders.

The Department of Transportation has set out the purpose of the program, saying that:

[it] is to become a national resource and focal point for the support and conduct of research and training concerning the transportation of passengers and property. The Program aims to attract the Nation's best talent to the study of transportation and to develop new strategies and concepts to effectively address existing and future transportation issues and problems.

As the Committee on Environment and Public Works begins to develop legislation to reauthorize the Federal-aid Highway Program, we will address the issue of adequate and permanent funding from the highway trust fund for the University Transportation Centers Program.

University Transportation Centers at schools in over 30 States in all of the 10 Federal regions will benefit with enactment of H.R. 3015. I am pleased to say that one of those schools is North Dakota State University, the lead university in region VIII. Other schools in that consortium include Colorado State University, the University of Colorado at Denver, the University of Minnesota, the University of Wyoming, and Utah Stte University.

It is my firm belief that all of us who care about and depend on a strong transportation infrastructure will also benefit and that the economic returns will be far greater than the modest investment being made by the Federal Government in the program. I very much appreciate the efforts of the Transportation Appropriations Subcommittee in making this additional funding available for the current fiscal year.

Mr. President, I ask unanimous consent that a list of the universities associated with the University Transportation Centers Program be printed in the RECORD.

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

UNIVERSITIES ASSOCIATED WITH THE UNIVERSITY TRANSPORTATION CENTERS PROGRAM

July 27, 1989

REGION I

Lead University: Massachusetts Institute of Technology.

Consortium Schools: Harvard University (MA), University of Connecticut, University of Maine, University of Massachusetts at Amherst, University of New Hampshire, University of Rhode Island, University of Vermont.

REGION II

Lead University: The City University of New York.

Consortium Schools: Cornell University (NY), New Jersey Institute of Technology, New York University, Polytechnic University (NY), Princeton University (NJ), Rensselaer Polytechnic University (NY), Rutgers State University of New Jersey, State University of New York, Albany, Stevens Institute of Technology (NJ), University of Puerto Rico,[1] University of Virgin Islands.[1]

REGION III

Lead University: Pennsylvania State University.

[1] Historically black colleges and universities or minority institutions.

Consortium Schools: Morgan State,[1] University of Pennsylvania, University of Virginia, Virginia Polytechnic Inst & State Univ., West Virginia University.

REGION IV

Lead University: University of North Carolina, Chapel Hill.

Consortium Schools: Duke University (NC), North Carolina A&T State University,[1] North Carolina Central University, North Carolina State University, Raleigh, University of Florida, Gainesville, University of Kentucky, Lexington, University of North Carolina, Charlotte, University of North Florida, Jacksonville, University of Tennessee, Knoxville, Vanderbilt University (TN).

REGION V

Lead University: University of Michigan, Ann Arbor.

Consortium Schools: Central State University[1] (OH), Michigan State University, Michigan Technological University, Northwestern University (IL), Wayne State University (MI).

REGION VI

Lead University: Texas A&M University.

Consortium Schools: Texas Southern University,[1] University of Texas at Austin.

REGION VII.

Lead University: Iowa State University.

Consortium Schools: University of Iowa.

REGION VIII

Lead University: North Dakota State University.

Consortium Schools: Colorado State University, University of Colorado at Denver, University of Minnesota, University of Wyoming, Utah State University.

REGION IX

Lead University: University of California, Berkeley.

Consortium Schools: California State University, Long Beach, University of California, Davis, University of California, Irvine, University of California, Los Angeles.

REGION X

Lead University: University of Washington.

Consortium Schools: Oregon State University, Portland State University (OR), University of Alaska at Fairbanks, University of Idaho, University of Portland (OR), Washington State University.

Mr. LAUTENBERG. Mr. President, at this point, I ask that the Chair lay before the Senate the conference report on H.R. 3015, the Department of Transportation and related agencies appropriations bill for fiscal 1990, and ask for its immediate consideration.

The PRESIDING OFFICER. That report is pending.

Is there further debate on the report? If there is no further debate, the question is on agreeing to the conference.

The conference report was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS OF THE HOUSE TO THE AMENDMENTS OF THE SENATE IN DISAGREEMENT

Mr. LAUTENBERG. Mr. President, we are now about to consider the amendments that are in technical disagreement. There are a number of amendments about which there is no dispute at all. They have been considered and agreed to by the House. These resulted from the House-Senate conference on the transportation bill.

However, there is one amendment that we would ask unanimous consent on, amendment 136, which is the last in the list of amendments. That amendment is something on which the President pro tempore of the Senate, the chairman of the Appropriations Committee, has devoted his considerable energies and skills to developing, and that is the so-called drug amendment. I ask unanimous consent that amendment No. 136 be held out for consideration and that it be acted upon at the request of the Republican leader no later than the close of business on Tuesday, November 14—we are just now talking about this single amendment—and that the rest of the amendments would then be discussed.

I once again proffer that unanimous-consent request that amendment 136 of the amendments in technical disagreement be held out from consideration, to be acted upon no later than the close of business on November 14.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, reserving right to object, I wonder if I may ask the Senator from New Jersey, does he intend to go forward with the other amendments in disagreement immediately?

Mr. LAUTENBERG. Immediately. Because, I say to the Senator from Indiana, that is the one we have complete understanding on. So we will remove that from the debate and discussion now and we will proceed with the others.

Mr. COATS. I withdraw my objection.

Mr. HATFIELD. Mr. President, reserving the right to object, I would like to make a parliamentary inquiry before I express my objection, if I should do so.

As I understand it from the chairman of the committee, the Senator from New Jersey, the purpose of withholding or exempting this one amendment is to provide a vehicle upon which a proposal may be offered by the Senator from Indiana. And my question is, is it necessary to have an unanimous-consent agreement for the Senator from Indiana to offer his proposal on this conference report?

Mr. LAUTENBERG. If I might respond to the distinguished ranking member of the Appropriations Committee, no, that is not the purpose.

The purpose is to accommodate the concerns of the Republican leader and the chairman of the Committee on Appropriations, to have the discussion on the drug amendment that they choose to have, and thereby leaving open other amendments. I would like to expand the unanimous-consent agreement, but we will attempt to do that after we have dealt with this single amendment.

Mr. HATFIELD. Mr. President, I state my parliamentary inquiry, for that purpose, now, not directed to the Senator from Indiana, but for leadership, the Republican leader and the Senator from West Virginia.

Is it necessary, in order for them to offer that amendment to this report, that we have to have this exemption from the adoption of all of these amendments in disagreement? Is that the only way they can offer their proposal?

Mr. LAUTENBERG. Mr. President, I withdraw that unanimous-consent request. We will proceed with the amendments in disagreement starting with amendment No. 1.

The PRESIDING OFFICER. The request is withdrawn.

Mr. LAUTENBERG. We have amendment No. 1 which is in technical disagreement. I ask the Senate to concur in that amendment. That amendment is now on the floor for any discussion that any of the Members of the Senate have.

Mr. D'AMATO. Mr. President, reserving the right to object, I do not know and I ask parliamentary inquiry if I can object at this point in time. I am in a position where I must object until and unless we can get an agreement, a unanimous-consent agreement, which had been propounded by my distinguished colleague from New Jersey, as it relates to amendment No. 136; that is the drug amendment which the distinguished majority leader and minority leader have agreed would be acted upon no later than the close of business Tuesday.

Failing to have that agreement, I am constrained to place an objection to moving forth, even on those other areas which we find in technical disagreement.

So I would object at this point in time.

The PRESIDING OFFICER. Objection is heard.

Mr. D'AMATO. Objection is heard. The objection does not stand?

Mr. LAUTENBERG. It is not a unanimous-consent request.

Mr. President, I understand the Senator from Indiana has an amendment that he would like to offer. I would point out to the Senator from Indiana, we heard from our good friend from New York, Senator D'AMATO, about the things that were contained in this transportation report, things that are essential. They include the Coast Guard and the drug fighting effort

they make; it includes FAA being made safer by having more controllers, more maintenance inspectors or airplanes; by having the national aviation system made safer by advancing new technology, and to have the national airspace program developed.

We have many other programs in this bill. For example, we fund highway construction programs nationwide. We read about bridges in disrepair. We have funds to improve the safety of railroad-highway crossings, in the State of Indiana, for instance.

There are highway funds that have been requested for the State of Indiana and that have been approved. There is $500,000 for an interstate highway congestion study between highways 80 and 94. There is the Indiana Industrial Corridor Safety Demonstration Project for $2.4 million; it is amendment No. 53. We have the railroad-highway crossing, railroad relocation project at Lafayette, IN, $3.5 million. That is amendment No. 35. We have, for the Federal Railway Administration, $7 million for local rail assistance. We have aviation; we have improvement grants on the priority list recommended in the Senate report for Baer Field airport; for Gary, IN, regional airport; we have a $1 million instrument landing project for Elkhart, IN.

This is $180 million included in this conference report for the State of Indiana. If the Senator from Indiana chooses to have those projects delayed, in the event we have a problem with this, getting this bill through, that is a choice he has to make. He has every right, of course, to offer any amendments that he chooses.

At this point, Mr. President, I——

Mr. COATS. Will the Senator from New Jersey yield?

Mr. LAUTENBERG. I will be done in just one second.

Mr. President, we have an understanding here that permits this unanimous-consent request to be offered again.

UNANIMOUS-CONSENT AGREEMENT

Mr. LAUTENBERG. Mr. President, I ask unanimous consent, when the Senate considers the conference report on H.R. 3015, the matter in front of us, that the amendments of the House to the Senate amendment numbered 136, not be acted upon until the minority leader, Republican leader, has exercised his right, to be no later than the close of business on Tuesday, November 14, granted by this agreement, to offer a drug amendment to the House amendment, and that the amendment of the House to the amendment of the Senate numbered 1 not be acted upon until the Republican leader or his designee has exercised his right, today granted by this agreement, to offer an amendment to the House amendment, dealing with a legislative line item veto, and that no points of order be waived by this agreement.

The PRESIDING OFFICER. Is there objection to the request?

Hearing none, it is so ordered.

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

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, let me make a parliamentary inquiry. Is amendment in disagreement No. 1 the pending business?

Mr. LAUTENBERG. Mr. President, if I might ask the indulgence of the Senator from Indiana, with the understanding that amendment No. 1 is available subject to further amendment, would there be an objection if I asked unanimous consent that the remainder of the amendments in disagreement—Senate amendments Nos. 5, 8, 9, 13, 27, 32, 38, 42, 66, 72, 74, 90, 101, 105, 110, 113, 115, 116, 118, 119, 120, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, and 134—excluding, of course, 136, which was already dealt with, be agreed to en bloc.

Mr. COATS. I have no objection to that, Mr. President.

The PRESIDING OFFICER. Is there objection to the request? Hearing none, it is so ordered.

The amendments of the House to the amendments of the Senate in disagreement, numbered 5, 8, 9, 13, 27, 32, 38, 42, 66, 72, 79, 90, 101, 105, 110, 113, 115, 116, 118, 119, 120, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, and 134, considered and agreed to en bloc, are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$1,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 8 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said admendment, insert: ", or to close or decommission any unit of the United States Coast Guard unless such closure or decommissioning was provided for in the Budget of the United States, and its supporting documentation, and was agreed to by the Congress in this Act, as provided for in its legislative history, including Committee reports".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted in said amendment, insert "$445,500,000, of which $7,500,000 shall be derived by transfer from "Operating expenses".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$71,100,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further*, That of the funds available under this head, $1,000,000 to remain available until expended, is appropriated and shall be available for grants under the Federal Grant and Cooperative Agreement Act of 1977 to the National Aviation Institute, Pleasantville, New Jersey, to fund research and development in the area of facilitating research by cataloguing and prioritizing aviation related research efforts and providing a central clearinghouse for aviation research

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 32 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

UNIVERSITY TRANSPORTATION CENTERS

(HIGHWAY TRUST FUND)

For necessary expenses for university transportation centers, as authorized by section 21(i)(2) of the Urban Mass Transportation Act of 1964, as amended, $5,000,000 to be derived from the Highway Trust Fund (other than the Mass Transit Account).

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "$42,500,000, together with an amount not to exceed the amount of 1989 obligations recovered".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "Notwithstanding subsection (d) of Sec. 402 of the Surface Transportation Assistance Act of 1982 (Public Law 97-424, 96 Stat. 2155, 2156) for states which have received only development grants under such section 402 and which have participated in the Commercial Motor Carrier Safety Inspection and Weighing Demonstration Program, the Secretary shall only approve a plan under such section 402 for fiscal year 1990 which provides that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for commercial motor vehicle safety programs will be maintained at a level which does not fall below the average level of such expenditure for the last two full fiscal years preceding the date the plan is approved.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 66 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

ROAD EXTENSION DEMONSTRATION

For the purpose of carrying out a demonstration of economic growth and development benefits of four-lane bypasses of cities, there is hereby appropriated $11,000,000, to remain available until expended, for the acquisition of rights-of-way and other costs incurred in the upgrading and construction of a portion of a four-lane facility bypassing the cities of Pella, Iowa, and Oskaloosa, Iowa, on Highway 163: *Provided*, That all funds appropriated under this head shall be exempted from any limitation on obliga-

tions for Federal-aid highways and highway safety construction programs.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 72 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the U.S. route number named in said amendment, insert "77".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 79 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 90 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

AMTRAK CORRIDOR IMPROVEMENT LOANS

The Secretary is authorized to provide $3,500,000 in loans to the Chicago, Missouri and Western Railroad, or its successors, to replace existing jointed rail with continuous welded rail between Joliet, Illinois and Granite City, Illinois: *Provided,* That any loan authorized under this section shall be structured with a maximum 20-year payment at an annual interest rate of 4 per centum: *Provided further,* That the Federal Government shall hold a first and prior purchase money security interest with respect to any materials to be acquired with federal funds: *Provided further,* That any such loan shall be matched on a dollar for dollar basis by the State of Illinois.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 101 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$17,373,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 105 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum inserted by said amendment, insert "$44,450,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 110 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert "Every 30 days".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 113 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

(a) ESSENTIAL AIR SERVICE COMPENSATION.—Notwithstanding any other provision of law, the Secretary of Transportation shall make payment of compensation under subsection 419 of the Federal Aviation Act of 1958, as amended, only to the extent and in the manner provided in appropriations Acts, at times and in a manner determined by the Secretary to be appropriate, and claims for such compensation shall not arise except in accordance with this provision.

(b) USE OF DEADLY FORCE.—The Secretary shall report to the Committees on Appropriations and the Committees on the Judiciary of the Senate and House of Representatives, to the Senate International Narcotics Control Caucus, and to the Select Committee on Narcotics Abuse and Control of the House of Representatives on:

(1) All current provisions of law and regulation permitting the use of deadly force during the time of peace by United States Coast Guard personnel in the performance of their official duties—

(A) within the territorial land, sea, and air of the United States, its territories and possessions; and

(B) outside the territorial land, sea, and air of the United States, its territories and possessions.

(2) Changes, if any that may be necessary to existing law, regulations, treaty, or executive agreements to permit United States Coast Guard personnel to employ deadly force under the following circumstances—

(A) to bring down a suspected drug smuggling aircraft which has refused or ignored instructions to land at a specified airfield for customs inspection after penetrating the territorial airspace of the United States;

(B) to halt a suspected drug smuggling vessel on the sea which has been ordered to heave to for inspection by a United States vessel or aircraft and has ignored or refused to obey the order;

(C) and to halt a suspected drug smuggler who has crossed the land border of the United States illegally and who has refused to obey or ignored an order to stop for customs inspection.

(3) The required report shall be submitted not later than ninety days after the enactment into law of this Act. The required report may be submitted in both classified and unclassified versions.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 115 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

(a) VILLAGE OF ALSIP, ILLINOIS.—Section 149(a)(3)(D) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended—

(1) by striking out the heading "CALUMET PARK" and inserting in lieu thereof "VILLAGE OF ALSIP"; and

(2) by striking out all that follows after "reconstruction" and inserting in lieu thereof "of 127th Street between Illinois Route 83 and Kostner Avenue in Alsip, Illinois.".

(b) WYOMING STATE HIGHWAY REST AREA.—Notwithstanding section 16 of the Federal Airport Act of 1946 or any other provision of law, the United States hereby releases the right of reversion of the United States on 7.8 acres of land at the South Big Horn County Airport in Wyoming proposed to be transferred to the Wyoming State Highway Department provided such land is used for a highway rest area.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 116 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

(a) VESSEL TRAFFIC SAFETY FAIRWAY.—None of the funds in this Act shall be available to plan, finalize or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

(b) HONOLULU INTERNATIONAL AIRPORT.—Notwithstanding section 23 of the Airport and Airway Expansion Act of 1970 (as in effect on November 29, 1976), or any other provision of law, including obligations arising under grant agreements issued pursuant to the Airport and Airway Improvement Act of 1982, as amended, or implementing regulations, the Administrator of the Federal Aviation Administration is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance, dated November 29, 1976, under which the United States conveyed certain property to the State of Hawaii for airport purposes.

Any release granted by the Administrator pursuant to this subsection shall be subject to the following conditions:

(A) The property for which a release is granted under this subsection shall not exceed 4,550.2 acres of submerged lands known as Keehi Lagoon as described in the quitclaim deed, dated November 29, 1976.

(B) The property for which a release is granted shall not include submerged lands within an area 1,000 feet perpendicular to either side of the centerline of Runway 26L, extending 2,000 feet from the end of Runway 26L at the Honolulu International Airport.

(C) The use of property to which such release applies shall not impede or interface with the safety of flight operations or otherwise derogate approach and clear zone protection at the Honolulu International Airport.

(D) Any subsequent release or authorization for use of the property for other than airport purposes shall contain the right to overfly the property and the right to make noise.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 118 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

(a) INTERMODAL URBAN DEMONSTRATION PROJECT.—Funds appropriated in this Act for "Intermodal Urban Demonstration Project" shall remain available until expended.

(b) UMTA COMMUTER RAIL SERVICE.—Section 337 of Public Law 100-457 is amended to read as follows:

"Notwithstanding any other provision of law, when a commuter rail service has been suspended for safety reasons, and when a statewide or regional agency or instrumentality commits to restoring such service by the end of 1989, and when the improvements needed to restore such service are funded without Urban Mass Transportation Administration funding, the directional route miles of such service shall be included for the purpose of calculating the fiscal year 1990 section 9 apportionment, as well as the apportionment for subsequent years. If such service is not restored by the end of 1989, the money received as a result of the inclusion of the directional route miles shall be returned to the disbursing agency, the Urban Mass Transportation Administration.".

(c) STATEWIDE OPERATING ASSISTANCE—SECTION 9(2)(A).—In any case in which a statewide agency or instrumentality is responsible under State laws for the financing, construction and operation, directly by lease, contract or otherwise, of public transportation services, and when such statewide agency or instrumentality is the designated recipient of UMTA funds, and when the statewide agency or instrumentality provides service among two or more urbanized areas, the statewide agency or instrumentality shall be allowed to apply for operating assistance up to the combined total permissible amount of all urbanized areas in which

it providers service, regardless of whether the amount for any particular urbanized area is exceeded. In doing so, UMTA shall not reduce the amount of operating assistance allowed for any other state, or local transit agency or instrumentality within the urbanized areas affected. This provision shall take effect with the fiscal year 1990 section 9 apportionment.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 119 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows: "PERMANENT PROHIBITION AGAINST SMOKING ON SCHEDULED AIRLINE FLIGHTS.—"

Resolved, That the House receded from its disagreement to the amendment of the Senate numbered 120 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

by deleting in subparagraph (A) of section 404(d)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1374(d)(1)(A)) all after the words "any scheduled airline flight" and inserting in lieu thereof the following: "segment in air transportation or intrastate air transportation, which is—

(i) between any two points within Puerto Rico, the United States Virgin Islands, the District of Columbia or any State of the United States (other than Alaska and Hawaii), or between any point in any one of the aforesaid jurisdications (other than Alaska and Hawaii) and any point in any other point of such jurisdictions;

(ii) within the State of Alaska or within the State of Hawaii; or

(iii) scheduled for 6 hours or less in duration, and between any point described in clause (i) and any point in Alaska or Hawaii, or between any point in Alaska and any point in Hawaii.",

to take effect upon the commencement of the 96th day following the date of this Act, and

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 124 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "339", insert "338".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 125 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "340", insert "339".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 126 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "341", insert "340".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 127 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "342", insert "341".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 128 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "343", insert "342".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 129 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "344", insert "343".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 130 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "345", insert "344".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 131 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "346", insert "345".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 132 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "347", insert "346".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 133 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendments, insert.

SEC. 347. Not more than $14,000,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of Transportation.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 134 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "349", insert "348".

HOUSE AMENDMENT TO SENATE AMENDMENT NO. 1 IN DISAGREEMENT

The PRESIDING OFFICER. The clerk will read the amendment of the House to the amendment of the Senate numbered 1 in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

IMMEDIATE OFFICE OF THE SECRETARY

For necessary expenses of the Immediate Office of the Secretary, $1,090,000.

IMMEDIATE OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Immediate Office of the Deputy Secretary, $470,000.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $6,120,000.

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Policy and International Affairs, $8,250,000.

OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

For necessary expenses of the Office of the Assistant Secretary for Budget and Programs, $2,325,000, including not to exceed $40,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental Affairs, $2,300,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration, $24,700,000.

OFFICE OF THE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Public Affairs, $1,350,000.

EXECUTIVE SECRETARIAT

For necessary expenses of the Executive Secretariat, $835,000.

CONTRACT APPEALS BOARD

For necessary expenses of the Contract Appeals Board, $488,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $1,315,000.

OFFICE OF COMMERCIAL SPACE TRANSPORTATION

For necessary expenses of the Office of Commercial Space Transportation, $725,000.

OFFICE OF ESSENTIAL AIR SERVICE

For necessary expenses of the Office of Essential Air Service, $1,727,000.

OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

For necessary expenses of the Office of Small and Disadvantaged Business Utilization, $3,500,000, of which $2,600,000 shall remain available until expended and shall be available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: *Provided*, That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

AMENDMENT NO. 1092 TO HOUSE AMENDMENT TO SENATE AMENDMENT NO. 1 IN DISAGREEMENT

(Purpose: To grant the power to the President to reduce budget authority)

Mr. COATS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for himself, Mr. DOLE, Mr. MCCAIN, Mr. ARMSTRONG, Mr. HUMPHREY, Mr. NICKLES, Mr. MACK, Mr. HELMS, Mr. BURNS, Mr. ROTH, Mr. KASTEN, Mr. DANFORTH, Mr. MURKOWSKI, Mr. WILSON, Mr. THURMOND, Mr. GORTON, and Mr. SYMMS, proposes an amendment numbered 1092 to Senate amendment No. 1.

Mr. COATS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue reading the amendment.

The assistant legislative clerk continued with the reading of the amendment as follows:

At the appropriate place, insert the following:

SEC. . LEGISLATIVE LINE ITEM VETO ACT OF 1989.

(a) SHORT TITLE.—This section may be cited as the "Legislative Line Item Veto Act of 1989".

(b) ENHANCEMENT OF SPENDING CONTROL BY THE PRESIDENT.—The Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"PART A—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"GRANT OF AUTHORITY AND CONDITIONS

"SEC. 1101. (a) IN GENERAL.—Notwithstanding the provisions of part B of title X and subject to the provisions of part B of this title, the President may rescind all or part of any budget authority, if the President—

"(1) determines that—

"(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

"(B) such rescission will not impair any essential Government functions; and

"(C) such rescission will not harm the national interest; and

"(2)(A) notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations Act or a joint resolution making continuing appropriations providing such budget authority; or

"(B) notifies the Congress of such rescission by special message accompanying the submission of the President's budget to Congress and such rescissions have not been proposed previously for that fiscal year.

The President shall submit a separate rescission message for each appropriations bill under paragraph (2)(A).

"(b) RESCISSION EFFECTIVE UNLESS DISAPPROVED.—(1)(A) Any amount of budget authority rescinded under this title as set forth in a special message by the President shall be deemed canceled unless during the period described in subparagraph (B), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

"(B) The period referred to in subparagraph (A) is—

"(i) a Congressional review period of 20 calendar days of session under part B, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;

"(ii) after the period provided in clause (i), an additional days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

"(iii) if the President vetoes the rescission disapproval bill during the period provided in clause (ii), an additional 5 calendar days of session after the date of the veto.

"(2) If a special message is transmitted by the President under this session during any Congress and the last session of such Congress adjourns sine die before the expiration of the period described in paragraph (1)(B), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in paragraph (1)(B) (with respect to such message) shall run beginning after such first day.

"DEFINITIONS

"SEC. 1102. For purposes of this title the term 'rescission disapproval bill' means a bill or joint resolution which only disapproves a rescission of budget authority, in whole, rescinded in a special message transmitted by the President under section 1101.

"PART B—CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS

"PRESIDENTIAL SPECIAL MESSAGE

"SEC. 1111. Whenever the President rescinds any budget authority as provided in section 1101, the President shall transmit to both Houses of Congress a special message specifying—

"(1) the amount of budget authority rescinded;

"(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(3) the reasons and justifications for the determination to rescind budget authority pursuant to section 1101(a)(1);

"(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

"(5) all facts, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

"TRANSMISSION OF MESSAGES; PUBLICATION

"SEC. 1112. (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under sections 1101 and 1111 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

"(b) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under sections 1101 and 1111 shall be printed in the first issue of the Federal Register published after such transmittal.

"PROCEDURE IN SENATE

"SEC. 1113. (a) REFERRAL.—(1) Any rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

"(2) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this section.

"(b) FLOOR CONSIDERATION IN THE SENATE.—

"(1) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(2) Debate in the Senate on any debatable motion or appeal in connection with such a bill shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(3) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

"(c) POINT OF ORDER.—(1) It shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission of budget authority transmitted by the President under section 1101.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission disapproval bill.

"(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.".

Mr. COATS addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Indiana.

Mr. COATS. Mr. President, let me assure the managers of the bill and my colleagues that it is not my intent whatsoever to impede full consideration of the passage of this conference report. I do not intend in any way to engage in a long, drawn out attempt to withhold full consideration of what I consider to be a very important bill. It does include a number of important funding measures for all 50 of our States, including the State of Indiana.

The Senator from New Jersey and the Senator from New York who have worked long and hard on this appropriation measure and conference report are to be commended for their efforts and their work. I thank them for including what I think are a number of vital projects that affect the State of Indiana which were listed earlier by the Senator from New Jersey. I just wanted to assure my colleagues that my attempt here to offer this amendment is the result of failure on several other attempts to offer this amendment to other bills.

At the request of the leadership, the majority leader, as well as the Republican leader, I withdrew my efforts to add the amendment considered on a number of other measures because in order to expedite the work of the Senate and because the bills were deemed critical, in terms of time consideration, we initially thought to offer it on the urgent supplemental which this body discussed and debated several months ago because that was an urgent dire supplemental appropriation. And because we did not wish to hold up essential funding that was needed immediately, we agreed to

withhold consideration of our amendment at that time.

Second, we attempted to offer it to the short-term debt extension which occurred in early August, and again because the determination was made that this funding was needed immediately, we agreed to defer offering the amendment at that time with what most of us understood to be a clear understanding that we would offer it in the fall on the long-term debt extension measure.

In fact, on September 18, 1989, Senator MCCAIN, Senator ARMSTRONG, Senator HUMPHREY, and myself sent a letter to Senator MITCHELL and Senator DOLE indicating we wanted to put them on notice that it was our intention to offer the amendment on the line item veto authority, S. 1553, to the debt limit extension when it reached the Senate floor. Once again, because of the urgency of that particular measure and because that measure was not brought up until just hours before the United States might have been in default on its obligations, we agreed to withdraw that particular amendment from consideration under that bill.

We were then told and advised that the next best opportunity would be on one of the appropriations conference reports, and we have looked at a number of those and found this to be the most appropriate vehicle on which to offer this amendment. But again I want to assure my colleagues it is not our intention, certainly not my intention, in any way to delay consideration of this conference report. I really do not see why we cannot, after a reasonable time of debate, vote on this amendment, move forward, and pass this conference report yet today.

Mr. President, if I could, I would like to go back and give a brief history as to how we got to this particular point. Prior to 1974, the President had the power to impound appropriated funds. While few Presidents prior to President Nixon used that authority to any great degree, in the early seventies President Nixon used it to a considerable amount, and that brought a fair amount of concern to a number of Members of this body and to the House of Representatives as to the appropriateness of the President's use of that impoundment power.

As a result of that and other concerns about the budget, Congress went ahead and enacted the Budget Control and Impoundment Act of 1974 which, as part of that measure, was designed to ensure greater congressional budget control over the process and, in an attempt to retain some authority in the executive branch, provided a measure designed to allow the President to sent to Congress rescissions which had to be approved affirmatively by both bodies within a 45-day period of submittal.

The results of the 1974 actions by Congress have over the years proven just a little too convenient for this body to continue spending beyond the range of our ability to control the deficit.

For instance, from 1969 to 1974, domestic discretionary spending increased at a 7.3-percent average growth rate. But in the year subsequent to enactment of the Budget Control and Impoundment Act of 1974, changing the authority of the executive branch from impoundment authority to the rescission authority that had to be affirmatively approved by Congress, we saw a dramatic increase in spending. In fact, in 1975, the year subsequent to that act, spending rose at 26.4 percent and since enactment of the Budget Act of 1974 spending has been rising at a 9.6-percent average annual rate.

There are a number of causes for that, and what we are attempting to address today is not the single cause but it certainly has contributed and, that is simply that buried in most appropriations bills, in fact all appropriations bills, are a number of projects that many suspect would not stand on their own two feet were they subject to the spotlight of debate and vote on that particular entity itself.

We all know how that process works, and we have all engaged in that process, of attaching either nongermane or attaching other special projects that affect particular areas of our own representation or others to appropriations bills that we know the President is faced with a situation of either vetoing the entire bill or accepting the entire bill. It has become a very convenient way for Congress to attach a number of pet projects to bills and get them approved, projects that we would not necessarily like to debate in the light of the Senate floor for public scrutiny or have to vote on individually.

The result of this significant increase in spending and lack of check on the part of the executive branch has resulted in a massive Federal debt which we have been grappling with for more than a decade.

I was elected to the House of Representatives in 1980 and took office in 1981, and I dare say that well over two-thirds of our time has been devoted to budget matters. We are literally consumed with how to deal with the budget and the deficit spending that occurs. We go through this enormously time-consuming and complex budget resolution process every year and the appropriations process which follows. We have engaged in, as we all know, the distasteful, and I think somewhat irresponsible, process of going to continuing resolutions and loading up reconciliation bills with a number of items that have no relationship to the task at hand.

As a result, the United States has a Federal debt that is larger than the gross national product of 158 out of the world's 167 nations. Fifty-seven percent of the budget alone is spent just to finance the debt and that financing occurs at the rate of $5,000 a second.

This year we were attempting to comply with Gramm-Rudman requirements of the law to reduce the deficit not to zero but to somewhere near $100 billion, and we did not come close. As a result of that, we are currently in the situation where the most onerous part of Gramm-Rudman, in fact the part that admits we failed, is in place, the sequester, the across-the-board, totally nondiscretionary effort to eliminate, or reduce spending in all categories with a few exceptions. It is, as I said, an admission of failure and an admission of our inability to come to grips with the budget problem we face.

It has been said that to govern is to choose. But with the sequester process, we have outlawed choice and we have surrendered to a very impersonal machinery that is in operation.

Mr. President, there have been a number of attempts in this decade to try to redress what many see as an overaction to the President's impoundment authority that was enjoyed by Presidents up to 1974.

While I admit action is needed to be taken on the budget at that time, I think the point that a number of us will be making today is that we have tipped the scale too far in the other direction. As a result, the rescission process that was given to the executive branch has not been effective in any way.

As I said, there have been a number of attempts to redress that. It has been on a bipartisan basis. Members from both parties have offered amendments or resolutions before this body in an attempt to give the President one tool which they feel could be effective in addressing part of the problem that we face; that is, a line item veto authority.

We have titled our amendment that is before us and in the bill S. 1553 as "legislative line item veto." It could just as easily be called rescission process. That is consistent with a number of efforts that have taken place in this body, the most notable of which was in 1983 when Senator ARMSTRONG and Senator Russell Long of Louisiana jointly referred a rescission power amendment and was narrowly defeated on a tabling motion. But a number of others have been offered in subsequent years.

This year, in 1989, in an attempt to revive that process again, Senator MCCAIN, Senator ARMSTRONG, Senator HUMPHREY, and myself have met in extensive negotiations and discussions to

try to bring together the four separate proposals that each of us have introduced to find one measure around which we can all lend our support, and which advances the idea and the concept that we are talking about here today.

The result has been S. 1553 which is now here today offered in amendment form. It is a compromise version. It meets I think a number of objections that have been raised relative to the rescission and line item veto proposals that have been offered in this body before, and it has more than 30 cosponsors of this body that have sponsored that particular bill.

The amendment before us which outlines S. 1553 does a couple of important things. First of all, that bill reverses the presumption that currently exists relative to how a rescission is handled when it comes to the Senate floor. This is the most fundamental part of the bill.

Instead of saying that a rescission sent to this body by the President of the United States does not become effective unless affirmatively acted upon by this body, it reverses that presumption and says that it does become effective unless specifically through a resolution of disapproval it be disapproved by this and the other body.

That is the most fundamental diference in the rescission that we are offering today, and the rescission power that the President currently enjoys.

In an attempt to meet potential constitutional questions we have prescribed three basic standards which we think are important to be addressed and complied with before the President's rescission is valid. The first of those says that the President must determine that such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debts. The second standard says that such rescission will not impair any essential Government function. Third, such rescission will not harm the national interest.

Those were included to meet the objections and the possible constitutional considerations—that this rescission might leave in the hands of the President an authority that would harm the national interest or impair essential Government functions. The President must determine and certify to the Congress that these three tests are met.

The procedure is relatively simple. The President can notify the Congress by a special rescission message not later than 20 calendar days after the date of enactment of a regular or supplemental appropriation or a joint resolution making continuing appropriations. Thus, when the President receives an appropriation on his desk, he can within 20 days after the receipt of that send a special rescission to Congress rescinding part of that particular appropriation.

There is a second procedure whereby the President can submit a rescission, and that is accompanying the submission of the President's annual budget to Congress if the rescissions listed in his rescission message have not been proposed previously for that particular fiscal year. The President must submit a special separate rescission message for each appropriation bill. That rescission then becomes effective unless disapproved.

The disapproval must be all or nothing. Congress cannot divide it. They have to act on the entire rescission sent forward. Congress will have 20 days, congressional days, to review the rescission sent forward and, sending it back to the President, the President has 10 days then following that in which to accept or reject that particular resolution of disapproval.

Mr. President, let me just say a few other things here. In respect to the questions regarding the constitutionality, we do not under this amendment rescind the President's current rescission authority. We are adding a new title, title 11, to the Impoundment and Budget Control Act of 1974, retaining title 10. So the President would have his choice in terms of which rescission authority to use.

Second, as I mentioned before, we attached those three conditions to ensure that the rescission would not impair essential Government functions, would go toward reducing the deficit—needed for that particular purpose—and not harm the national interest.

Third, we have included a two-House action of disapproval on the measure so as to avoid any potential concerns raised in the Chadha decision. And finally we have asked the American Law Division of the Congressional Research Service to check this for constitutionality. Their indication is that it appears it is constitutional.

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

Mr. COATS. Yes.

Mr. McCAIN. Is it true—I am sure this will be highlighted time and time again during this debate—that not only in this appropriations bill but on HUD and other appropriations bills there are included projects important to the Senator's State and, indeed, the State of Arizona? There are highway funds. There will be funds for the central Arizona project, and many other programs which some may classify as pork and unnecessary spending.

Is there any doubt in the Senator's mind that is the case? If so, is that any excuse or reason to do away with unnecessary spending? Is that any reason to say that we shouldn't fix a process which has caused these incredible deficits and has left us to face sequestration, which will slash so many important programs across the board.

Is it not a fact that the Senator from Indiana and I, and indeed each of the 100 Members of this body, have supported projects which may, to others, be either unnecessary or wasteful?

Is that sufficient reason, I ask my friend from Indiana, to abandon an attempt to do away with a process which has led us to the lamentable situation that we are in—when we are threatening vital programs on which veterans, the poor, the elderly, and defense, all depend?

I ask my friend from Indiana this because it will be pointed out to us, again and again during this debate, that there are parts of all the appropriations bills that fund projects in our States and which could be classified in the view of some as unnecessary, wasteful pork.

Mr. COATS. I thank my friend for his question. I certainly agree that that should not be the reason why we would not go ahead with this.

I would add to that the fact that those of us that seek appropriations for projects in our State believe that those projects are worthy projects, and we feel it is incumbent on us, and it is part of our duty, as a Senator representing our respective States, to come forward and go before the various appropriation committees and make the case for that spending.

If the debate ensues on this floor for additional debate on that particular project, we ought to be able to come here and justify that as an essential Government spending function.

All we are attempting to do here is—we are not attempting to limit spending projects. Appropriations are important. They are an essential part of what we do here on a day-to-day basis. We ought to be able to make sure that they stand the scrutiny of public exposure and debate on the particular appropriation.

Much of that will take place in the Appropriations Committee. Some of that should take place on the floor of the Senate and in the House of Representatives, and the President, we submit, ought to have a say in how that money is spent and whether they deem it is appropriate.

This procedure does not outlaw the possibility of this Congress coming back and disagreeing with the President. We do that on vetoed appropriations bills time and time again, and there is no reason we could not do it on a rescission.

What we are attempting to do here is redress what we think is a considerable imbalance in terms of how current appropriations processes are handled, and the President's inability to have his rescissions, some of which will be valid and some of which this

body will determine not to be valid, how those rescissions are handled.

The situation we now have is that very few, if any, are handled. If I could, I would like to outline the record in the past few years. I will skip a few of those, but the record is, in terms of the disapproval of rescissions sent to this body, we have not acted on most of the President's rescissions.

In fact, in 1976, under President Ford, 51 rescissions were sent to this body, and only 43 were acted on. Of the $3.608 billion submitted for rescission, $3.404 billion, $3.8 billion of that amount was not accepted.

Thus, 90 percent of what the President sent here was not accepted by this body. Under President Reagan, the record is even worse. In 1983, of 21 rescissions sent to the Congress, 21 were rejected; 100 percent of everything he sent was rejected.

In 1986, 83 rescissions were sent, totaling $10 billion. Seventy-nine were rejected, for a 97-percent rejection rate. In 1987, 73 rescissions were sent, and 71 were rejected—98 percent. In 1988, the President gave up and did not send any up here, because he saw what the record was going to be.

The questions raised as to the fact that by going through this process, we have to duplicate what we have done before, that is, we have gone through the process once; it has been through committee and through the House and the Senate; we voted on it, so why do we need to go back and do it again?

Admittedly, we will be making certain types of spending more difficult—not impossible, but more difficult. Admittedly, this body ought to be held accountable for some types of projects that go through that probably would not stand the scrutiny of public debate.

But because we have structured this in such a way that the Senate must deal with all or nothing of the rescission that is sent up, the President and the executive branch will certainly use discretion in terms of how they send a rescission forward. If the rescission includes a whole basket of things, some of which are meritorious and some which are not, it is very likely this body will not accept that rescission. They would vote a resolution of disapproval.

On the other hand, if the President selectively exercises his authority, his rescission authority, over egregious appropriations in pork barrel projects, then it is likely we could have some effect. It need not take a great deal of the time of this body. We have added the expedited procedures, which the Senator from Arizona had worked long and hard on, and which were included in his bill. We have added those as a way of expediting the process.

And without going into all the details, which I am sure my colleague from Arizona will on those particular procedures, I will just say that there is no reason why this need take up a great deal of the Senate's time.

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

Mr. COATS. I am almost finished with my statement. If I could go ahead and finish the statement, I will be happy to yield for a question on this particular point.

Mr. President, the last objection that I want to talk about today is that this really does not save very much money, that our budget problem far exceeds our ability to deal with it through the rescission process.

I am the first to say I agree that this does not solve all the problems of deficit, but it can be an important tool in dealing with a significant contributor to the deficit. It is true, this does not cover entitlements; it does cover only appropriated amounts. But in a budget as big as ours, appropriated amounts are a significant portion.

You do not need to outlaw penicillin simply because it does not cure cancer. It has a very important effect on particular parts of disease, as does this particular measure of line item veto or against rescission authority.

In the last 13 years, $35 billion of rescissions have been sent to Congress and rejected. Had we accepted just half of those, or even less than half, we would not be in a sequester process today. If we would have met the Gramm-Rudman targets, we would not have been cutting across the board every discretionary account, which I submit will bring us back to this floor early next year in an attempt—if we do not deal with it through reconciliation—to respond to howls of protest which will arise across the country relative to the blindfolded way in which we slash across every account, without any discretion in terms of how we do that.

Mr. President, I will close here for the time being with this: I am not going to stand on this floor and single out what I consider to be pork-barrel projects in other Senators' States.

I think it is sufficient to say that we all know how to use the process. We all understand that there are ways in which we can attach spending projects which favor our particular areas, which might not stand the test of open debate.

We all have done this. I have done this. I am guilty. As the Wall Street Journal editorial said, there is to us a darker compulsion to do some things that, I think, deep down we know, in the name of sound fiscal policy and good government, we should not do.

Now, we heard some eloquent and articulate speeches on the floor of this Senate in the reconciliation process by Members of both sides, relative to the process that we had undertaken in reconciliation of attaching page after page after page of items that had no business being attached to that bill.

I think in one of the grander moves of this body, we agreed to strip that bill of those extraneous provisions and use reconciliation for what it was intended to be used for.

I appreciated the statements that were made by a number of Members as they came forward and said, Yes, I am guilty; I have my own special projects in there; I have my special spending, but I do not feel very good about it, and the thing has gotten out of hand, and sometimes we have to draw the line.

I thought that was one of the Senate's higher moments and better moments. My appeal to my colleagues here today is not to outline any particular projects that they do not think deserve the funding.

My appeal is in the name of good government, in the name of sounder fiscal policy, in the name of attempting to redress a decided imbalance that I think exists between the legislative branch and the executive branch in terms of how we deal with our spending, that we enact one tool that will help us, that will give us perhaps some courage and some fortitude not to continue the process we are under.

I fully believe that giving this authority to the executive branch will act as a check on us in the first place and that the appropriations bills that come before us will have fewer what we would describe as pork-barrel projects, fewer items that each of us knows deep down are probably not appropriate for that particular appropriations, simply because we know that the President has the authority to check that and we have to load up that vehicle, which we know the President has to sign or we know is necessary or essential funding for essential projects, with particular spending items that we know could not stand on their own two feet.

I think it is an important test of our commitment. I think the programs that do not stand the light of exposure ought to be subject to rescission, debate, and vote.

Mr. President, I close by asking unanimous consent that a letter, dated October 4, 1989, signed by the President, relative to his support for this provision, as well as an editorial from the Thursday, October 19, 1989, edition of the Wall Street Journal supporting this amendment, as well as a list of organizations supporting the amendment, be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, October 4, 1989.

Hon. DAN COATS,
U.S. Senate, Washington, DC.

DEAR DAN: Let me take this opportunity to commend your personal efforts in develop-

ing the Legislative Line-Item Veto Act of 1989 (S. 1553), and to offer you my full and strong support in the push to enact this important legislation.

As you are aware, this legislation offers an important opportunity to reform the budget process by enabling the President to rescind wasteful and unnecessary appropriations and thereby reduce the Federal deficit.

Under current law, an appropriation can be cancelled only through a cumbersome rescission process that has proved to be largely ineffective. The fatal defect in the existing process is that the President's proposed rescissions can be thwarted simply by congressional inaction. And in fact, the vast majority of Presidential rescissions submitted since the present law was enacted in 1974 were never acted upon.

S. 1553 would solve this problem by allowing the President's rescissions to go into effect unless the Congress takes affirmative action to restore the appropriations. This simple but important change in the law will make both the Congress and the President more accountable for the responsible use of the public's money. For that reason, this bill deserves the support of all of us.

With best regards,

Sincerely,

GEORGE BUSH.

[From the Wall Street Journal, Oct. 19, 1989]

BUDGET THERAPY

Watching Congress sweat and grimace through its annual budget labors, fighting the urge to spend more, we're reminded of those late-night movies in which the anguished serial killer turns himself in to police and says, "Stop me before I kill again." The Members know they're doing wrong, but they need help to restrain their darker compulsions.

Arkansas Democrat David Pryor spilled his guts on the Senate floor the other day after he'd joined the Finance Committee's early-morning pork-barrel revels: "I must tell you . . . I come to the floor tonight as one who ended up with a busload of extraneous matter. It was nothing more or nothing less than a feeding frenzy." He was turning himself in.

"Frankly, as I was walking back to get in my car, I heard many, many people . . . opening champagne bottles and celebrating individual victories that some of us had accomplished in getting our little deal in the tax bill and winking at this person for slipping this in," he said. "As I was driving home, I did not feel very good about myself."

We can applaud Mr. Pryor's moment of epiphany, even as we understand that he and his confreres need restraint lest they kill again. A good place to start the rehabilitation is a "legislative line-item veto" bill now being offered by Indiana Senator Dan Coats. The Coats bill, which already has 32 Senate co-sponsors, isn't a pure line-item veto because it would apply only to spending bills. Instead it's a form of "enhanced rescission," giving a President a chance to rescind, or strike, specific spending items that just go too far.

Under the proposal, a President would have a chance twice each year to return a package of "rescissions" to the Hill—once when he proposes his budget and again after Congress disposes. Congress would have 20 days to reject the package with a 50% majority, but then a President could veto that rejection. Congress would then need the usual two-thirds majority to override any veto.

The proposal would restore some discipline erased from the budget process by the 1974 Budget "Reform" Act. Before 1974, a President could "impound," or refuse to spend, funds appropriated by Congress. Presidents Kennedy and Johnson were both big users of the impoundment power, but Congress saw its chance against a weakened President Nixon and stripped it away.

Today a President can still send up spending rescissions, but they're meaningless unless Congress has a guilty conscience and changes its mind. This is like asking foxes to feel remorse about chickens, and naturally rescissions are almost never approved. In 1987, President Reagan sent 73 rescissions back to the Hill, but only 3% of the spending total was approved by Congress. Senator Coats's proposal would let the proposed spending cuts take place automatically unless Congress acts. The Members could still try to serve their constituents with special-interest goodies, but the police (in the form of a President) would be there with a straitjacket if they really get crazy, as they do now.

Mr. Coats plans to offer his proposal as an amendment to a bill to raise the federal debt limit before the end of the month. President Bush has endorsed the idea, and as least 50 sitting Senators have voted to support enhanced rescission authority in the past. We're told Senator Pryor isn't yet a co-sponsor, but if he and his colleagues are serious about kicking their compulsions, they'll sign up.

COALITION FOR FISCAL RESTRAINT,
Washington, DC, October 27, 1989.

Following is the text of a letter endorsed by the attached list of COFIRE member-organizations and sent to members of the United States Senate on October 27, 1989:

"It is apparent to the Coalition for Fiscal Restraint (COFIRE), as well as to most Americans, that the federal budget process is in need of considerable repair to assure more responsible management of the nation's fiscal affairs.

"Those COFIRE member-organizations listed on the attachment believe that the budget process can be improved by placing more of the burden for fiscal restraint on the Executive Branch.

"For this reason, we urge your support of S. 1553 (the Legislative Line Item Veto Act of 1989).

"S. 1553 would amend the Congressional Budget and Impoundment Control Act of 1974 to provide the President with enhanced rescission authority. For your information, a fact sheet on S. 1553 is also attached.

"Frequently expressed concerns over the extension of presidential authority are addressed in the bill by giving Congress the power to reject a presidential rescission by a simple majority vote in both houses with such a rejection then subject to the constitutional veto process.

"Those COFIRE members listed believe this legislation represents a much-needed reform of the budget process, and we urge your support of S. 1553 as an important step toward this end."

The following member-organizations of the Coalition for Fiscal Restraint (COFIRE) support the passage of the Legislative Line Item Veto Act of 1989 (S. 1553):

Aluminum Association;
American Cyanamid Company;
American Farm Bureau Federation;
American Furniture Manufacturers Association;
American Legislative Exchange Council;
American Rental Association;
Americans for Tax Reform;
Amway Corporation;
Armstrong World Industries;
Associated Builders and Contractors;
Chamber of Commerce of the United States;
Citizens Against Government Waste;
Citizens for a Sound Economy;
Commercial Weather Services Association;
Committee for Private Offshore Rescue and Towing;
Consumer Alert;
Entrepreneurs of America;
FMC Corporation;
The Gap, Inc.;
Georgia-Pacific Corporation;
Independent Bakers Association;
International Ice Cream Association;
International Mass Retail Association;
Koch Industries;
Milk Industry Foundation;
National-American Wholesale Grocers' Association;
National Association of Brick Distributors;
National Association of Home Builders;
National Association of Manufacturers;
National Association of Truck Stop Operators;
National Candy Wholesalers Association;
National Federation of Independent Business;
National Grange;
National Independent Dairy-Foods Association;
National Limousine Association;
National Printing Equipment and Supply Association;
National Tax Limitation Committee;
National Taxpayers Union;
NL Industries;
Printing Industries of America;
Recreation Vehicle Industry Association;
Savers and Investors League;
Sears, Roebuck and Co.;
United Bus Owners of America;
U.S. Business and Industrial Council;
U.S. Federation of Small Businesses.

Mr. COATS. Mr. President, I appreciate my colleagues' patience with this. I hope that they understand that a number of us have been trying very hard for several months to bring this bill to the floor, either on a stand-alone basis or as an amendment, that we have agreed on three occasions and deferred to the wishes of the majority leader and the Republican leader to not impede what they considered essential measures that the Senate needed to consider on a very timely basis and that, as we are nearing the end of our session, it was important that we bring this forward, important that it be debated. But then we have no intent of holding up the process, and we have no intent of holding up this particular bill.

I think this can be adequately debated and examined in a relatively reasonable period of time, and there is no reason why we cannot finish on this today and stay right on schedule.

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

Mr. COATS. I am happy to yield for a question.

Mr. SARBANES. Under the Senator's proposal, is there any limitation or restraint on the President on how many and what budget authorities he can rescind?

Mr. COATS. The proposal says that the President may rescind any or all of any appropriations sent to him.

Mr. SARBANES. He can rescind anything or part thereof if he chooses; is that correct?

Mr. COATS. That is correct, within 20 days.

Mr. SARBANES. Second, I take it if he makes a rescission and sends it back to Congress and the Congress does not act, that rescission takes effect automatically; is that correct?

Mr. COATS. Mr. President, in response to the Senator, that is correct.

Mr. SARBANES. If the Congress, however, acts and disapproves the recission, in other words, the majority of Members in both bodies disapprove this Presidential rescission, does the recission then take effect?

Mr. COATS. If the Congress passes a resolution of disapproval, it then goes to the President, and the President has 10 days in which to accept or veto that resolution of disapproval.

Mr. SARBANES. In other words, it is not only that the Congress would be pushed to act on a rescission, but, if it acts on a rescission, which I take it by definition represents something that has passed the Congress and is signed into law by the President, otherwise, we would not have anything to rescind, if the Congress then disapproves it, the President can then veto that congressional action?

Mr. COATS. As the President currently has the authority to veto any appropriation, he has the same ability.

Mr. SARBANES. I know. But in this instance, by definition, he has already signed that or there would be no appropriations to rescind. So, in effect, it is not just a congressional disapproval of the rescission, the President could then veto the disapproval by the Congress; is that correct?

Mr. COATS. That is correct.

Mr. SARBANES. Therefore requiring two-thirds vote in order to put it onto place.

Mr. COATS. That is correct. Under the limited time procedures available under this bill, the President has the same veto authority that he now constitutionally has, and any appropriations or rescission subsequent to an appropriation is subject to the President's veto.

Mr. SARBANES. So, it is not merely a congressional disapproval. A disapproval must then either command the support of the President or, if not, I take it, would then come back to the Congress again to be considered in order to try to get a two-thirds vote; is that right? Once again it would come back to the Congress.

Mr. COATS. If the President chose to veto that resolution of disapproval.

Mr. SARBANES. I see. I thank the Senator.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon [Mr. HATFIELD].

Mr. HATFIELD. Mr. President, I am not going to be long on this matter because I think we have more important business to consider than this ill-conceived proposal.

Mr. President, I never cease to be amazed at the proclivity of the Congress to do itself in. I simply do not understand why the proponents of this and similar proposals want the House of Representatives and the U.S. Senate to do the following:

No. 1, go through the prolonged consideration of the President's requests in lengthy and often tedious hearings.

No. 2, mark up 13 appropriation bills, open markups at both subcommittee and full committee levels.

No. 3, report these bills to the floor for extended debate and amendment by any Member.

No. 4, take those bills to conference and haggle out the multitudinous details day after day, in some cases.

No. 5, negotiate with the administration all the while and make sure the bills comply with the congressional budget requirements, 302(b) allocations, et cetera.

No. 6, bring back the conference reports to the floor for further debate and possible amendment by any Member on this floor.

And, last, send those bills to the President and ask for his signature.

And then, after each one of these steps where every Member of this body has a right to offer an amendment, challenge the pork, challenge anything they think is wasteful, every step of the way, as well as working with the White House every step of the way, after all of that, after all those opportunities to review the bills, and add this or subtract that, then the proponents of this idea would have the Congress say, when the President proposes to rescind something in a bill he has already signed into law: "Oh, yes, Mr. President; you are so right, Mr. President; how can we have been so stupid, Mr. President; we will correct that right away, Mr. President."

Mr. President, my Republican colleagues, unfortunately, have not read their history when they make this kind of a proposal.

Senator Charles L. McNary, Senator from Oregon, was the Republican leader sitting here in 1937 in this Republican leadership position. The only Republicans we had in the Senate at that time filled these first two rows, only 17. That is all we had on this side of the aisle. The Democrats sat clear across the back of this side of the Chamber in two rows. It was called the "Cherokee strip," and here were those 17 Republicans huddled down here in this part of the Chamber.

I wonder how many of my colleagues would propose giving that kind of power to the President at that time, Mr. Roosevelt.

I am surprised at my colleague from a Western State that would be a party to this. In January 1977, there was a Democratic President by the name of Mr. Carter. The first thing he offered as a major issue following his inauguration was the western water hit list.

Some 21 western water projects he considered wasteful and he asked the Congress to abolish them.

Would any western Senator, with the central Arizona project or with the Bonneville Dam project, have risked the possibility that the President of the United States could have excised those and the only way the Congress could have overridden that after they had voted for that, appropriated them, would be by a two-thirds vote, as the Senator from Maryland pointed out?

From my perspective, if this had been in place, under 8 years of President Reagan when I was fighting the SDI and the MX missile, the nerve gas and all these other things that I consider the ultimate of pork barreling—not many of my colleagues here on this side of the aisle, or a handful, 17 to 21, on that side that gave Mr. Reagan a victory on every one of those projects, coalescing. We had two tie votes on nerve gas in which then-Vice President Bush had to cast the deciding vote in a tie vote. The President could have had all of those things by a much bigger margin.

No, Mr. President, the opportunities to review these bills are in our possession now.

Mr. President, there is no mystery about this deficit. We just do not have the guts to stand up and face the reality that it is income in terms of revenues, and it is outflow in terms of expenditures. And we strain and we stress ourselves into all kinds of contortions and ridiculous positions by going through procedure after procedure after procedure, as if procedure will ever correct that deficit. It will not. Gramm-Rudman-Hollings is not going to correct it.

This is not going to correct it because it takes courage, and you cannot manufacture courage. This is one of the most gutless procedures I have ever seen in my life.

With all of these opportunities for the Members of this body to stand up and challenge the pork, they say, "Oh, I do not want to do that. I want to make the President do that. Then I will keep my head down in the herd and support the President. But I do not have the guts to stand up and challenge the pork. I can talk about it. I can take ads in newspapers and I can talk about pork and all that about

pork, but I really do not want to challenge the Senator from such and such a State, or my old friend who I sit next to, because, really, I think it is pork."

The $180 million in Indiana, there could be those who would say it was pork. The money that we have for the Bonneville Dam, it could be said was pork by some people in this body.

And let me also remind my good friends from the West, no longer does the Interior Committee, now the Energy and Water Committee, control the policy of the western public land States as we did historically. We have just gone through an exercise when the forests of the Northwest, the determination on the future of those forests was being determined not by western Senators, as has historically been the case, but by a national coalition of environmental groups that said we should shut down our forests; those groups that say we should not have projects that impound water, regardless of how many people are moving to Arizona and have to have water to stay alive for industrial uses, municipalities.

It was water impoundment that won the West, Mr. President, not the six-gun. Water impoundment. And today it is increasingly difficult to get any of those projects past the myriad of obstacles of environmental reports and studies and challenges in courts and so forth.

When it gets right down to it, the proponents of this scheme are saying that a willful minority in either House could force the rescisson of funds duly appropriated by a majority of each House and signed into law by the President. The President would find something in an appropriation measure that he did not like and propose its rescission. Having just acted on the funding in the first instance, Congress would have to act on a joint resolution of disapproval, essentially saying, "Yes, indeed, we really did mean to do what we did," and send that joint resolution to the President. He would veto that measure, assuming that he really meant what he said. Then one-third, plus one—one-third, plus one—of either House could sustain the veto and frustrate the will of the majority of the Congress.

Mr. SARBANES. Will the Senator yield on that point?

Mr. HATFIELD. Yes, I will.

Mr. SARBANES. It is one-third of just one of the two Houses, is that not correct,

Mr. HATFIELD. Correct.

Mr. SARBANES. So, in effect, the President and 34 Senators only, or the President and 146 Members of the House, either—not both, either—could make every budget decision to be made, is that not correct, under this procedure?

Mr. HATFIELD. That is correct.

Mr. McCAIN. Will the Senator yield for a question on along that line?

Mr. HATFIELD. Not at this moment. I, too, want to finish my statement.

Mr. President, what is at stake here is simply that we can criticize this proposal and its procedural complexities and its redundancy, but the real issue here—and I have been focusing on my criticism of the proposal—but the real fundamental issue here is the shift in the balance of power between the two branches of Government, namely the legislative and the executive branch. And I believe very strongly that we should not alter the current balance.

After those days when we had basically almost one branch of Government after the New Deal was established with its vast majorities in both the House and the Senate, after the President of the United States attempted to pack the court because he did not like the checks and balance of the court, and we had a docile Congress, we had practically a one-branch Government.

Now, we have today a balance, a good balance between the executive and the legislative. It does not come in every session of the Congress. There are cycles in which our Government moves. But I do not believe it is the time to shift the balance of power between the Congress and the President in order to achieve what is called deficit reduction when we really are not going to achieve it even with this.

What is the largest and fastest-growing element of the Federal budget? Let us get down to fundamentals. We have had the circus, let us get down to the fundamentals. What is the largest and fastest growing part of the budget? The entitlements and mandatory spending. Would this proposal apply to that spending? No. Over 50 percent of this budget today is entitlements. And that has grown 80 percent in the last 9 years. One hundred eighty-one billion dollars for the interest on the national deficit. Would it apply to that? No. That has grown 189 percent.

What about the next piece of that budget, $305 billion for defense? At least in the Reagan years and so far this time in the Bush years, I have not seen much evidence that the Republican administration wants to do much about cutting its budget as it relates to military spending. They are following the old New Deal philosophy, I hate to admit, that the more money you throw at something, the more you solve the problem. That is Roosevelt at his finest of fiscal irresponsibility, and yet we are saying the more money you spend for military, the more defense you buy.

Well, it is not going to be applied there, even to those $50 wrenches and all the other pork barrel that we can show the Pentagon has been guilty of by the character, the inferences and the philosophy of the Republican administration.

Would this proposal enable the President to strike from the tax bills the revenue-losing provisions that occasionally occur? It would not. This proposal would only apply to the funding provided in the appropriations bills and more realistically to the nonmilitary discretionary programs that amount to about $181.3 billion. And of all of the components of the budget, that is the one that has been decreasing.

Mind you, Mr. President, the very part of the budget that has been diminishing is the part of the budget that this would most likely be applied to by the President. This proposal violates the Willy Sutton rule for deficit reduction. It does not go to where the money is, it goes to where the money is not. It is not a deficit reduction tool. It is a political ploy.

Finally, Mr. President, I think we should reflect on our experience with the current rescission procedure under title X of the Budget Act before we fundamentally alter the balance between the two branches and impetuously embrace this ill-conceived proposal.

I asked the General Accounting Office to do a little research in this area, and the results are illuminating. Since the creation of the existing rescission procedure in 1974 the General Accounting Office records a grand total of $56,938,835,000 in rescissions have been proposed by the Presidents who held office during that time.

The Congress has enacted over $19 billion of those proposals and, in addition, has enacted another $31 billion in rescissions, for a grand total of over $50 billion in rescissions enacted into law during that time.

That means Congress has enacted rescissions totaling 88 percent of the amount recommended by the President. That suggests to me, Mr. President, that the Congress is not unresponsive to Presidential requests under the present system. We have not always agreed with the President's specific proposals but the President is not the seat of all wisdom in these matters. The point is to reduce spending by rescinding budget authority available for obligation, and the Congress has done that.

Let us look at this from another point of view. Let us say the Appropriations Committee has not agreed with the President. Any one Member on this floor can force a rescission action by this body. I hope Senators will look at section 1017 of the Budget Act. It provides for a procedure under which any Member of the House or the Senate may introduce a rescission bill incorporating all or part of the President's rescission proposals or entirely new ones. There again, any

Member can get to the so-called pork, if he has the guts to do so, or the courage.

That rescission bill is referred to the Committee on Appropriations. And if it has not been reported with or without amendments after 25 days, it is subject to discharge from the committee. The committee cannot bury it. The committee cannot hide it.

In the Senate the discharge motion must be supported by at least 20 Senators, the motion is privileged, it is not amendable, debate is limited for 1 hour and no motion to reconsider is in order.

Here again, any Senator so concerned about all of this wasteful spending has the power to address the problem, the only needed element is courage. Not another procedure. Not delegating congressional power to the executive. Not saying, "Mr. President, I do not have the courage to stand up and do something. I want you to do it. I want you to get the blame for it. And I will hide here and I will vote as part of that one-third plus one needed to sustain a veto, but that vote will be well, well camouflaged."

"Courage" is the key to the deficit; not another procedure—courage.

Mr. President, I felt in 1985, as we were considering the 1986 budget, that was an example of the ultimate in courage of the Republican Members of this body because we had 50 of the 54 Republican Members vote for a budget resolution that froze all expenditures across the board for 1 year to get control of the deficit. We only had one Democrat vote with us. Fifty-one votes.

That is courage. Because that spending freeze included the hot button items of Social Security, Medicare, all the entitlements, all the mandated spending. It included everything. That was courage.

But what happened the next day? The Republican President torpedoed the package. It was not the Democrats. They certainly exploited the across the board spending freeze in the next campaign. And we have exploited other issues on our side of the aisle. But the point is that it took courage for 50 Republicans out of 54 to stand up and vote for that budget resolution that would have taken us a major step toward correcting the deficit.

That is the element. There is no mystery. Gramm-Rudman-Hollings, enhanced rescissions, line item vetoes—all of these procedures are constantly raised because we do not have the courage to face up to the fact we need more taxes on the one hand, or more revenues such as an oil import tax or something of that kind—we have too few revenues—and we have too many expenditures. And we also do not have control over the entitlements.

I am going to close now. Let us look at this GAO report about rescissions. I think my colleagues would agree President Reagan was the most ferocious, tenacious opponent of Federal spending, in the nondefense spending area, who has come down the pike in a long time. Indeed, of the $56.9 billion that has been proposed for rescission since the implementation of the Budget Act, $43.4 billion of those proposals were made by President Reagan.

How did Congress respond? Here is the GAO report. We enacted $15.7 billion of his proposals, added $28 billion of our own, and came up with a grand total of rescissions enacted by Congress in the Reagan years of $43.7 billion. Congress rescinded more money than President Reagan requested. That is the fundamental bottom line. That is the conclusion of the Government Accounting Office. The Congress in the Reagan years rescinded more money than the President proposed.

So, Mr. President, I really fail to see the point of all this. This proposal would not achieve significant deficit reduction because it does not address the principal causes of the deficit. It attacks only the appropriations process when, in fact, Congress continues to appropriate less money than the President requests.

Let me emphasize that point again. I remember when Senator BYRD was holding the floor one evening and we were getting the same old claptrap about the big spenders in the Congress and the conservative, fiscally responsible Presidents. Senator BYRD recited the fact of history, that 36 at that time—this maybe 4 years ago—36 out of the last 37 years, Congress had appropriated fewer dollars than the Presidents had requested, through Republican and Democratic administrations alike.

If we add another few years to that we will find the record will be, as shown by the Government Accounting Office, the Congress has not been the big spender.

We have had disagreements with the White House. I know as former chairman, of the appropriations bills during my 6 years alone we stopped $60 billion of President Reagan's requests for military spending. We reduced it by that amount. And we reallocated it to meet the needs of people—the poor and the others who were being denied the kind of support their Government owes them.

We know how to shift the budgets around and we can take that responsibility. But in the grand total we appropriated fewer dollars in the Reagan years than President Reagan requested.

So, let us keep that balance, as we should.

I think we have, Mr. President, a system that works pretty well. It is not the appropriations process that is the problem. We are open, aboveboard. We present vulnerability on this floor more than any other committee of this Congress because any amendment proposed by any Senator at any time can delete, can add, can change any of the work of the subcommittees, 13 subcommittees of the Appropriations Committee, the full committee.

Mr. President, I am happy to yield to the Senator from Arizona for a question.

Several Senators addressed the Chair.

Mr. HATFIELD. The Senator asked me to yield for a question a moment ago and I asked him to delay and so now I make myself available.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I say to my colleague, if it is a question of time, I withdraw my question. There are other speakers, and I do not want to hold them up.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Arizona [Mr. MCCAIN].

Mr. MCCAIN. Mr. President, I think my colleague from Oregon just gave a very compelling and convincing argument. He made a compelling and convincing argument for the status quo. Obviously, the status quo is satisfactory in his view. He just said this is a system that works pretty well. He said our proposal is ill-conceived, and there are more important things than getting our budget in order to consider "a system that works pretty well." I will have to disagree, and say to all my colleagues the system does not work well. About 48 hours ago, we agreed to extending the debt limit to $3 trillion. I have to say to my friend from Oregon he may think the system works pretty well, but I can assure him that the people I represent not only do not think the system works "pretty well," they think the system is broken, and it is in drastic need of repair. They are appalled and horrified at the prospect of a $3 trillion national debt.

I remind my colleagues, thanks to the Constitution of this United States which gave Congress the power of the purse it is the President who proposes; it is the Congress that disposes. Every single penny of that national debt was just approved by the Congress of the United States.

Our proposal "ill-conceived"? Obviously, my friend from Oregon is in disagreement with the President of the United States. The President of the United States says in a letter dated October 4, 1989, to me:

As you are aware, this legislation offers an important opportunity to reform the budget process by enabling the President to rescind

wasteful and unnecessary appropriations and thereby reduce the Federal deficit.

So I point out to my friend from Oregon, he is in disagreement with this President and the previous President, President Reagan, who has stated that his No. 1 priority in his years of retirement is the enactment of a line-item veto.

Mr. HATFIELD. The Senator is correct in his observation that I have disagreed with the Presidents with regard to the line-item veto.

Mr. McCAIN. I thank the Senator.

I suggest that this proposal is well conceived—I suggest that the system does not work given that we have amassed a $3.3 trillion debt—every penny of that debt being the result of appropriations bills passed by this Congress and entitlement spending—I would say the system works pretty badly. I suggest that the system is broken.

Mr. HATFIELD. Will the Senator yield on that point?

Mr. McCAIN. I am always eager to be educated by my distinguished colleague from Oregon who has an intimate and deep knowledge of this issue and the history surrounding it.

Mr. HATFIELD. Did I understand the Senator to say that all this deficit he recites was due to appropriations bills?

Mr. McCAIN. I clarify my statement: It is due to actions that have been taken by the Congress of the United States which could have this terrible legacy to future generations of Americans who will have to pay this bill one way or the other.

Let me ask this.

Why does not the President of the United States send more rescissions over here to the Congress? Frankly, I am deeply disappointed, as I know other Members of this body are—Members who share my concerns about our fiscal state—that the President does not send over more rescissions. One of the reasons he does not is because he is very sure that very few of them will get acted on—and that is why our bill is designed to force Congress to act if they disapprove of those rescissions. This is, as you know, Mr. President the opposite of current law.

The GAO says that, since 1984, the President has submitted 415 rescissions, totaling $18.4 billion. Congress has enacted only 107 of these rescissions, totaling $400 million. Given this track record, if I were the President of the United States, I would have very little hope that rescissions sent over here under the present system would have an opportunity to succeed.

The Senator from Oregon also talked about the beginning years of the Carter administration where there were Draconian measures proposed to cut many Western water projects.

I say to the Senator from Oregon, I will be glad to have any project that I support withstand the scrutiny of this body. Perhaps there have been projects awarded to my State that are not appropriate and should not have been expended by the taxpayers' dollars. Perhaps that is the case.

Nevertheless, I want to reform the whole system so that will not happen in my State or in any other State because we have an obligation to all Americans to reform a system which is broken, as is evidenced by a $3.1 trillion national debt.

Mr. ARMSTRONG. Mr. President, if the Senator from Arizona will yield for a moment, it appears to me he is on the verge of making a statement. I am eager to hear that. I just want to—even before he makes his complete presentation—congratulate him and the Senator from Indiana for bringing this matter before us. It is obvious to me—it may not be obvious to all Senators but it is obvious to me, and I think it is to the vast majority of people at home—that the Senator from Arizona is right, the system is broken; it is out of kilter.

I do not know how this looks in the various offices and bureaus in Washington, DC, but beyond the beltway, at least in Colorado, Indiana, Arizona, and other places, people think we are nuts. In fact, within the last 2 or 3 days, one of my dearest friends said to me: Why do you guys make all of these pious statements and speeches on the floor of the Senate about how you are going to balance the budget, and the deficit goes further and further out of control?

I think the only answer to that, may I say to my friend from Arizona and my friend from Indiana, is that people should not watch what we say but what we do. The vote on the Coats-McCain amendment, in my opinion, is really an acid test of the determination of Senators of whether or not they want to give somebody the power to bring spending under control. I do not see this—some may think so—I do not see this as a contest of wills, as a legislative branch and executive branch.

I have been a member of this branch of government for a long time. I am proud of it. We have the power of the purse, and we should have. When we fail to exercise that power responsibly, then somebody has to have the right to line out some of these items. As has already been pointed out, that is the way it is done at the State level; that is the way it is done in every corporation. No board of directors would saddle its chief executive with the kind of restraints we put on the President. That was the way it was done by Presidents of the United States from Thomas Jefferson until about 15 years ago.

What the Senator proposes is not unusual, it is not radical. It is, in fact, a thoughtful and moderate response to a very serious problem.

I just rise to applaud what the Senator from Arizona is trying to do and associate myself with it.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona has the floor. Does he yield to the Senator from Illinois for purposes of a question?

Mr. McCAIN. I would like to respond briefly to the remarks of the Senator from Colorado, and then I would like to yield to the Senator from Illinois without sacrificing my right to the floor, if I may, Mr. President.

Mr. DIXON. Let me say to my friend that I would rather my friend conclude. This Senator would like to be heard on the issue. I am delighted to listen to my friend from Arizona at length and when he has concluded, I would like to be heard.

Mr. McCAIN. Mr. President, I would like to say to the Senator from Colorado, his early efforts, before the Senator from Indiana and I were Members of Congress, on this issue are well known. He has been a leader. He has been a moral compass on fiscal responsibility. We are very grateful for his efforts and his kind remarks. I thank the Senator from Colorado.

I also would like to thank my friend from Indiana whose leadership on this issue has been important. I would say his efforts have also been instrumental in gaining the support of the White House for this line-item veto because I do not believe that without the important and critical support of the President of the United States we would have made the progress we have.

I say to my friend from Illinois, I will try to be brief. I do have some important points to make. I know there are other speakers.

I would also like to say with great respect to the distinguished chairman of the Appropriations Committee, I extend my apologies for holding up the process at this time. I know this is an important piece of legislation, which embodies the hard work of the distinguished chairman and ranking member of the Appropriations Committee.

Mr. President, our line-item veto amendment might be one of the most important we consider.

Urgent consideration of this amendment is appropriate at a time when we have been forced to pass legislation to allow the Government to pile up a national debt of $3 trillion. As my friend from Indiana has indicated, it has the full and strong support of the President and 33 cosigners. Over 40 members of the Coalition for Fiscal Responsibility have also voiced the support of the measure and have worked hard to bring this issue to the public's

attention. I am grateful for their constant and committed efforts.

I ask unanimous consent that a list of these organizations be printed in the RECORD.

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

COALITION FOR FISCAL RESTRAINT,
Washington, DC, October 27, 1989.

The following member-organizations of the Coalition for Fiscal Restraint (COFIRE) support the passage of the Legislative Line Item Veto Act of 1989 (S. 1553):

Aluminum Association.
American Cyanamid Company.
American Farm Bureau Federation.
American Furniture Manufacturers Association.
American Legislative Exchange Council.
American Rental Association.
Americans for Tax Reform.
Amway Corporation.
Armstrong World Industries.
Associated Builders and Contractors.
Chamber of Commerce of the United States.
Citizens Against Government Waste.
Citizens for a Sound Economy.
Commercial Weather Services Association.
Committee for Private Offshore Rescue and Towing.
Consumer Alert.
Entrepreneurs of America.
FMC Corporation.
The Gap, Inc.
Georgia-Pacific Corporation.
Independent Bakers Association.
International Ice Cream Association.
International Mass Retail Association.
Koch Industries.
Milk Industry Foundation.
National-American Wholesale Grocers' Association.
National Association of Brick Distributors.
National Association of Home Builders.
National Association of Manufacturers.
National Association of Truck Stop Operators.
National Candy Wholesalers Association.
National Federation of Independent Business.
National Grange.
National Independent Dairy-Foods Association.
National Limousine Association.
National Printing Equipment and Supply Association.
National Tax Limitation Committee.
National Taxpayers Union.
NL Industries.
Printing Industries of America.
Recreation Vehicle Industry Association.
Savers and Investors League.
Sears, Roebuck and Co.
United Bus Owners of America.
U.S. Business and Industrial Council.
U.S. Federation of Small Businesses.

Mr. McCAIN. Mr. President, the line-item-veto amendment has been described by my friend from Indiana. I will not repeat that description or indulge in redundancy.

Some Members feel that Republicans would not support the line-item veto for a Democratic President.

Mr. President, that simply is not true. I would support giving any President this authority. If he is out of line, Congress can clearly overturn his rescission.

Mr. President, hard-working taxpayers are tired of having the "tax increase" sword of Damocles hang over their heads every year as Congress goes on its pork-barrel-spending sprees. They are tired of being nickled and dimed with tax increases here and there, instead of spending cuts.

This year the tax increase may be $5 billion; in 1987, it was $9 billion; in 1988 it was $14 billion in new revenues.

Raising taxes is not the answer.

Mr. President, let me remind you the America taxpayer works on the average of 2 hours a day just to pay his or her annual tax bill. Their paychecks from January until May are just enough to cover his or her tax liability, and they will continue to foot the bill for what I view is out-of-control spending. As long as the President lacks a line-item veto.

I will not, as my colleague from Indiana agreed not to do, point out projects which are well known to us. I think that would inflame the debate rather than give it the calm, rational deliberation it needs.

Mr. President, we are spending addicts and we cannot admit it. We need the "line-item veto cure" so we can "just say no" to special interests. Furthermore, we need to enact this bill in order to ensure that we focus on national priorities like the war on drugs, housing for the homeless, and education, instead of some of the other projects which are far less important. Let there be no doubt, Mr. President: Americans know what a line item veto is. Everywhere I go in my State and across this country I talk about the line item veto and without exception I get an enthusiastic reception. In fact, a recent Gallup Poll indicates 70 percent of the American people support the line-item veto.

Mr. President, 43 out of 50 States have managed to grant their chief executive some sort of constitutional line-item veto. Most States had it before the First World War. My State of Arizona adopted it the year it became a State, in 1912.

There is one significant difference between State governments and that of the Federal Government. They balance their budgets and we do not.

Mr. President, if a line item veto is what 70 percent of the American people want, let us defer to their judgment. I strongly urge the rest of my colleagues, if they are serious about combating unnecessary spending and want to prevent facing the Draconian situation of sequestration, to give consideration and support to this pending amendment.

Again, I thank my colleagues for their patience. I thank my colleague from Indiana for his dedication to this task. I yield the floor.

Mr. REID addressed the Chair.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. That was a photo finish, I would observe. Mr. President, out of respect to my colleagues who also desire the floor, I will be brief.

Mr. President, this amendment represents a major initiative to control spending. I support it enthusiastically.

Inasmuch as last night's debt limit legislation increased the Federal statutory debt limit to $3.12 trillion, the time is obviously ripe to move on proposals which would increase the President's power to rescind funds appropriated by Congress. This amendment would allow the President to target specific programs to be rescinded.

Congress would have 20 days from receipt of those proposals to take action to disapprove the rescissions. Failing action, rescissions would go into effect.

A few weeks ago, Time magazine's cover story asked "Is Government Dead?"

The Premier example of a "can't do Government," according to time, is the budget. Quoting the article:

> As the 1990 budget is being crammed into a single 1,376 page package, the White House and [Budget Director Richard] Darman's Office of Management and Budget have joined Congress in a staggeringly cynical conspiracy to mask the actual size of the deficit. OMB says it will be $110 billion, in the next fiscal year, within the Gramm-Rudman-Hollings target zone. But nobody really believes that. At the same time, several long-term big-ticket items have been taken "off budget," including at least $30 billion of the $50 billion for bankrupt savings and loans over the next 3 years * * *.

Further quoting Time:

> Under the shadow of a massive Federal deficit that neither political party is willing to confront, a kind of neurosis of accepted limits has taken hold from one end of Pennsylvania Avenue to the other.

Mr. President, I think few would quarrel with the general premise Time presents, at least with regard to budget matters.

And if there is a "kind of neurosis," as Time describes it, I think it is fair to say that the so-called budget process under which we now operate is surely no cure for the sickness. Indeed, it may very well be a cause.

I do not suggest that the pending amendment will transform a "can't do" Government into an effective institution capable of dealing boldly and decisively with the deficit. It won't do that.

It is a modest step to give the executive the opportunity to identify specific spending items which might not be priorities, and make Congress vote on them. The President can't now identify wasteful or needless spending and be assured of a vote in Congress. If he could, we think it would make a difference.

The legislation is the product of much hard work on the part of many Senators interested in effecting meaningful budget reform. This proposal is also enthusiastically endorsed by the White House. Further, over two-thirds of the American people support giving the President line-item veto authority and we have numerous groups that have consistently backed our efforts.

When Congress created the Budget and Impoundment Control Act of 1974, it established a relatively weak rescission mechanism. The President could propose a rescission—either reducing or eliminating items appropriated—but the rescission would be implemented only if approved by Congress. By sheer inaction, Congress can kill a Presidential rescission request.

As Allen Schick, a scholar familiar with the budget process has said:

> The outcomes of rescissions (and deferrals) proposed since 1975 provide conclusive evidence that the branch that prevails in case of legislative inaction has the upper hand.

This amendment reverses the situation by allowing rescissions to go into effect unless disapproved by Congress.

Congress' track record on approving rescissions has been predictable. Of all the rescissions President Reagan promised from 1983 to 1988, Congress approved a mere 2 percent. Only 7 percent of President Ford's rescissions were approved, and less than 40 percent of President Carter's were approved.

The amount of money involved over the years in rescissions proposed by the President and not approved by Congress is significant. Of $8.6 billion in rescissions proposed by President Ford, Congress rejected $6 billion; Congress rejected $2.1 billion in rescissions proposed by President Carter; and Congress rejected $26.6 billion of President Reagan's rescissions.

Over 13 years, nearly $35 billion of rescissions requested by three President's were rejected—through inaction—by the Congress.

The legislation will put teeth in the rescission process. It is a significant step forward toward budget reform. I urge all Senators to support this amendment.

Mr. President, I congratulate our colleagues from Indiana and Arizona for bringing this matter to the floor. They have been preparing this legislation for months. Its pendency is something that many of us have looked forward to seeing. I support the amendment for this reason. The budget process, if you could even call it that, does not work. It does not work because Members of Congress will not let it work. As the Senator from Oregon said so well, the membership of Congress does not have the guts to make it work.

The measure that the Senators from Indiana and Arizona have presented to us is not a cure-all. It will not cure this very real problem of gutlessness and, may I say, lack of principle to which the Senator from Oregon alluded. It is not a cure-all, but it is a substantial step in the right direction. Yes, at least in my view it somewhat augments the President's power at some cost to the Congress but it is not a significant shift.

The Senator from Oregon, for example, tried to portray the fact that a third of the Senators upholding a President's veto of a resolution rejecting his rejection of certain items of expenditure is somehow extraordinary. Let us recall that a third of the Members of this body can vote to uphold a veto of an entire bill, thus thwarting the majority of both Houses. So there is nothing new in that. There is nothing remarkable about that at all. It happens all the time, a couple times a year. A minority of one House can thwart the majority of both Houses in upholding a Presidential veto. That is nothing new. It has been going on for 200 years.

So I hope Senators will not be persuaded by that argument.

I must say I agree with much of the sentiment expressed by the Senator from Oregon that it is a problem of lack of courage and, in my view, a problem of lack of principle. This measure before us, the Gramm-Rudman law, the Budget Act itself, these things are incapable of overcoming human nature. That is the fundamental problem, human nature.

Congress is a wonderful institution. What mucks things up is human nature, and thus it will always be until and unless we make certain structural reforms such as the one which is now before us, which to some degree combats human nature. It will not change human nature, but by taking it into account and changing the rules just slightly, it will help to combat those flaws of human nature which are responsible for that gutlessness and that lack of principle and in turn for the $3 trillion national debt growing, soaring, the interest costs which are now becoming the most expensive single item in the budget.

Indeed, to address the fundamental matter of human nature and what is fundamentally wrong with this institution, may I just quickly put in a plug for yet another proposal, and that is to limit the terms that Members of Congress can serve. If you want to deal with the fundamental problem of human nature, limit the terms anyone may serve, let us say two 6-year terms in the Senate, six 2-year terms in the House, 12 years, then back out; let in some fresh people; make it impossible that anyone can serve for a full career in this body and then retire.

Under those circumstances, you would see courage, you would see principle, because no one, however clever, could make a career of serving in the House or in the Senate. That is the fundamental problem today; you can make a career of this. If you vote for everything in sight, if you buy off every constituent group, if you offend no one, you can make a career of this. It is a wonderful job; you get all kinds of attention; you can be on television anytime you want to come to the floor; the salary is not bad—we are about to raise it—one of the best retirement systems in the world; all kinds of perquisites; people bow and scrape before you; it is a good deal; people do want to get elected, people will do any gutless, unprincipled thing to get reelected.

That is a fundamental problem. Perhaps that is a speech for another day.

The measure now before us makes a small institutional change that will combat the fundamental problem of human nature which has so badly eroded the procedures in the Congress to the very great detriment to our country.

Mr. President, with all due respect to our colleague from Oregon, whom I admire in so many ways, I could not help but think in the vehemence of his response and his opposition to this measure—and I know he will disagree with me—it is my opinion what we were seeing is the classic reaction of vested power.

The appropriators want their power untouched. It is enormous power they have. There is great competition to serve on the Appropriations Committee. They not only appropriate money that has been authorized, they appropriate money that has not even been authorized.

You talk about doing violence to the procedures; the Appropriations Committee are some of the most violent people toward procedures in this body. I do not mean that to be personal. I am just talking about the facts and the process.

If you look at those who use their position to pack the barrel with pork, the Appropriations Committee members are among the worst offenders—among the worst; not necessarily the worst—but among the worst.

So I cannot help but think—although I know the Senator from Oregon would not agree with me at all—that that is the expectation, the reaction you would expect from some of those who do not want their power touched, and to some degree this proposal would in fact dilute the power of the Appropriations Committee.

Great, I say do it. I say great. Let us change the balance of power slightly. Let us give to the President slightly more power over the budget. Congress has flunked the test. We do not deserve the status quo. We have flunked. We are dunces, we are truants, we are juvenile delinquents with the budget.

Yes, indeed, it makes changes, but they are badly needed. I believe we ought to support it.

Mr. President, I thank the Chair.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia [Mr. BYRD] is recognized.

Mr. BYRD. Mr. President, I can speak for 30 minutes or I can speak for several hours in opposition to this proposal. I can speak for 2 minutes and make a point of order against it. There are some Senators who wish to be accommodated who need to leave town for the evening.

So I did not want to make a point of order while the distinguished Senator from Indiana [Mr. COATS], the author of the amendment, was off the floor. But I am prepared to make that point of order. He can move to waive the point of order if he would like.

Mr. COATS. Mr. President, will the distinguished Senator yield for a question?

Mr. BYRD. I am happy to yield for a question.

Mr. COATS. Mr. President, I am aware of just a handful of Members on our side that wish to speak. I am not aware of anybody who wishes to speak at length.

In fact, only one is now currently on the floor waiting to speak: Senator LOTT. It is possible that we could come to some agreement and wrap this up fairly quickly. I would certainly not object to that.

Obviously, Mr. President, the distinguished Senator has the right to make a point of order at any time.

Mr. BYRD. Mr. President, no one, I think, on this side has spoken on the subject, but I am willing to forgo the opportunity at this point so I can accommodate Senators, maybe the point of order, and get on with other matters.

How much time does the distinguished Senator from Mississippi wish to have?

Mr. LOTT. Mr. President, I think 4 or 5 minutes would probably be adequate for me.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Mississippi for 5 minutes so he may speak, and I am able to retain my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. COATS. Reserving the right to object, Mr. President, I have been informed that Senator ROTH would also like to speak, but for no more than 5 minutes. That is the only other request at this time that I have.

I wonder if the Senator will amend his request? And the minority leader apparently also would like 5 minutes—10 minutes.

Mr. BYRD. I am sorry. I certainly would never want to take any action that would prevent those Senators from having the opportunity to speak. I understand that if that many Senators speak for that much time, Senators on this side who have plane reservations would miss the plane reservations or miss the votes.

So I think I will just take my seat and listen, and make my point of order later.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. LOTT] is recognized.

Mr. SASSER. Mr. President, will the Senator yield?

Mr. LOTT. I am happy to yield to the Senator from Tennessee.

Mr. SASSER. Mr. President, the amendment pending before us seeks to make a fundamental shift in power from the Congress to the Presidency. For this reason I rise to oppose it.

The amendment seeks to change what happens if no one acts after the President has sent up a rescission. Under current law, the rescission dies after 45 days and the appropriated funds become available. Under the amendment, the rescission would take effect unless Congress stopped it within 20 days.

Under the amendment, to stop a rescission from taking effect, Congress would have to adopt and the President sign a joint resolution disapproving the rescission. Since the President would have just sent up the rescission, he would be highly unlikely to sign the joint resolution of disapproval. Congress would thus need a two-thirds vote of both Houses to pass the joint resolution without the President's signature.

The amendment before us today has dire constitutional implications. If effective, the amendment would give the President the functional equivalent of a line-item veto, without having to pass a constitutional amendment enhancing the President's veto power. The President would in effect be able to take a scalpel to all appropriations bills and cut out what he did not like.

The amendment conflicts with the constitutional principle of separation of powers. Giving the President this power would yield additional legislative powers to an already powerful Executive. The President would be able to direct the writing of legislation under the threat of a rescission anytime he had 34 Senators on his side.

The proposal would also threaten the constitutional principle that the power of the purse—one of the few checks and balances Congress has on the Presidency short of impeachment—is vested in the Congress. The power of the purse is a power that legislatures in the English-speaking world have jealously guarded since the English civil war in the mid-1600's.

In one of the classic statements of the doctrine of checks and balances, Thomas Jefferson once wrote that—

> The powers of government should be so divided and balanced among several bodies of magistracy, as that none could transcend their legal limits, without being effectively checked and restrained by the others.

We must not tinker lightly with this fundamental doctrine of our Government.

As a practical matter this procedure will not balance the budget. After accounting for expenditures required by law—such as interest on the national debt and entitlements—the remaining discretionary expenditures subject to rescission amount to a small portion of the budget. The proposal would apply to appropriations bills, not to authorizations measures, not to revenue proposals.

This matter is clearly within the jurisdiction of the Budget Committee pursuant to the standing order on the referral of budget-related legislation. Although the committee has held a hearing in which Senator COATS testified, the Budget Committee has not marked up the amendment as a bill.

Under section 306 of the Congressional Budget Act, a point of order lies against legislation dealing with matters within the Budget Committee's jurisdiction that the Budget Committee has not reported out. Under section 904(c) of that act, the votes of 60 Senators would be necessary to waive that point of order.

Mr. President, a point of order clearly lies against the Coats amendment under section 306 of the Congressional Budget Act of 1974. I shall support the chairman of the Appropriation Committee when he raises that point of order and should a motion to waive be made I urge Senators to vote against waiving the Budget Act.

Mr. LOTT. Mr. President, I will be very brief because I feel there will be another day when we will debate this same issue, but I did want to rise in support of this legislation.

I am a cosponsor of the amendment introduced by the Senator from Indiana, and I want to commend him for his initiative and his persistence in bringing this matter of the line-item veto and enhanced rescission authority before the Senate. I know he has been wanting to do it for quite some time.

He has taken advantage of this opportunity, as any Senator is entitled to do, to offer this very important piece of legislation, although I would prefer that we do it on some other vehicle.

I think that the Appropriations Committee and the Subcommittee on Transportation have done an excellent job with this bill. Having observed this body over the year, I have learned that any Senator at any time can offer just about any amendment to any bill.

Of course, he is also subject to having a point of order raised or having his amendment tabled.

But I think that the Senator from Indiana is entitled to bring up this issue and we should debate it, and have a vote. Certainly, I am going to vote for his amendment and I am going to continue to speak out for the line-item veto and enhanced rescission authority.

Earlier this afternoon, this was referred to as ill-conceived. It may not be right. It may be right. But I think it is inappropriate to label either the amendment or the Senator offering the amendment as ill-conceived. It is not. It is a very, very serious matter that goes to basic constitutional questions.

Nor is this a partisan issue. There are some Democrats for it, and some Democrats against it. Some Republicans are for it, and I have some good friends who are conservative Republicans that are very much opposed to the concept of the line-item veto.

There is also a question about giving up some of the power of the Congress and turning over more power to the President. As a matter of fact, historically, the pendulum tends to swing back and forth; too much power perhaps in the Supreme Court, then too much for the President, then too much for the Congress. Frankly, right now, I think the Congress is abusing some of its powers in a number of areas.

I was amused at the great concern that was expressed earlier about the way that this line-item veto would work, and the concern about the fact that one-third of one body could sustain a veto.

Hey, is that not the way that Presidential vetoes work? Why is it OK when it might apply to a full appropriations bill, but it is not OK when it is a line-item veto, when the President has sent back the veto? That is the way veto overrides work. So I do not understand the concern there.

I remember when I first came to Washington in 1973 as a Member of the other body. There was a great debate raging about Presidents using impoundment. I was amused at that, too. Presidents had been impounding funds since Thomas Jefferson's time.

All of a sudden, the Congress felt as if the Presidents were abusing their impoundment authority. It was the President at that particular time that caused the Congress so much concern. Can we not admit, can we not acknowledge as Senators, that sometimes we put things in appropriations bills or authorization bills that are not needed? Can we not admit that circumstances change? Why should the President not have that authority? Forty-three Governors have this authority. What is the horror here?

I know we do not want to give up any of our power. We know how the system works. We all have to go one day to the Appropriations Committee and say, "Put in something here or there for me." We also put language in authorization bills. That is fine. I am saying, give the President an opportunity to review that and maybe knock it out with a line-item veto or a rescission.

In the 1973-74 period, we approved the Congressional Budget and Impoundment Control Act. I voted for it because I thought we needed to get a better handle on the budget process even though it took away the President's impoundment authority, basically.

Then there is the process for rescissions. I can remember in meetings that I attended in the House of Representatives in which the distinguished Republican leader, Mr. MICHEL, from Illinois, would ask the appropriators—the President had recommended billions of dollars in rescissions, 73 rescission requests in 1987—"Can we go with any of these rescission requests?" Dead silence. Nothing. Nobody wanted to take up the rescissions that had been recommended by the President of the United States. We approved only 3 percent of the amount requested by the President in 1987, and in the year before that, only 5 percent, and last year probably less than that.

The reason that the Congress has ignored Presidential rescissions, in most instances, under the present rescission process, is because there is no penalty for not following the President's recommendations.

The Coats-McCain amendment will remove that disincentive because there will now be a price to pay. And that price will be that the budget cuts recommended by the President will go into effect unless Congress passes a resolution of disapproval within 20 days.

When I was a Member of the other body, I used to talk about the BOMB, which stands for bloated omnibus money bills, or continuing resolutions. We have already had two CR's this year, and while they have been pretty clean ones we may well be faced with still a third continuing resolution if we do not complete action on the remaining appropriations bills by next Wednesday.

By approving this amendment, we will strengthen the President's hand and at the same time provide ourselves with an incentive to finish our work.

If we do not, and we end up with another continuing resolution, this next continuing resolution may well be a BOMB since we all know that the last train out of the station becomes a Christmas tree, or should I say, a turkey.

Everyone acknowledges that the budget process is not working as intended. Some suggest that we just scrap Gramm-Rudman-Hollings, and start over again. However, I think we should try to reinvigorate the budget process and breathe new life into what has become an annual exercise without real meaning.

So I think we ought to approve the Coats-McCain amendment for the following reasons:

First, we should do everything we can to discourage these omnibus continuing resolutions.

Second, we should give the President a choice so that he does not have to accept everything that Congress tries to ram down his throat.

Presidents are not all-knowing. They make mistakes. I realize that maybe I would have a different attitude at a different time. But I was for the line-item veto when President Carter was President, and I will be for it in the future.

If a President of the other party or of a different political or philosophical persuasion were in the White House, I would want him to have that authority, even though he might whack some of my projects. It is part of the process of trying to get a little better control over the budget, in my opinion.

Let us give the President a choice so that he can cut wasteful spending and exercise the discipline that the Congress itself so often fails to apply.

Let us give the President a choice so that he does not have to veto appropriations bills and shut down Federal Departments and agencies just because he opposes one provision of a bill.

And finally, I ask my colleagues to support the Coats-McCain amendment because it will force us to meet our fiscal responsibilities head on, and will restore an element of accountability and spending discipline to the budget process.

No longer will we be able to duck; no longer will we be able to hide. Instead, we will have to vote up or down on whether to accept or whether to reject the budget cuts recommended by the President.

By our vote on the Coats-McCain amendment, the American people will have a chance to find out how serious the U.S. Senate really is in dealing with our Nation's budget deficit.

I urge my colleagues to vote for the amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader, Mr. DOLE, is recognized.

Mr. DOLE. Mr. President, I support Senator DAN COATS' legislative line-item veto bill that would give the President a chance to rescind specific spending items.

This proposal is before us due to the fact that the President has been denied item-veto authority so he can carve out what some call boondoggles and pork—those items that would never survive on their own. This proposal also would provide a potent weapon to attack fat in the Federal budget.

It may be, however, that the President already has the item-veto power, and is already able to eliminate the boondoggles and pork. The reason is simple: The Constitution in article I, section 7, clause 3, gives him that power.

From early on in American history, the main field of conservative advance—has been in the arena of legal ideas. Not long ago the leftward momentum in American law seemed unstoppable. When left-liberal ideas prevailed in the political branches, the courts would defer to the legislature.

When the political branches failed to adopt the left-liberal agenda, as they often did, the courts could be persuaded that this was because of some defect in the political process—and unconstitutional under ever-more-nebulous notions of a "living Constitution."

Let anyone suggest that these innovations lack support in the text, structure, or intention of the Constitution, and the answer would swiftly follow: The Constitution has to adapt to changing conditions; it must reflect evolving standards of a just and decent society. The adaptation and evolution, of course, proceeded in only one direction.

If anyone suggested, say, that the rights of contract, or of the unborn, or of a victim of crime, deserve some measure of protection, the indignant cry would go up: "You're attacking the Constitution."

No more. A new generation of scholars and Reagan-appointed jurists is asking questions that were out of bounds just 15 years ago.

In considering this subject of legal controversy, I am raising the question of the inherent power of the President to veto "orders, resolutions, and votes, as well as bills under the Constitution."

I ask that weight that should be given the original intention of the framers of the Constitution, so powerful has been the advance of conservative legal theory that we have seen a virtual reversal of roles in the legal debate.

Now it is the left that cherishes precedent while the right is seeking a new way of doing things.

TRADITIONAL CONSERVATIVE JURISPRUDENCE

Two principles form the heart, the common element, of conservative legal theory. First is commitment to the rule of law. Legal action and decisions must be grounded in neutral principles of general applicability.

Constitutional principles do not change with the political climate; the task of judges, to the extent possible, is to discern that the law is, not to advance their policy preferences. The second principle is a democratic adherence to the consent of the governed. The legitimacy of our laws, including our Constitution, arises from the deliberate decisions of the people, made through their representative institutions, laws, including the Constitution, must therefore be read, to the extent possible, as embodying the intentions of the people who adopted them rather than the opinions of those who hold judicial office today.

Restoring the proper relation between unelected courts and the elected representatives of the people is the foremost concern of traditional legal conservatives, exemplified by Chief Justice William H. Rehnquist. The central question is how to read the Constitution of the United States. Is the Constitution, as some content, an elastic and indefinite document that licenses judges to substitute their social and economic beliefs for the judgment of legislative bodies? Or does it have some fixed, reasonably ascertainable meaning, which constrains both legislatures and judges?

Traditional conservatives contend that the Constitution is principally a framework for democratic decisionmaking and not a blueprint for specific social and economic policies. Outside of a few, well-defined personal liberties set forth in the document, the Constitution allows the people to make public policy through their elected representatives. When the Court ventures into policymaking in the guise of constitutional interpretation, it oversteps the role assigned to it under the Constitution. A Constitution that is viewed as only what the judges say it is, is no longer a Constitution in the true sense.

James Madison, the principal framer of the Constitution, stated that, "If the sense in which the Constitution was accepted and ratified by the Nation is not the guide to expounding it, there can be no security for a faithful exercise of its powers."

Thomas Jefferson wrote that:

> On every question of construction, [we should] carry ourselves back to the time, when the Constitution was adopted; recollect the spirit manifested in the debates; and instead of trying [to find] what meaning may be squeezed out of the text, or invented against it, conform to the probable one, in which it was passed.

The Constitution, like statutes, contracts, and other legal documents, must be read in light of the intentions of those who adopted it. Justice William J. Brennan, Jr., stated in the school prayer cases, decided in 1963, that "the line we must draw between the permissible and the impermissible is one which accords with history and faithfully reflects the understanding of the Founding Fathers."

For some years, however, judges and academics came to disregard the original meaning of the Constitution, in favor of their preferred schools of political, economic, and moral theory.

In 1971, Yale Prof. Robert Bork, wrote an article, "Neutral Principles and Some First Amendment Problems." In it, he questioned the seeming anomaly of judicial supremacy in a democratic society. He noted that, the Courts are authorized to invalidate decisions by the elected representatives of the people if and only if the people have, through the deliberate act of Constitution making, placed certain matters beyond the cognizance of their representatives. The Court's power is therefore legitimate, Bork wrote, "only if it has, and can demonstrate that it has, a valid theory derived from the Constitution." If it merely imposes its own value choices it violates the democratic postulates of the Constitution. If a judge cannot conclude, in good faith, that the people have made a prior constitutional judgment against a given act of the legislature, there is only one alternative: The judge must defer to the legislature and enforce the law.

It cannot matter that the judge believes the law to be unwise, unfair, or oppressive. His job is not to make moral judgments, but to enforce constitutional principles that have been chosen by others.

An honest appraisal of the original meaning of constitutional provisions, many of them drafted and ratified 200 years ago, requires painstaking analysis and legal and historical judgment. It is not a mechanical process.

How are we to interpret a provision when the various framers had opposing views on the issue? How much weight should we give to the framers' opinions or actions on specific applications, as opposed to general meanings of the provisions?

When the Federalist Papers explain that executive officials may not be dismissed without senatorial consent, does that mean that the President cannot fire members of his Cabinet? One cannot assert that the Constitution must be interpreted in light of original meaning, and then retire from the fray.

Perhaps the most important sphere in which the original understanding of the Constitution has been invoked by the Supreme Court over the past 10 years to reverse its prior course has been the area of separation of powers—the way in which the Constitution maintains the mutual independence of the legislative, executive, and judicial branches of government. From the 1930's until recently, the Court had largely disregarded these features of the Constitution, despite the fact

that the framers of the Constitution believed that the separation of powers was the most important element of the constitutional design.

Thus, the Court approved such constitutional doctrines as independent regulatory agencies, had questioned the President's ability to obtain confidential advice from even his closest aides, and had watered down the Constitution's express limitations on judicial power, extending Court jurisdiction beyond actual cases and controversies, cases involving the concrete rights of individuals to include generalized grievances of a political nature. In a most interesting case, a group of law students was given standing to challenge railroad rates for recyclable materials on the theory that the amount of recycling that takes place would indirectly affect their use and enjoyment of the national parks.

Over the past 10 years, the Supreme Court has revived the doctrine of separation of powers in a series of important cases, often quoting at length from the Federalist Papers and other writings that demonstrate the original purpose and meaning of the constitutional provisions at issue. Among the most important were Immigration and Naturalization Service versus Chadha (1983), which invalidated the legislative veto, Buckley versus Valeo (1976), which reaffirmed the President's power to appoint subordinate executive officers, Allen versus Wright (1984), which limited the right of ideological plaintiffs to challenge executive decisions that do not affect their legal rights, and Bowsher versus Synar (1986), which precluded Congress from assuming the power to discharge officials who perform executive functions.

Adherence to original meaning is not only, or even primarily, a doctrine of constitutional interpretation. When courts read statutes, contracts, wills, and similar legal documents it is no less important to interpret them in light of the probable intentions of those who drafted and agreed to them. It is not the business of courts to decide what the law, or the terms of contract or will, ought to be, but to enforce rules and agreements made by others. Judicial disregard for legislative intent has therefore become an important issue in nonconstitutional cases as well.

In today's climate of opinion, however, the issue is far from settled. To quote Justice John Paul Stevens:

> The only problem for me is whether to adhere to an authoritative [judicial] construction of the act that is at odds with my understanding of the actual intent of the authors of the legislation.

Stevens concluded "without hesitation" that he must "answer that question in the affirmative."

Most important constitutional controversies have at least two sides. Conservative advocates may argue for the correctness of their positions, but principled conservatives must be prepared to accept that in some instances they may not prevail. A line-item veto is an example of an excellent idea that is contained in the Constitution which treats as a "bill, order, resolution or vote" as something that can be vetoed in accordance with article I, section 7.

Nonetheless, given the nature of our constitutional heritage, it is no coincidence that advocates of radical social change have more to lose from a jurisprudence of original meaning than those who wish to conserve and affirm the traditional values of the political community.

When Congress first began to tie unrelated items together, the President's right to veto was severely restricted. This has been recognized by a great number of Presidents. The Constitution, however, does not, itself, define what a bill is. As Harvard Law School Prof. Laurence H. Tribe, who has advised several leading Democrats, put in the Los Angeles Times, October 24, 1989:

> The fact that Congress doesn't really know what's in much of what it passes is a fact of political life.

His reaction to the assertion of an inherent line-item veto authority, however, is that:

> The courts would be unlikely to allow the President to so greatly expand his power at Congress expense.

The great need for the item veto is made obvious in the consideration of continuing appropriations bills. The bills teem with pork barrel projects for the Corps of Engineers, the Bureau of Reclamation, and hundreds of other agencies. Taking a closer look at appropriation bills, however, reveals accounts entitled "construction, general" it contains the lump sum of $864.5 million for river and harbor, floor control, shore protection and related projects authorized by law. The paragraph contains some earmarkings of funds for a project in New Jersey, another in Kentucky and a few others, all of which add up to $32.8 million. The remaining $831.7 million, however, is not to be spent on anything the President wants. No, it is to be spent on projects authorized by law and the projects identified in the conference report.

The report explains that the lump sum of $864 millions is to be allocated to the specific projects listed on pages 19 to 22 of the report. The projects are listed State by State. Here is where you find the items: $25,000 for Kake Harbor in Alaska, $200,000 for Lytle and Warm Creeks in California, $25,000 for Jonesport Harbor in Maine and so forth. Those items are not in the appropriations bill, however, and could not be eliminated by an item veto. The item veto functions at the State level because items are included in the bills presented to the Governor. Should Congress pattern itself after the States by restoring to line-itemization?

The results may not be all that attractive. Agency officials want the latitude and flexibility that accompany lump-sum funding. Members of Congress do not want the details frozen into public law either. The only way to adjust statutory details in the event of unexpected developments is to pass another public law, amending the first, and neither branch wants that rigidity.

Congress has enough problems passing public laws. For decades, Congress and the agencies have worked out a reasonable compromise. Funds are appropriated in lump-sum amounts to give officials some discretion and this is exercised throughout the fiscal year. In moving money around within these large accounts, the agencies are required in some cases to report to congressional committees and obtain their approval on reprogrammings. It is a workable system, but would be totally disrupted by locking specific amounts into public law. The President's regular veto power has been diluted because Congress passes omnibus measures instead of individual appropriations bills. The nightmare of monstrous continuing resolutions packing hundreds of billions of dollars of spending into one bill must be stopped. These massive bills inevitably handcuff the President. The framers undoubtedly anticipated that Congress would provide funds by passing separate appropriations bills for discrete programs or activities, rather than omnibus bills encompassing a variety of related and unrelated matters. Until about the time of the Civil War, congressional practice was in accordance with this expectation. Presidents were thus able to sign or veto appropriations bills based upon the merits of the programs being funded and the need for the particular amounts. However, it should be pointed out that the first appropriation bill passed in 1789 was an omnibus measure, containing all funds for civilian and military programs. The same kind of bills passed in 1790 and 1791.

The Members of the first Congress contained many of the framers who had participated in the Philadelphia Convention. Later Congresses, as in 1814, passed three separate appropriations bills—for the Army, the Navy and the civilian establishment—but even these were more of an omnibus nature than the 13 appropriations bills passed today. Granting the President an item veto is a legitimate goal, but the issue should not be obscured and confused by a misreading of history. Legally, experts on both sides of the issue say, the President's chances of success are 50-50. It would be an impressive move if President Bush tried to assert the power, but it's hard to

say whether the courts would uphold him, and it may be too late now to persuade the courts to change the status quo. What is clear, however, is that only if the President exercises his powers under the Constitution can they be tested in the courts. President Bush has proposed to do just this. I support him.

The PRESIDING OFFICER. The Senator from Delaware [Mr. ROTH] is recognized.

Mr. ROTH. Mr. President, I rise to express my support for the amendment being offered today by the Senator from Indiana to provide the President with line-item veto authority. I first want to commend the Senator from Indiana for pursuing this very important legislation. His diligence and leadership in pursuing the line-item veto power during this session has helped bring the issue to the forefront of the Senate.

As one who led the debate in 1974 to provide the President with greater authority to rescind unnecessary funding, I believe this type of legislation is more necessary than ever.

It is clear that our present efforts to significantly reduce the deficit have failed. This is made all the more clear as we recently passed an extension of the debt limit to $3 trillion. If ever there was a time for spending restraint, now is it.

Mr. President, I believe this legislation is necessary to break a pattern of budget deficits and spending growth beyond our means. Between 1980 and 1988 Federal revenues jumped 76 percent. Federal spending grew at even a faster rate. The source of our deficit is not that America is undertaxed, but that the Federal Government spends too much. It is critical that we restrain spending growth. And I strongly believe that we should provide the President with this authority if other means fail to cut the deficit.

In his budget message to Congress, President Bush expressed his support for line-item veto authority. While the President can now rescind spending, this authority is quite limited. Under the present process, Congress can simply reject the President's rescissions by inaction. Unfortunately, this allows the Congress to easily disregard the President's efforts.

Since the Budget Act was enacted, all too many times the Congress has used inaction to block the President's rescissions. I believe the President is entitled to an up-or-down vote by Congress. This is the minimum we must do in the quest for fiscal responsibility. And this is precisely what this legislation does.

I support line-item veto authority for the President. I urge my colleagues to support the amendment of the Senator from Indiana and urge its adoption.

I yield the floor.

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

Mr. THURMOND. Mr. President, we have not balanced the budget in this country but once in the past 27 years. We cannot go on like we are doing. The debt has risen now to almost $3 trillion. The interest on this debt alone is about $170 billion. In my judgment if we are going to keep this budget balanced we have to do two things:

First, we have to pass a constitutional amendment to mandate a balanced budget. The Congress has now shown the fortitude to do this. We have to pass a constitutional amendment to make the Congress balance the budget.

The next thing we must do is enact a line-item veto. The amendment to this bill today is the same bill, I understand, as S. 1553, and that has the effect of enhanced rescission authority, which is equivalent to a line-item veto.

In my opinion we need to give the President this authority. This is not a partisan matter. It is not a Democratic matter; it is not a Republican matter. Regardless of who is President—a Democrat, Republican, or independent—they ought to have this authority. As Governor of South Carolina I had this authority, and I used that authority. Forty-two Governors today have this authority. The President ought to have it, of all people.

There is no question in my mind that special interests get items in the appropriations bills that should not be there. There is no question in my mind that items creep in somehow, in some way, that are not best for the public. There is no question in my mind that a lot of items in the appropriations bills could be eliminated. Some are duplicates and some have gotten in through various means. There should be some way that someone can stop spending this money, and the only one I know who can do it after the Congress acts, of course, is the President.

Mr. President, I feel very strongly that we ought to adopt this amendment. Let us give line item veto authority to the President. At the present we have a Republican President. We will have Democratic Presidents in the future, I am sure, sometime. Regardless of who the President is, he ought to have the power to exercise a process here that will save the people millions and millions of dollars. In fact, it could save billions of dollars in a few years.

As I have said, we have incurred this big debt. And the Congress has not shown the fortitude to stop spending. They still have not shown it. Therefore, we must have someone who has the courage to do it and the will to do it and who is willing to balance this budget.

Mr. President, it is not fair for us to spend, spend, spend, and put this debt on the next generation. And that is what we are doing. We are piling a heavy debt on the young people of this country. That is one reason I think the young people today are so interested in what we are doing in Congress, more than at any time I can think of in the past, because they see what is happening to them.

They are going to have to assume this debt, this $3 trillion, unless we take care of it soon and pay the interest on it. Young people are going to have to do it. Future generations are going to have to do it.

It is not fair. I think every generation ought to pay its own way as they go. We are not doing that. And if we are not going to do it, there ought to be some way somebody can force us to do it. Whether it is a Republican or Democratic President, let us give him the authority to keep this budget balanced. Let us give him the authority to eliminate these items that should not be in the appropriations bills—these items that are piling this debt on the young people in the future. Let us give him that authority. I think it would be a blessing to this country.

Mr. President, I hope this amendment will pass. I think it is vital. Frankly, I do not see how anybody would want to oppose this amendment because it is best for the country. It is best to bring about a balanced budget. It is best for the economy of this country.

Mr. President, I hope the Congress will see fit to act, and act today, and pass this line-item veto.

Mr. NICKLES. Mr. President, I do not know if the chairman of the Appropriations Committee wanted to speak. I just have a few general comments, but if he is seeking the floor.

Mr. BYRD. Mr. President, I wish to thank the distinguished Senator for his generous offer, but I will be very happy to wait.

Mr. NICKLES. Mr. President, I wish to compliment and congratulate my colleague Senator THURMOND from South Carolina for the speech that he has just made. I also wish to compliment my colleague, Senator COATS from Indiana, for this amendment today. We need this amendment to pass.

This may not be the right vehicle, and I will acknowledge that. But I will say that we need a line-item veto. Forty-three Governors have a line-item veto and the President of the United States does not. As Senator DOLE indicated, possibly he does under the Constitution and it has never been exercised. I hope this may test it so we will find out, but it has not be done yet and it may not be done this year.

That remains to be seen. We need to give the President the authority, the opportunity to be able to take out a lot of extraneous measures with a so-called line-item veto.

I think that the amendment of the Senator from Indiana does a great service, but it only deals with appropriations bills. I think we should also go further, and when we have omnibus bills that contain maybe as many as 20 or 30 or 50 bills in some cases— I think the crime control bill had as many as 60 or more separate bills packaged together—I think the President should have the opportunity to break those up individually and be able to sign or veto them separately.

Instead, Congress is getting to the point many times where—we actually have one appropriation for 2 years. We put it all in one big continuing resolution and send that to the President and say, "Sign it all or veto it all."

That is abuse in my opinion of congressional power. That is not the way the system works. We are not supposed to send the President a bill this big, $600 billion large, and say sign it all or veto it all. That is irresponsible in my opinion on the part of the Congress. That is not checks and balances. That is Congress holding all the checks, putting it in one big package and telling the President, "Take it all or leave it."

That is not a very good opportunity. That is not the way to have fiscal management. Anyone here that has been in the private sector, and certainly anyone in dealing with their households, knows you have to make individual decisions.

We have enough trouble. Even by having just 13 bills. We had the Department of Defense, it was $300 billion; we had Labor-HHS, it was $156 billion; and on and on. The HUD bill was something like $6 billion—it had HUD and VA and so on. There were a lot of different things in these bills, some of which were only appropriated amounts, but some of them are separate legislative items which may not even have a dollar amount. We often have a bill on appropriations that has legislative language inserted. Many of us have done it. Probably there are not too many people in the Chamber that have not inserted legislation on appropriation bills. The President should have the opportunity to sign or veto that legislation in addition to just the appropriated amount. He should have that opportunity. We have not given him that opportunity.

So again I want to compliment my colleague, Senator COATS, from Indiana, for his persistence, for his dedication, for his commitment to see that this is brought forward to a vote on the Senate floor. I am hopeful that we will have a good vote and that we will have at least some budget reform in the future that would encompass some of the Senator's proposals. We need budget reform. The budget process right now is broken and one of the best things that we could do would be to give the President the line-item veto. I hope that we will pass the Senator's amendment.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California [Mr. WILSON], is recognized.

Mr. WILSON. Mr. President, much has been said and said well already. Let me just say that I think it probably must baffle a number of people, as the Congress routinely passes an extension of the debt limit—and this time one that puts our national debt ceiling above $3 trillion—they must be baffled as to how it is that State legislatures, city councils, boards of supervisors, all seem to be able to manage to live within their income, balancing revenue and expenditure, and somehow the Congress is unable to do so, historically unable to do so. And each year, before their unhappy eyes the taxpayers see amounting national debt.

I suggest that the reason is not so deeply sophisticated and mystifying as to defy analysis. It is really rather simple. In those States that manage to live within their income, manage each year to balance their budgets, it is because they are under a constitutional compulsion to do so. There is a provision in their State constitutions, in their city charters, that says they may not spend more than they take in in revenue. The result is that they do not. And the result is that they do not have mounting debt as we do that has now approached the point where, to paraphrase my friend from South Carolina, we are mortgaging our children's future. We have, in the form of the national debt, one of the very largest items of Federal expenditure because of the necessity to pay interest upon this mount of debt, this $3 trillion.

Mr. President, in those States that have that kind of a constitutional compulsion to live within a balanced budget, the Chief Executive is afforded a very useful tool—a line-item veto. Now, why is that? Well, very simply because in those legislatures, much as in the Halls of Congress, there is a very great difficulty in coming to a collective consensus on priorities. It is because we all have a different set of priorities. And those difficult, late night meetings that are supposed to produce consensus too often reach consensus by agreeing that we will spend for everything, all those good ideas. We do not cut as we perhaps should and as they do in the State legislatures because they are required by law or by constitution to do so. Instead, the consensus that we reach historically has been to spend more than we took in. We do not have balanced budget provision in the Constitution of the United States. And years after he had participated in drafting much of it, Thomas Jefferson said that was one egregious error that we had made, leaving it out.

Well, the fact is at the very least we should afford to the President, as the chief executive—the only one of us who was elected by all of the people of the United States, whose program and platform reflects a consensus nationally—the opportunity, with a very sharp scalpel or a blue pencil, to take out those things which in fact are not in his judgment a priority, those things that do not make the cut among the competing goods that we are asked to finance.

For those who are concerned that such a power would give to the President the ability to abuse the power and to, in effect, blackmail individual legislators, that is a legitimate concern, I suppose. On the other hand, I think the experience in those State legislatures where it does exist is that that power has not been terribly abused. And, very frankly, Mr. President, I am more concerned about rights of the taxpayers than I am about whether or not an individual legislator will be blackmailed on his particular pet project.

It seems in this particular vehicle there has been a very good compromise made because the legislation offered by Senators COATS and MCCAIN would address this problem by requiring Congress to cast an up-or-down vote within a specified 20-day period on all of a President's requested rescissions or, to put it another way, line-item vetoes.

In that regard, an individual legislator cannot be alone against the world and against the President of the United States. He will be in great company. He will be lined up with all those other legislators who have suffered line-item vetoes.

It strikes me this is a very good compromise and that addresses that concern that has been articulated by the opponents of the line-item veto for that reason.

So, Mr. President, let us at the very least, since we do not have a balanced budget amendment or provision in the Constitution of the United States, give to the President an enhanced rescission capability, a line-item veto, if you wish to call it that, that will give him the kind of tool necessary when he is faced—as he has been several times during my brief tenure in the Senate—with a massive spending bill, an all-or-nothing, take-it-or-leave-it continuing resolution which in one instance weighed about 30 pounds. I am sure we all recall President Reagan dropping it with dramatic effect upon a desk that shuddered in consequence of receiving that burden.

Even when the process works correctly, Mr. President, the President of the United States has only 13 separate opportunities. It seems to me he should have a sharper scapel, that he should not have to veto an entire spending bill for several agencies when, in fact, what he seeks to do is to eliminate lesser priorities which he could, by enhanced rescission, without totally sending back the measure to Congress. That is what we should give him. He needs it because the American people deserve it. That is what is at stake here.

This is a very sound compromise. We can argue this is not the right vehicle. Mr. President, it is never the right vehicle. This is as good a time as any and perhaps better than most, following, as it does, so closely upon an exercise in Congress of responsibility, having said we will pay our bills, having already spent the money, in increasing that national debt ceiling to over $3 trillion.

Mr. President, I yield the floor.

Mr. BOND. Mr. President, I am pleased to join with my colleagues Senators McCAIN and COATS in offering this amendment today. As one of the former governors serving in the Senate, I have very strong feelings on the issues of line-item veto and rescission authorities. I have used both, and I know they work.

Mr. President, too often this debate bogs down in the morass of executive versus legislative power. Some in Congress, not wanting to give up any authority, see the line-item veto as a direct attack on their ability to govern, and heels are immediately dug in.

Unfortunately, good government and common sense get lost in the shuffle.

The proposal we have before us today is a straightforward attempt to inject a bit of discipline and common sense into a process gone astray—and should not be seen as some plot to usurp authorities and powers.

In fact, in the early 1980's the Missouri State legislature included several million dollars for the construction of a new Harry S Truman office building for the State government. Then Gov. Joe Teasdale line-item-vetoed this provision, arguing it was unnecessary pork.

However, not too many days later the legislature enthusiastically overrode his veto, and construction was then completed during my second term. Clearly the legislature was not cowed by the Governor's veto power, and I cannot believe we would be either.

Mr. President, unfortunately we do not seem to see how far out of touch our so-called budget process has become. The battles over the reconciliation bill is only one example of how far we have gone in perverting the rules in order to find that little edge. If you were to try and explain to the American people how a bill—designed to reduce the deficit—becomes instead the favorite vehicle for those who wish to increase spending, why you would have a very tough time of it.

But that is what reconciliation has become. A spending cut here, a tax increase there, then a tax cut along with a new entitlement—and all of a sudden the focus of reconciliation isn't the tough deficit reduction choices, but it is child care, catastrophic health care, section 89, Medicaid expansions, and expiring provisions.

And we wonder why the folks back home do not believe us when we say we are doing everything we can to reduce the deficit.

Mr. President, the wags are right when they say Congress is starting to look like a State legislature—we cram all of our work into a few months and then pass only a couple of omnibus bills a year. All because Members are looking for a vehicle for provisions could not make it of their own accord.

When I became interested in the line-item veto, I went to various Missourians to ask for their views. In particular former Missouri Congressman Richard Bolling comments still stick out in my mind. Congressman Bolling was a congressional leader in the effort to reform the budget process, and when I asked him about the line-item veto, he thought about it for a bit and then noted that anything which brought sunshine to appropriations bills was a good thing, because too many little goodies were included every year.

This seemed like such good sense that I am not in the least bit surprised that years later Congress still refuses to enact it.

Thus I believe it is long past time to follow Dick Bolling's advice and take another step toward fiscal sanity.

Perhaps I will have a provision vetoed by the President some day—but I am certainly willing to take the chance, because like Representative Bolling, I believe the more light we allow into the process, the better off we will all be.

The Senate's action in stripping our reconciliation bill was a small first step, now let us build on that and pass this amendment today.

Mr. KASTEN. Mr. President, I rise in support of the Coats-McCain amendment to grant the President a limited form of line-item veto authority. This amendment would inject a much-needed dose of fiscal discipline in the budget process—and help us achieve the goal of a balanced budget by 1993.

Although the Gramm-Rudman deficit-cutting law has forced Congress to restrain the fiscal excesses of the past, the budget process is still biased toward higher spending. Throughout most of the history of the Republic, the President and the Congress were equal partners when it came to the expenditure of public funds.

The Constitution of 1787 empowered the President to veto spending bills passed by Congress. However, the boundaries of Presidential discretion over the expenditure of appropriated funds were not clearly defined by the Constitution's framers. From 1789 until the collapse of the Nixon Presidency, the President retained the power to "impound"—refuse to spend—money appropriated by Congress. Congress had no formal power to overturn this action. Presidents exercised this impoundment power—along with the veto—to check Congress' tendency to overspend. For example, Presidents Kennedy and Johnson used impoundments to reduce projected congressional spending by 6 percent and 5.4 percent during their respective administrations. For the most part, Congress grudgingly assented to these impoundments.

President Nixon pushed impoundment powers to their outer limits by reducing and terminating Federal programs against the explicit wishes of Congress. In response to Nixon's alleged abuse of his impoundment authority, Congress passed the Congressional Budget and Impoundment Control Act of 1974. This act eliminated the Presidential prerogative of impoundment and replaced it with weaker substitutes. The 1974 Budget Act also overhauled the entire budget process to promote planning and coordination in fiscal policy by creating the Congressional Budget Office and the House and Senate Budget Committees, which were charged with developing an overall budget plan that would serve as a guide for the Appropriations Committees of each Chamber.

The 1974 Budget Act has not worked well. Since 1974, Federal spending has almost quadrupled, from $269 billion to over $1 trillion. According to Dr. William Orzechowski, an economist with the U.S. Chamber of Commerce, congressional spending has surpassed its own budget resolutions by an average of $25 billion per year. Congress has exceeded its deficit goals over the same period by an average of $48 billion.

The 1974 Budget Act concentrated budget power in the Congress by severely limiting Presidential impoundments. In effect, the 1974 Budget Act removed any effective external check on Congress' tendency to overspend. Congressional use of multibillion dollar omnibus appropriations bills has further diluted the President's control over Federal spending. The unseemly combination of omnibus appropriations and restricted presidential impoundments has been an underlying

cause of the growth in Federal spending and deficits.

It is unlikely that the Founding Fathers envisioned the use of a single multibillion-dollar continuing resolution containing literally hundreds of spending programs, projects, and activities. The President's constitutional right to veto is not always practical because it requires him to reject necessary funding for a whole range of programs in an effort to cut wasteful spending in a few. Consequently, Presidents are reluctant to veto massive continuing resolutions that contain spending programs that would never pass on their own merits if voted on separately. In effect, the President's constitutional veto authority has been severely impaired.

Mr. President, I believe the legislative line-item veto would restore a lost Presidential prerogative, not create a new one. It would restore some of the balance of power between the executive and legislative branches in budget matters and mitigate the congressional bias toward higher spending.

I recognize that the legislative line-item veto is not a panacea to our budgetary ills. It will not guarantee a balanced Federal budget. However, I believe that it does give us one more weapon in the war against deficit spending.

A vote for the Coats-McCain amendment is a vote for fiscal responsibility. I yield the floor.

Mr. BURNS. Mr. President, I want to first thank Senator COATS and Senator MCCAIN for their leadership on this issue. I am pleased to be an original cosponsor of this amendment and their bill to establish an accountability process for congressional spending. It is called the legislative line-item veto.

This legislation allows the President to send up rescissions at the beginning of each fiscal year and for each appropriations bill which will go into effect unless Congress acts to stop them. As it currently stands, the President can submit rescissions, but they die when Congress fails to act. And Congress has failed to act 96 percent of the time since 1986.

We speak often of the broken budget process around here. The fact that we have failed to meet deadlines and, in many people's estimation, deficit targets for the last 3 years illustrates the fact that we need some additional tools. I view the legislative line-item veto as one of the most important tools because it does what Congress lacks the will to do—cut spending.

I recently saw a paper put out by the Committee for Economic Development called, "Battling America's Budget Deficits." The Committee for Economic Development is a group of presidents or board chairmen of corporations and presidents of universities. They came up with some suggestions on how Congress could get the deficit under control—some with which I agree and others which I don't.

What caught my attention most in this paper was one of the premises in their call for action. They state that:

> The case for reducing the Federal budget deficit is well understood within the Government. The problem is not the economic realties, but shortsighted political objectives, ideological divisions, and arguments about who should bear the pain—what is needed in these circumstances is political leadership to overcome the demands of narrow interest groups and short-term priorities of public officials and their constituents.

When I read that I thought to myself, that's a good suggestion, but it disregards the nature of the beast. The beast is Congress.

In my opinion, the legislative line-item veto is the weapon needed to overcome the beast. It gives someone who is outside the special interest reach of specific constituencies—the President—the authority to rescind spending. Or as the Wall Street Journal editorial in support of this legislative proposal on Friday, October 20, 1989, pointed out:

> The members could still try to serve their constituents with special-interest goodies, but the police (in the form of a president) would be there with a straitjacket if they really get crazy, as they do now.

The passage of the legislative line-item veto would being the Federal Government in line with the 43 States which already grant their Governors line-item veto power. It would be one giant step toward the fiscal accountability expected, and called for, by the American people. I urge my colleagues to support this important amendment.

Mr. LEVIN. Mr. President, I oppose the amendment offered by Senator COATS to give the President a line-item veto. I do this for two reasons.

First, the supporters of this amendment claim that this is a vital tool in the battle to reduce the deficit. I disagree. But, don't take my word for it. Let me quote OMB Director Richard Darman's words of about a month ago: The line-item veto "is not going to solve our deficit problem in the short term. In fact, it wouldn't even solve it in the long term. We need to do more fundamental things."

Or let's look to the actions of OMB Director Jim Miller during the Reagan administration. In following up on President Reagan's claim that the line-item veto would give him a powerful weapon on the war on the deficit, Jim Miller compiled a list of programs or projects that the President would have exercised the line-item veto in order to eliminate. However, the actual arithmetic contracted the alleged deficit reduction power of the line-item veto. According to OMB Director Miller's own numbers, almost 98 percent of the Federal deficit would have remained after the President line-item vetoed all of the projects to which he objected.

So, the line-item veto is a shadow of substantial deficit reduction and not the substance of it. But, I oppose the line-item veto for another reason as well. It represents a shift of power to the executive branch which should not be granted regardless of which political party is in control of it. Giving any President such power would enable him to threaten to veto projects of great importance to States or districts of Members of Congress unless those Members surrendered to the President's wishes on unrelated pieces of legislation. As a result, a Member of Congress could be inappropriately pressured to sacrifice the best interests of constituents.

We are in the bicentennial year of the Congress and not all that far beyond the bicentennial year of our independence. It is appropriate that we consider the debate on this amendment in that context. It is important that we remember the suspicion and the experience of overreaching Executive power which led to the fighting of that Revolution and to the drafting of the Constitution which established this Congress. Giving the President a line-item veto would require that we forget all of that in exchange for little more than a symbolic tool for substantial deficit reduction. For these reasons, I will vote against waiving the Budget Act with respect to the Coats amendment.

Mr. GRASSLEY. Mr. President, I commend the Senator from Indiana for bringing forth the line-item veto amendment.

The Presidential veto power was once described by Alexander Hamilton as "a salutory check upon the legislative body, calculated to guard against the effects of faction, or any impulse unfriendly to the public good. * * * " Hamilton was right 200 years ago and indeed, in these times of fiscal restraint and budget reform, a salutory check on the budget process is even more critical.

Today, the Federal budget process is in turmoil. Under current law, the President sends up his recommended cuts to Congress. But these recommendations are termed "dead on arrival" in Congress.

Congress seems to have developed an interesting budget process. First, Congress bunches all appropriations into a continuing resolution or an omnibus spending bill. Then, this trillion-dollar catch-all measure is amended and passed at the 11th hour of the legislative session. Tucked away in this trillion-dollar legislation are a variety of pork-barrel items that are barely detectable by the human eye. Further, this undisciplined practice increases the opportunity for a committee or subcommittee chair to include an item

that may not otherwise pass Congress on its own merit. In 1988, the spending measure weighed 43 pounds and consisted of 3,296 pages. This year's reconciliation bill was a 1,878-page monster.

When the continuing resolution or omnibus spending bill reaches the President, he must choose to accept all of it or reject all of it. This is not much of a choice: Accept the budget no matter what it includes, or shut down the Government.

The line-item veto would give the President the opportunity to veto items he believes are inappropriate. The line-item veto would ensure that congressional spending practices are responsible, and will restore some much needed discipline to congressional spending habits.

Some will argue that the line-item veto would give the President the ultimate check on congressional actions. But we know that Congress would still retain the final word. Congress still has the power to override any line-item veto. Rather, what the line-item veto does is inject much-needed and long-overdue accountability into the process.

It is the only solution for the branch of Government that can't say "No."

Mr. SIMPSON. Mr. President, I rise in support of Senator COATS' and Senator MCCAIN's proposal to allow the President to rescind budget authority, by use of a line-item veto.

Currently the President has the authority to request a rescission of a spending provision authorized by Congress.

However, before the President's request to reduce spending may become effective, Congress must take affirmative action and pass an approval resolution.

As an illustration of how ineffective this process is—consider that for the last 13 years, Presidents have proposed nearly $35 billion in rescissions, while the Congress has rejected all of them through inaction.

The legislative Line-Item Veto Act of 1989 would reverse this trend by requiring Congress to pass a disapproval resolution in order to stop the rescission from becoming effective.

Congress has repeatedly demonstrated the institutional inability to say no to special interest spending which has driven the statutory public debt limit to $3.12 trillion.

The amendment offered by my colleagues is but one step in the right direction of budget reform. I commend their efforts in bringing this issue to the floor.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The majority leader.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, I understand momentarily the chairman of the Appropriations Committee will make a point of order, that the Senator from Indiana will make a motion to waive the Budget Act with respect to the pending amendment. I accordingly ask unanimous consent that the vote on that motion to waive occur at 5:15 p.m. this evening.

The PRESIDING OFFICER. Is there objection?

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, reserving the right to object, I have come to the floor for two or three times this afternoon waiting for a time to speak on this and deliver one of my traditional barn-burning speeches in opposition. I assume both the chairman of the Appropriations Committee and the distinguished majority leader wish to speak in opposition to it, also.

Mr. MITCHELL. The chairman of the Appropriations Committee and myself are strongly opposed to the motion to waive, but we are attempting to accommodate the interests of a number of Senators, some coming, some going, and resolve this issue as promptly as possible so we can proceed to other matters.

I ask whether the Senator from Arkansas would forbear, either take the opportunity later to make remarks or place a statement in the RECORD?

Mr. BUMPERS. Mr. President, I would like to have 5 minutes at least reserved before the vote.

Mr. MITCHELL. The chairman of the Appropriations Committee has graciously not used his time so almost all the time, as I understand it, has been used by opponents of the amendment.

Why do I not suggest the Senator from Arkansas be recognized for 5 minutes, and the chairman of the Appropriations Committee be recognized for 5 minutes?

Mr. COATS. Mr. Leader, I wonder if I could be reserved for just 2 minutes to wrap up before the vote?

Mr. BYRD. Mr. President, I will do the wrapping up because I am going to make the point of order.

UNANIMOUS-CONSENT AGREEMENTS

MOTION TO WAIVE BUDGET ACT

Mr. MITCHELL. Mr. President, I modify my request to ask unanimous consent that following the making of the point of order, that the chairman of the Appropriations Committee be recognized to make a point of order; that the Senator from Indiana be recognized to make a motion to waive the Budget Act and for 2 minutes thereafter to speak in support of his motion to waive the Budget Act; that the Senator from Arkansas then be recognized for 5 minutes to speak in opposition to the motion; and that the chairman of the Appropriations Committee then be recognized for 5 minutes to speak in opposition to the motion, and upon the conclusion of the remarks of the chairman of the Appropriations Committee, the vote with respect to the motion occur.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, now with the distinguished Republican leader on the floor, I would like to make a brief statement, and then make an unanimous-consent request regarding another matter on which we have been talking for some days.

CAPITAL GAINS

Mr. MITCHELL. Senator DOLE and I have reached an agreement on a process for resolution of the capital gains issue. The House will pass and send to the Senate legislation which incorporates the capital gains provisions previously passed by the House—the so-called Jenkins bill—as part of the House reconciliation bill.

I ask unanimous consent that when the Senate receives from the House the bill that I have just referenced, that it be placed on the calendar. I further ask unanimous consent that on Tuesday, November 14, at 2:15 p.m., the Senate proceed to the consideration of this bill; that Senator PACKWOOD be immediately recognized to offer a substitute amendment which will be the text of subtitles A and B of title II of the Packwood-Roth amendment No. 1065, which may be modified by Senator PACKWOOD at any time prior to 3 p.m. on Monday, November 13, with 3 hours of debate on the amendment, equally divided and controlled between the two leaders or their designees, with no other amendments in order prior to the cloture votes that I will include. I further ask unanimous consent that at the conclusion of the time for debate on the amendment, there be a vote on a motion to invoke cloture on the substitute amendment, with the live quorum under rule XXII being waived; if cloture is invoked, the Packwood-Roth substitute will be before the Senate for consideration and passage.

If cloture is not invoked, I further ask consent that the bill be set aside until 2 p.m. on Wednesday, November 15, when it will again be brought before the Senate; that there be one hour of debate, equally divided, preceding another vote on a motion to invoke cloture to occur at 3 p.m., with the live quorum under rule XXII being waived. If cloture is invoked, the Packwood-Roth substitute will be before the Senate for consideration and passage; I further ask unanimous consent that if cloture is not invoked, the bill be returned to the calendar, and there be no other amendment relating to the issues of capital gains or IRA's to be offered in the Senate this year. I further ask unanimous consent

that the Packwood-Roth amendment No. 1065 be withdrawn from the Poland-Hungary aid bill when the Senate resumes consideration of that bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate receives H.R. 3628, with respect to capital gains, it be placed on the calendar.

Ordered further, That at 2:15 p.m. on Tuesday, November 14, 1989, the Senate proceed to the consideration of this bill and that the Senator from Oregon [Mr. PACKWOOD] be immediately recognized to offer a substitute amendment which will be the text of Subtitles A and B of title II of the Packwood-Roth amendment No. 1065, which may be modified by Senator Packwood at any time prior to 3 p.m. on Monday, November 13, 1989.

Ordered further, That time for debate on the amendment be limited to 3 hours, to be equally divided and controlled between the two leaders or their designees, with no other amendments in order prior to the cloture votes mentioned below.

Ordered further, That at the conclusion of the time for debate on the amendment, there be a vote on a motion to invoke cloture on the substitute amendment, with the live quorum under rule XXII being waived.

Ordered further, That if cloture is invoked, the Packwood-Roth substitute be before the Senate for consideration and passage.

Ordered further, That if cloture is not invoked, the bill be set aside until 2 p.m. on Wednesday, November 15, 1989, when the bill will be brought before the Senate, and that there then be 1 hour debate, to be equally divided and controlled, preceding another vote on a motion to invoke cloture, which will occur at 3 p.m., with the live quorum under rule XXII being waived.

Ordered further, That if cloture is invoked, the Packwood-Roth substitute be before the Senate for consideration and passage.

Ordered further, That if cloture is not invoked, the bill be returned to the calendar, and that there be no other amendment relating to the issues of capital gains or IRA's to be offered in the Senate this year.

Ordered further, That the Packwood-Roth amendment, No. 1065, be withdrawn from the Poland-Hungary aid bill when the Senate resumes consideration of that bill. (Nov. 9, 1989)

Mr. MITCHELL. Mr. President, if I might state for the record, I discussed this matter with Senator PACKWOOD earlier today and he has assured me that he will provide me, in writing, not later than 2:15 p.m. on Monday, the modification, if any, which he will then make to his amendment, under the terms of this agreement that modification having to be made prior to 3 p.m. on Monday.

Senator PACKWOOD had not yet made a final decision on whether to make a modification and, if so, what the terms of the modification will be. He has assured me that if he is to make one, he will provide it in writing not later than 2:15 p.m. on Monday.

Mr. DOLE. I will just say, that is accurate. I have also discussed this with Senator PACKWOOD. If there is a modification, it will be very relevant to what is pending at this time. I say, finally, that this is the opportunity that many have been waiting for to indicate their support or objection to capital gains action this year. It is a very important vote. It is going to be capital gains versus capital gains, not capital gains on some other bill where someone will say, "I cannot vote for cloture because it is on Polish aid." It is going to be a test for those who support capital gains.

I thank the majority leader for helping to work it out together.

Mr. MITCHELL. I thank the distinguished Republican leader as well.

Mr. President, I now yield the floor.

Mr. BYRD. Mr. President, I make a point of order against the amendment of the Senator from Indiana on the ground that it violates section 306 of the Congressional Budget Act in that it deals with matter within the jurisdiction of the Committee on the Budget and the bill has not been reported by that committee.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. Under the order, the Senator from Indiana is recognized.

Mr. COATS. Mr. President, I move to waive the Budget Act with respect to the pending amendment.

The PRESIDING OFFICER. The Senator, under the unanimous-consent agreement, has 2 minutes.

Mr. COATS. Mr. President, I want Members to understand that there should be no mistake here as to what we are voting for, despite a lot of procedural argument and the arrangement that we are now in. The vote that we are about to make is a vote on the line-item veto. It is a vote to make spending harder. It is a vote to acknowledge that the present system is broken. It is a vote that says that the $3 trillion national debt, the $150 billion-plus deficit that we face every year and cannot seem to reduce, the effects of the Gramm-Rudman law that spread cuts in all programs across the board that are currently in place, all of that can be addressed, not cured, but addressed with a giving of the line-item veto authority to the President.

We all know that we load up these appropriations bills with our special little projects, with our porkbarrel projects. We know that when these 13-pound bills come before us that we have 15 or 30 minutes to analyze, there is no way a Member can come before this body and offer amendments to take out all that special little spending. That is impossible to do. We know how we load up these vehicles that the President has to sign at the last hour or the country is going to go bankrupt. So we slip in our little goodies.

This is a chance to say we are not going to continue that practice. This is an opportunity for all those Members who have traveled around their States saying the line-item veto is a good thing, this is a chance to vote for it. A vote for the motion to waive is a vote for the line-item veto, and I urge my colleagues to take this opportunity to express their position on this issue.

Mr. President, I ask unanimous consent to add Senators BOND, NICKLES, WILSON, and BOSCHWITZ as cosponsors to the Coast-McCain amendment.

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

Under the unanimous-consent agreement, the Senator from Arkansas is recognized for 5 minutes.

Mr. BUMPERS. Mr. President, I hate to use my time this way, but I will start off asking the Senator from Indiana how much he anticipates, if this bill becomes law, it will save?

Mr. COATS. All I can say is in the last 13 years, $35 billion of rescissions have been sent up to this body and have been rejected. If we approved half of those, we would not now find ourselves in this sequester that is cutting across every program, many of them worthy programs.

Mr. BUMPERS. $35 billion?

Mr. COATS. The last 13 years.

Mr. BUMPERS. That comes to about $2.5 billion a year and the deficit last year was $157 billion. Actually, the structural deficit was about $250 billion and the Senator hopes he can save $2.5 billion, many of which are conservative, very meritorious projects. The reason the Senate did not agree to those is because we all had projects in there that we thought were just as meritorious as anything the President thought was meritorious.

Mr. President, there is not a single Member of this body who does not know where the politics of this issue is. I know how it sounds at those evening meetings back home, and I know how the President plays this, about that irresponsible Congress. But let me tell my colleagues, as Sam Ervin said, the mother tongue is English. The Constitution is written in the mother tongue, and here is what it says. I know this has been said before: "Every bill which shall have passed the House of Representatives and the Senate"—every bill—"shall, before it become a law, be presented to the President of the United States; if he approves he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated."

There is not one word in there about the President having a line-item veto. It says he shall approve or disapprove and return the bill. We have bills coming out of this body with thousands of line items in them. And all the people who vote for this today, if it becomes law, might as well resign

their seat in the Senate. We do not need you anymore; we will let the President decide what is meritorious and what is not. We will let the President decide about some of those items in Indiana that are in the transportation bill that are under consideration that this amendment is being attached to. We will let the President veto the money in the central Arizona project and other projects in Arizona and say this is pork, or we will let the President go ahead and whip Members into line. He will call you over to the White House and say, "Senator BUMPERS, we are having a little trouble with you on SDI. We understand you do not like SDI."

"Mr. President, you could not be more right."

He said, "I understand you have a parochial interest in the interior bill. I have been through the interior bill and there are 100 things in there ranging from $100,000 to $2 million and I do not like those projects. My people tell me they are not very meritorious."

What am I supposed to do? Tell the people of Arkansas that I knuckled under to the President on something that I believe very strongly? I have never been afraid to go home and talk about SDI to my people. But I will tell you what I would be afraid to do: I would be afraid to go home and tell the people of my State that I gave up seven very meritorious projects in Arkansas that may be I worked for years and years to get and which I thought they richly deserved and say I had to knuckled under to the President on something that I believe strongly in.

Why do you think James Madison put the separation of powers in the Constitution? He put it in there so we would be equal partners, equal branches of Government. If this ever becomes law, I am going to run for President. Strike it; I am going to run for king, because that is what the President will be.

This Congress, James Madison said, is the thing that stands between what would otherwise be a tyrannical government and the people. That is what we are supposed to represent. If the President finds something odious about a bill, let him veto it.

Yesterday, in defense appropriations, somebody said, "If you cut that, the President will veto it."

"How do you know?"

"We have this letter from the President." He said, "If you put that in or take that out, he will veto it."

Sometimes I think that is just fine. Sometimes we put it in and sometimes we take a chance. We take it out or put it in regardless of what his threat is.

Mr. President, I ask unanimous consent for 1 additional minute.

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

Mr. BUMPERS. If the President of the United States can veto a $157 billion Health and Human Services bill that contains all the medical research, all the education money, all of those things, if he can veto a $157 billion bill because it has one paragraph on abortion, what is to prevent him from vetoing any bill that he finds to be odious, offensive, excessive, no matter what the amount, and send it back over to us?

That is what the Constitution says he must do, and we know what our responsibilities are, too. For God's sake, do your duty and vote against this or resign your seat and go home.

Thank you, Mr. President.

The PRESIDING OFFICER. Under the unanimous-consent request, the Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, most of the remarks on the subject have been made by those Senators who support the amendment. I recognize the constraints on the time of Senators, the fact that tomorrow the Senate will not be in session; Senators need to catch planes, and so on, so I will be very brief at this point because there is no doubt but that this matter will come up again one day in the future.

Mr. President, I am a little bit puzzled by the position that I have heard some Senators take today, saying that this power ought to be shifted to the President, that we ought to give the President a line-item veto.

First of all, Mr. President, under the Constitution of the United States, this Senate and the House cannot give the President a line-item veto. Only the people can do that, because only the people can amend the Constitution of the United States.

Read article I. How many Senators have read the Constitution lately? That is what makes me puzzled. Article I, section 1 says: All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives. That is where the constitutional framers vested the lawmaking powers.

Then under article I, section 9, we read that no money, no money may be drawn from the Treasury, but in consequence of appropriations made by law.

If only the Congress can pass the laws and if moneys drawn from the Treasury can be made only in consequence of appropriations made by law, then only the Congress can appropriate moneys.

Senators, however, are advocating a massive shift of power from the legislative to the executive. We could not do it if we wanted to by statute, Mr. President. That would require an amendment to the Constitution. But we ought not want to do it in any event.

I believe in this institution, and it has unique powers. Those framers of the Constitution foresaw a governmental system under a separation of powers which would be based on a system of checks and balances.

Mr. President, they would be surprised and disappointed to hear Members advocate that this power be shifted to the executive, no matter whether he be a Democrat or a Republican.

The line-item veto would advocate that the President could amend a bill. He could strike from the bill figures or language.

Every Senator here knows that to strike language from a bill is an amendment. We offer amendments to strike language from a bill.

It amazes me that Senators would stand on this floor and advocate that we do something, which I do not think we could do, to allow the President to amend bills passed by the Congress by striking out items. This would make him a super legislator. The bills that would be so altered after he had stricken the language to which he was opposed would be bills which had not passed the Congress. Congress would not have passed those bills in the altered form. The President would then be signing into a law a bill which the Congress never envisioned, never agreed to, and never passed.

I hope that Senators will demonstrate a little greater knowledge of the rules and a little greater knowledge of the Constitution than that, to advocate that one man downtown can amend bills and thus make laws which under the Constitution is a power vested only in this institution, the Senate and the House of Representatives. Only Congress can make the laws.

The constitutional framers left the President with two choices. He can either veto the entire bill or he can let it pass with or without his signature, and that is it.

Mr. President, I could speak much longer, but I shall simply say this in closing.

Byron said that "a thousand years scarce serve to form a state; an hour may lay it in the dust."

This matter will be back one day, and there will be more said about it. But a great deal has been written recently and said with respect to an article by New York lawyer Stephen Glazier, published in the Wall Street Journal on December 4, 1978, which advocated that the Constitution all along has given the power to the President to exercise a line-item veto.

Let me just say with regard to that argument, because the Wall Street Journal has gone on quite a binge in advocating a line-item veto, and it bases its editorials on that faulty premise, the article by Mr. Glazier. An additional argument against the rein-

terpretation of article I, section 7, clause 3, that Mr. Glazier advances is the fact that it has not happened in over 200 years of constitutional government or interpretation.

Mr. Justice Frankfurter devastated this idea more eloquently than I am able to do when he wrote in 1959 the Supreme Court's decision in Romero v. International Terminal Operating Company, et al., 358, U.S. 354,370, which denied a petitioner's request that the court reinterpret the Maritime Act of 1875, which has been unquestioned for 83 years.

Here is what he said:

The history of archaeology is replete with the unearthing of riches buried for centuries. Our legal history does not, however, offer a single archaeological discovery of new, revolutionary meaning in reading an old judiciary enactment. The presumption is powerful that such a far-reaching, dislocating construction as petitioner would now have us find in the Act of 1975 was not uncovered by judges, lawyers, or scholars for seventy-five years because it is not there.

For those who advocate that the President already has the line-item veto, I suggest that they should repair to Mr. Justice Frankfurter's statement. The framers did not intend for the President to have a line-item veto, and we are not going to discover it in the Constitution 200 years after they wrote it, because it is not there and never was there.

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

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

The yeas and nays were ordered.

Mr. BYRD. Mr. President, under the agreement, is a motion to table the appeal in order?

The PRESIDING OFFICER. The motion to table the motion to waive.

Mr. BYRD. That is what I mean. Is a motion to table the motion to waive in order under the agreement presented?

The PRESIDING OFFICER. The Senator is right.

Mr. COATS. Parliamentary inquiry, Mr. President. I am just curious as to what the status is. Parliamentary inquiry. I am still uncertain as to what our status is. Are we operating under a motion to table or are we operating——

Mr. BYRD. Mr. President, I am not going to make a motion to table. The vote will be on the motion to waive by the distinguished Senator from Indiana, and I urge that Senators vote against the motion to waive the Budget Act.

The PRESIDING OFFICER. The pending question then is on agreeing to the motion to waive the Budget Act. The motion does require 60 votes. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from Texas [Mr. BENTSEN], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Tennessee [Mr. SASSER], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. SASSER] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Minnesota [Mr. BOSCHWITZ], and the Senator from Vermont [Mr. JEFFORDS] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

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

The result was announced—yeas 40, nays 51, as follows:

[Rollcall Vote No. 294 Leg.]

YEAS—40

Armstrong	Hatch	Nickles
Boren	Heflin	Packwood
Burns	Heinz	Pressler
Chafee	Helms	Roth
Coats	Humphrey	Shelby
Danforth	Kassebaum	Simon
Dixon	Kasten	Simpson
Dole	Lott	Specter
Domenici	Lugar	Symms
Exon	Mack	Thurmond
Garn	McCain	Warner
Gorton	McClure	Wilson
Gramm	McConnell	
Grassley	Murkowski	

NAYS—51

Adams	Durenberger	Levin
Biden	Ford	Lieberman
Bingaman	Fowler	Metzenbaum
Bradley	Glenn	Mikulski
Breaux	Gore	Mitchell
Bryan	Graham	Moynihan
Bumpers	Harkin	Nunn
Burdick	Hatfield	Pell
Byrd	Hollings	Pryor
Cochran	Inouye	Reid
Cohen	Johnston	Riegle
Conrad	Kennedy	Robb
Cranston	Kerrey	Rockefeller
D'Amato	Kerry	Rudman
Daschle	Kohl	Sanford
DeConcini	Lautenberg	Sarbanes
Dodd	Leahy	Stevens

NOT VOTING—9

Baucus	Boschwitz	Sasser
Bentsen	Jeffords	Wallop
Bond	Matsunaga	Wirth

The PRESIDING OFFICER. On this vote, the yeas are 40, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted to concur with the motion, the motion is rejected.

The amendment of the Senator from Indiana deals with a matter within the jurisdiction of the Senate Budget Committee and is being offered to a bill that was not reported from that committee in violation of section 306 of the Congressional Budget Act. The point of order is sustained. The amendment falls.

The Senator from New Jersey.

HOUSE AMENDMENT TO SENATE AMENDMENT NO. 1

Mr. LAUTENBERG. Mr. President, I now move that the Senate concur in the House amendment to the Senate amendment No. 1, which was the amendment that was being considered here, and move to reconsider and table that motion.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Jersey.

The motion was agreed to.

Mr. LAUTENBERG. Mr. President, earlier today there was a group of amendments en bloc that were approved by a unanimous consent and I ask now that those amendments en bloc be reconsidered and tabled.

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

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

HOUSE AMENDMENT TO SENATE AMENDMENT NO. 136 IN DISAGREEMENT

The PRESIDING OFFICER. The clerk will report the remaining amendment in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 136 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

TITLE IV—EMERGENCY DRUG FUNDING

CHAPTER I

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $10,261,000 to enhance drug and criminal law enforcement efforts with special emphasis on improving drug law enforcement efforts among the various Justice Department agencies and on expedited deportation proceedings of convicted criminal aliens.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $41,476,000, to remain available until expended, to improve the effectiveness of the Department's legal activities, to improve coordination between law enforcement programs in this country and other countries, to improve efforts in extradition of drug cartel kingpins and to improve Criminal Division efforts in Federal/State task forces.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

To continue efforts begun in fiscal year 1989 to improve the ability of the United States Attorneys to prosecute drug and other crime related offenses, $80,699,000, for new assistant United States Attorneys, for annualization of new attorney positions funded in fiscal year 1989, and for automation enhancements necessary to improve

productivity and case mangement in the various United States Attorneys' offices.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $23,819,000 to improve the ability of the United States Marshals Service to pursue and apprehend alleged major drug and organized crime figures, and to improve the security required for anti-drug and organized crime judicial proceedings.

SUPPORT OF UNITED STATES PRISONERS

To fight the war on drugs, $23,000,000, to remain available until expended for enhancing the availability of jail space for unsentenced Federal prisoners in the custody of the United States Marshals Service; of which not to exceed $10,000,000 shall be available under the Cooperative Agreement Program to obtain guaranteed housing for Federal prisoners in State and local detention facilities.

ASSETS FORFEITURE FUND

To fight the war on drugs, $25,000,000 for awards for information in drug cases, purchase of evidence for drug violations, equipping conveyances for drug law enforcement, and other expenses as authorized by 28 U.S.C. 524 (c)(1)(A)(ii), (B), (C), (F) and (G), as amended, to be derived from the Department of Justice Assets Forfeiture Fund.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For carrying out efforts at National Drug Control $46,361,000 to strengthen the ability of the Federal Government to attack drug cartels and other organized crime groups through the eleven cooperating Federal agencies which participate in the organized crime drug enforcement task forces.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control $97,045,000, to strengthen Federal domestic law enforcement at the local level to include additional agents, support personnel and equipment, improvements in automation and telecommunications, and enhancements in field equipment and training.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control, $64,301,000, for additional agents, support personnel and equipment for improved domestic drug law enforcement; for expanded cleanup and disposal of toxic chemicals from clandestine laboratories; to expand State and local task forces; to complete the nationwide placement of asset removal teams; and to improve intelligence programs.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $16,891,000, for additional Border Patrol agents to improve drug interdiction efforts and for additional investigators and other staff needed to increase the apprehension and detention of criminal aliens.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $54,923,000, for additional staff to activate new prisons, to improve staffing at existing institutions, and to fund additional support costs associated with the projected increases in Federal prison populations.

BUILDINGS AND FACILITIES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $1,000,000,000, to remain available until expended, for acquisition and construction of new Federal prison facilities in order to handle the projected growth in prisoner populations resulting from the increased number of drug-related convictions.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

To fight the war on drugs, $308,821,000, to remain available until expended; of which $300,000,000 is for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs for State and local agencies to improve efforts in street-level and community-based drug law enforcement efforts; and of which $8,821,000 is for the Juvenile Justice and Delinquency Prevention Program in order to improve programs for the prevention, intervention and treatment of juvenile crime, especially where it relates to youth gangs and drugs.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $59,550,000 for additional clerks office personnel, probation and pretrial services personnel, magistrates and related support personnel, and drug aftercare treatment services necessary to handle the growth in drug and crime related caseloads in the Federal courts.

DEFENDER SERVICES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $41,373,000, to remain available until expended, for the increased expenses associated with Federal public defender and community defender organizations and private panel attorneys necessary to handle the growing drug and crime related caseload of the Federal courts.

FEES OF JURORS AND COMMISSIONERS

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $4,000,000, to remain available until expended, for the increased cost of grand and petit juries resulting from the growth in the drug and crime related caseload of the Federal courts.

COURT SECURITY

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $15,400,000, to provide for expanded security and protective services for the Federal courts to handle the increase in drug and crime related judicial proceedings which require a higher level of security.

RELATED AGENCY

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For carrying out the provisions of section 7321 of the Anti-Drug Abuse Act of 1988 (P.L. 100-690), $4,020,000, to remain available until expended, to allow the State Justice Institute to expand its programs to assist States in improving their court systems to allow them to handle the growing drug and crime related caseload.

CHAPTER II

DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

CONSTRUCTION

To fight the war on drugs, $4,000,000, to remain available until expended, for the provision of additional emergency shelters for Indian youth and for the construction of juvenile detention facilities.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

To fight the war on drugs, $7,250,000, for the Indian Health Service to increase after care services and provide for family outpatient care, expand community education and training efforts with a focus on prevention and training of program staff, expand alcoholism and drug abuse prevention efforts for adolescents through urban Indian health programs, and provide contract health services for substance abuse treatment and rehabilitation of Indian youth and their families.

INDIAN HEALTH FACILITIES

To fight the war on drugs, $1,500,000, to remain available until expended, to allow the Indian Health service to complete the construction or renovation of facilities to provide detoxification and rehabilitation services in youth regional treatment centers.

Chapter III

DEPARTMENT OF LABOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for substance abuse employee assistance programs in the workplace, $2,000,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out activities to fight the war on drugs including substance abuse research, treatment, and prevention, $727,000,000: Provided, That of this amount, $415,000,000 shall be provided for block grants to States under title XIX of the Public Health Service Act to be used exclusively for substance abuse activities and shall remain available for obligation by the States until March 31, 1991, and such obligated funds shall remain available for expenditure by the States until March 31, 1992: Provided further, That of this amount, $40,000,000 shall be available for treatment waiting period reduction grants, if authorized in law.

FAMILY SUPPORT ADMINISTRATION

COMMUNITY SERVICES BLOCK GRANT

For an additional amount for anti-drug abuse activities under the Community Services Block Grant Act, $2,000,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT SERVICES

To fight the war on drugs by providing assistance to runaway and homeless youth, by providing drug prevention activities related to youth gangs, and by providing temporary child care, crisis nurseries and abandoned infants assistance to children impacted by drugs, $23,750,000.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

To ensure a drug free learning environment for American students by carrying out the Drug-Free Schools and Communities Act of 1986, as amended, part F of title IV of the Elementary and Secondary Education act, as amended, and the Department of Education Organization Act, $183,500,000: Provided, That of this amount $170,000,000 shall be for State grants under part B, which shall become available on July 1, 1990, and remain available until September 30, 1991; $2,000,000 shall be for innovative alcohol abuse programs under section 4607; $7,500,000 shall be for teacher training under part C; $2,000,000 shall be for national programs under part D; and $2,000,000 shall be transferred to "Departmental Management, Program Administration" for administrative costs: Provided further, That of the amounts available for part B, not less than $25,000,000 shall be for section 5121(a) for urban and rural emergency grants: Provided further, That funds available under the "Department of Education Appropriations Act, 1990" for "Rehabilitation Services and Handicapped Research" shall also be available for activities under title II of Public Law 100-407; funds available for "School Improvement Programs" shall also be available for activities under title IX of the Education for Economic Security Act, as amended; and funds available for "Student Financial Assistance" shall be administered without regard to section 411F(1) of the Higher Education Act of 1965 (20 U.S.C. 1001 et. seq.), and the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary of Education, mean the sum received in the first calendar year of the award year from the sources described in that section.

RELATED AGENCY

ACTION

OPERATING EXPENSES

For an additional amount for substance abuse prevention and education activities under Part C of title I of the Domestic Volunteer Service Act of 1973 as amended, $1,500,000, of which not more than $150,000 may be used for administrative expenses.

CHAPTER IV

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

To fight the war against armed career criminals, an additional amount of $10,000,000 for the hiring, training and equipping of additional agents, and inspectors to enhance the arrest and conviction of armed career criminals who violate Federal firearms statutes.

UNITED STATES CUSTOMS SERVICES

SALARIES AND EXPENSES

To fight the war on drugs, an additional amount of $18,000,000, of which $15,000,000 shall be available to undertake investigations to counter drug-related money laundering or other law enforcement activities, and of which $3,000,000 shall be available to increase the air interdiction program staffing level to 960 permanent full-time equivalent positions: *Provided*, That none of the additional funds shall be made available for the establishment of the Financial Crimes Enforcement Network without the advance approval of the House and Senate Committees on Appropriations.

OPERATIONS AND MAINTENANCE, AIR INTERDICTION PROGRAM

To fight the war on drugs, an additional $35,800,000, to remain available until expended, for the procurement of interceptor and support aircraft, and to provide for the operation and maintenance expenses of these assets to more effectively interdict the illegal importation of drugs into the United States.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

To fight the war on drugs, an additional amount of $5,000,000, to be derived from deposits in the Fund, for authorized law enforcement purposes.

INTERNAL REVENUE SERVICE

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

To fight the war on drugs, an additional amount of $5,000,000 for criminal investigative activities to support a vigilant enforcement of Federal tax law violations and money laundering related to illegal narcotics activity.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

To fight the war on drugs, an additional amount of $25,000,000 for drug control activities related to the designation of high intensity drug trafficking areas: *Provided*, That from within available funds, the Office of National Drug Control Policy, in conjunction with other departments and agencies, shall undertake assessments of program effectiveness of all federally funded anti-drug programs for the purposes of determining their impact in reducing the illegal drug problem, including their impact on the production, importation, cost, availability, and use of drugs, as well as on the successful treatment and rehabilitation of users and addicts: *Provided further*, That said assessments shall contain cooperative cost-benefit and cost-effectiveness data to aid in determination of the absolute and relative value of each program in reducing the illegal drug problem.

SPECIAL FORFEITURE FUND

For Federal prison construction purposes to incarcerate drug traffickers and others who violate Federal statutes, an amount not to exceed $115,000,000, to be derived from deposits in the Fund, and to remain available until expended.

CHAPTER V

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

For providing necessary medical care and treatment to eligible veterans with alcohol or drug dependence or abuse disabilities, an additional $50,000,000, which shall be available only for programs and activities described in section 2502(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), and as authorized under chapter 17 of title 38, United States Code.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

To fight the war on drugs and eliminate drug-related crime in public housing projects, without regard to section 9(d) of the United States Housing Act of 1937 (42 U.S.C. 1437), an additional $50,000,000, which shall be available only for grants authorized under the Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et seq.) and subject only to the requirements of such Act for project security, physical improvements, enforcement activities, support for voluntary organizations, and innovative programs designed to reduce drug use in and around public housing projects: *Provided*, That $1,000,000 shall be available for contracts, including the provision of technical assistance to public housing officials and resident groups to better prepare and educate them to confront the widespread abuse of controlled substances in public housing projects, pursuant to the Drug-Free Public Housing Act of 1988 (42 U.S.C. 11922, 11923).

CHAPTER VI

DEPARTMENT OF ENERGY

NUCLEAR WASTE DISPOSAL FUND

In order to provide funds for the war on drugs, funds appropriated by the Energy and Water Development Appropriations Act for Fiscal Year 1990 (Public Law 101-101) for the "Nuclear Waste Disposal Fund" are reduced by $46,000,000.

CLEAN COAL TECHNOLOGY

The second paragraph under this head contained in the Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1990, is amended by striking "$450,000,000" and inserting "$419,000,000" and by striking "$125,000,000" and inserting "$156,000,000".

SPR PETROLEUM ACCOUNT

Outlays in fiscal year 1990 resulting from the use of funds appropriated to this account in the Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1990, shall not exceed $147,125,000: *Provided*, That for purposes of section 202 of Public Law 100-119 (2 U.S.C. 909) this action is necessary (but secondary) result of a significant policy change.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

LAND ACQUISITION AND DEVELOPMENT FUND

The authority to borrow from the Treasury of the United States provided under this heading in the Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1990, is hereby reduced to $100,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH CARE FINANCING ADMINISTRATION

PROGRAM MANAGEMENT

Notwithstanding the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1990, the amount available for Health Care Financing Administration Program Management shall include not to exceed $1,885,172,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance, the Federal Supplementary Medical Insurance, the Federal Catastrophic Drug Insurance, and the Federal Hospital Insurance Catastrophic Coverage Reserve Trust Funds.

LEGISLATIVE BRANCH

In order to provide funds for the war on drugs, each discretionary appropriation for fiscal year 1990 provided in the Legislative

Branch Appropriations Act, 1990 (H.R. 3014), shall be reduced by 0.43 percent: *Provided,* That $3,578,000 representing excess receipts from the sale of publications shall be transferred from the Government Printing Office revolving fund to the Salaries and Expenses Appropriation of the Office of the Superintendent of Documents, Government Printing Office.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

Notwithstanding any other provision of this Act, each discretionary appropriation account, loan program, and obligation limitation in titles I and II of this Act is hereby reduced by 0.3 percent: *Provided,* That the reductions made pursuant to this paragraph shall not apply to "Federal-Aid Highways (Limitation on Obligations) (Highway Trust Fund)", the obligation limitation under "Grants-in-Aid for Airports", and to any appropriation account applicable to salaries and expenses in an amount less than $45,000,000: *Provided further,* That this paragraph shall not reduce the minimum amount specifically designated for drug enforcement activities under "Coast Guard, Operating Expenses": *Provided further,* That, notwithstanding any other provision of this paragraph, the obligation limitation under the head "Grants-in-Aid for Airports" is hereby reduced to $1,425,000,000 and the obligation limitation under the head "Federal-Aid Highways (Limitation on Obligations) (Highway Trust Fund)" is hereby reduced to $12,210,000,000: *Provided further,* That $25,000,000 of unobligated contract authority available for airport planning and development under section 505(a) of The Airport and Airway Improvement Act of 1982, as amended, is rescinded.

DEPARTMENT OF THE TREASURY

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $14,000,000 are rescinded.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $141,000 are rescinded.

PROCESSING TAX RETURNS

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $1,499,000 are rescinded.

EXAMINATION AND APPEALS

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $1,488,000 are rescinded.

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $2,299,000 are rescinded.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The limitation established under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, for the rental of space, as well as the aggregate limitation established thereunder, are reduced by $14,400,000.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $945,000 are rescinded.

CHAPTER VII

OFFICE OF NATIONAL DRUG CONTROL POLICY

Not later than 30 days after the enactment of this Act, the Director of National Drug Control Policy shall report on how funds made available under Title IV of this Act have been allocated and shall, for each quarter of the fiscal year thereafter, within 45 days following the close of the quarter, report on how these funds have been obligated. Reports made under this section shall be filed with the House of Representatives and the Senate and made available to the Committees on Appropriations and other committees, as appropriate.

Mr. LAUTENBERG. Mr. President, unless this is a misunderstanding that is the only amendment that is being carried over. That amendment by virtue of a unanimous-consent agreement with the Republican leader is to be acted upon before the close of business on Tuesday, November 14. That was propounded in the unanimous-consent agreement.

The PRESIDING OFFICER. The Senator is correct.

Mr. LAUTENBERG. Therefore, it is fair to say that all of the other business related to the Transportation Appropriations Committee bill has been dealt with by both Houses and it is only now awaiting resolution of amendment No. 136 which we believe will take place on Tuesday, the week coming, and that will settle totally the appropriations bill dealing with transportation.

I thank the Chair.

The PRESIDING OFFICER. The Senator is correct.

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

Mr. McCLURE. Mr. President, will the Senator withhold?

Mr. LAUTENBERG. Yes.

The PRESIDING OFFICER. The Senator from Idaho.

ORDER OF PROCEDURE

Mr. McCLURE. Mr. President, I ask unanimous consent that I may proceed out of order as if in morning business.

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

KRASNOYARSK RADAR

Mr. McCLURE. Mr. President, what do the following people have in common?

The Arms Control Association, the Federation of American Scientists, Paul Warnke, McGeorge Bundy, George Kennan, Robert McNamara, Gerald Smith, three members of the U.S. House of Representatives who visited an obscure town in Siberia in 1987, and Mikhail Gorbachev.

The answer is, these are just a few of the people who denied, ridiculed, downplayed or otherwise pooh-poohed the Reagan administration's assertion that the Krasynoyarsk radar was a violation of the ABM Treaty.

And what about Ronald Reagan, Eduard Shevardnadze, and Mikhail Gorbachev?

These are three of the people who agree that the Krasnoyarsk radar is a violation of the ABM Treaty. Gorbachev has not said so himself, but I think we can assume from Mr. Shevardnadze's admission that the General Secretary has seen the error of his ways.

Mr. President, I hate to say I told you so. But I did. I was the author of the legislation requiring the administration to provide an annual report of Soviet noncompliance with arms control agreements. I did this because I believed—as I still believe—that refusing to acknowledge and face up to Soviet violations endangers our security and makes a mockery of the arms control process.

The Reagan administration, to its credit, ignored diplomatic business-as-usual and proceeded to certify Krasnoyarsk, the SS-25, telemetry encryption, and a number of other Soviet activities as treaty violations.

To their discredit, the arms control lobby, and the elite media and scientific communities, pooh-poohed these allegations. They accused the President of working to undermine the arms control process and other dire and nefarious schemes.

"Such accusations can only add to the already widespread concern that President Reagan has not been truly interested in nuclear arms control," complained the Arms Control Association.

The Federation of American Scientists said concerns about Krasnoyarsk were "more a product of faulty deduction than of analysis of the facts."

The three visiting Congressmen announced the radar was "not a violation of the ABM Treaty at this time."

Mr. President, I don't want to belabor this. We all make mistakes. But I think it is important at this time to set the record straight. Sticking your head in the sand and ignoring Soviet cheating does not help the arms control process. It does not make the world safer. In fact, by sending the Soviets the message that they can cheat with impunity, it does the opposite. If we have learned that lesson, and will abide by it, then Mr. Shevardnadze may have done us a great favor.

Let me quote from the Washington Post of October 25, which I think sums it up pretty well.

The Shevardnadze admission also makes a contribution to American politics. For taking a so-called hard-line approach to treaty violations—of which the Krasnoyarsk radar was the most conspicuous and the

most clear-cut case—President Reagan was widely criticized because he was said to be putting the whole arms control "process" at risk. But Mr. Reagan was entirely right to insist on faithful mutual compliance with old agreements. It was the essential way to earn American confidence in new ones. Leonid Brezhnev, for his cheating, deserved the criticism for endangering arms control. Too many Americans ignored his lies and offered him excuses—excuses that the Gorbachev team now sweeps away.

Mr. President, they say if you live long enough, you will see everything. I never expected to see the Krasnoyarsk radar torn down, but it looks like it might happen. I never hoped to see the Berlin Wall torn down, but God willing, I might. And I certainly never thought I would see the day JIM MCCLURE, Mikhail Gorbachev, the Washington Post, and Ronald Reagan all agreed on something.

ORDER OF PROCEDURE

The PRESIDING OFFICER (Mr. GORE). The Senator from New York.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I may be permitted 5 minutes as if proceeding in morning business.

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

THE MAYOR-ELECT OF NEW YORK CITY

Mr. D'AMATO. Mr. President, Tuesday's election of David Dinkins as the first black American to be elected mayor of the city of New York is a historic opportunity for all of us.

Although David Dinkins and I may have different political philosophies, the people of New York have a right to expect us to work together to make New York City and New York State a greater place to live in the decade to come.

I stand ready to work with David Dinkins in unifying the city and in bringing about a surge of good will to revitalize New York.

Drugs, crime, housing, homelessness, AIDS, and transportation—these are all complex and difficult problems. But the first problem in the city is getting people to work together—hand in hand—and not against one another.

I know that I stand with New Yorkers throughout the State in sending David Dinkins a message of good will and hope. As a U.S. Senator from the great State of New York, I will be there to help and support him.

Good luck, Mayor Dinkins.

I yield the floor.

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.

AN EXPRESSION OF GRATITUDE TO VETERANS OF OUR COUNTRY

Mr. FOWLER. Mr. President, I rise to express my gratitude and unyielding commitment to our Nation's veterans. November 11, Veterans Day, marks the day in which Americans throughout this great Nation pay homage to those who have fought and died for our country.

It is appropriate that we are observing Veterans Day at a time when every American can clearly see the sacrifices that our servicemen and women are making and have made to preserve the freedoms that we all cherish. The efforts of those who died on the battlefield, and in service to this country and its allies, helped to ensure the freedoms that people all over the world, from Tiananmen Square, to Warsaw, to Moscow, to Johannesburg, to East Berlin, are fighting for today.

It is no accident that Veterans Day is a day on which we celebrate peace in America and throughout the world. In its initial observance, Veterans Day, or Armistice Day was marked as a day that would commemorate an end to all wars. Although that goal has too often been unfulfilled, the ideal is one in which every nation should strive to achieve.

President Lincoln spoke at Gettysburg of dedication to "unfinished work." As a Member of the U.S. Senate and a voice for approximately 650,000 veterans in my home State, Georgia, I am committed to that "unfinished work" which he referred to, not for a single day or single period, but throughout the year.

Although the fighting in World War I may have ended November 11, 1918, the peace you and I enjoy each and every day is due to the sacrifices of veterans who served then and throughout our history. I salute these men and women. They are the real heroes of this Nation.

VETERANS DAY 1989

Mr. CRANSTON. Mr. President, as Veterans Day nears, every American should pause to remember gratefully the millions of men and women who have served our Nation honorably, often at great sacrifice, in the U.S. Armed Forces.

We Americans have been richly blessed with the greatest democratic heritage the world has ever known. In a day when so much threatens the future of our Nation—drugs, violence, poverty, environmental degradation, AIDS, broken families and confused values—let us not lose sight of the reality that each of us, by birthright, enjoys the opportunity to speak, think worship, assemble, and travel as we choose. Let us humbly remember that the enabling power of freedom of choice, which we too often take for granted, is still not shared by many of our brothers and sisters around the world.

On Veterans Day, we should contemplate, too, the high price of safeguarding the ideals of democracy, freedom, and equal justice on which our Nation was founded. Of the 38 million veterans who have served our country during periods of war since its beginnings, over a million have lost their lives while in service. Today, another 2.2 million suffer from service-connected disabilities. We need only think of the emptiness felt by one child who grew up without a father who was killed in service to begin to understand the cost of maintaining our freedom.

This Veterans Day, let us remember the families and loved ones of all the military personnel who have died on active duty this year. The most publicized loss was the 47 men who perished tragically when a gunturret exploded aboard the U.S.S. *Iowa* on April 19. But there were altogether well over 100 active duty deaths we should remember.

It is the men and women in uniform—not the weapons or the technology—that are the heart of our Nation's defense. The U.S.S. *Iowa* tragedy, and similar tragedies in recent years in Beirut, Gander, and the Persian Gulf vividly demonstrate the difficulty and danger of military service, even in times of peace.

I would like to mention briefly the Department of Veterans Affairs' commendable response to the *Iowa* tragedy. Immediately after the incident, a network of VA and Navy personnel began working together in coordinating joint services to surviving family members. Within days, benefits totaling $2 million were paid to survivors. This quick and compassionate work of the dedicated VA employees with the surviving family members established a lasting memorial to the 47 sailors who perished.

It is not enough, however, to praise the valiant efforts of those who have shouldered and who now bear the heaviest of all burdens of citizenship—the defense of our country. We must tangibly honor our commitment to veterans by affording them and their families the benefits and services they deserve.

It has been my privilege to work on behalf of veterans for the past 20 years in the Senate and to serve—now as chairman—on the Veterans' Affairs Committee since its inception in 1971. Our 27.3 million living veterans need Congress' continued support for

health care and compensation for those with service-connected disabilities. Educational support, counseling, and employment-assistance programs for those readjusting to civilian life also must be sustained. These programs, and others to assist the survivors of those who made the ultimate sacrifice, help acknowledge a debt we can never truly repay.

As Americans, we must deal honestly with the personal pain and sacrifice of those who answered their Nation's call. We cannot hide from the truth that close to 30 percent of our Nation's homeless are veterans, many of whom suffer from chronic mental illness, that unemployment rates among service-connected disabled and recently discharged veterans remain unacceptably high, and that it is estimated that over 800,000 Vietnam veterans suffer symptoms of post-traumatic stress disorder.

No one can deny the trauma suffered by those who have fought in combat. It is time that all Americans participate in the healing of our veterans' wounds and that all citizens open their hearts to the returned warriors and say "Welcome home."

As we remember the women and men who have served in past wars to keep America strong so we can remain at peace, we must be mindful that a healed America is a stronger America. Let us work to ensure that the wounds of history will not give away to bitterness, anger, or preoccupation with symbolic patriotism, but that out of the pain and suffering of war will come an integrity and strength that can move us closer to achieving fully the ideals on which our great Nation was built.

Let us work tirelessly to support and encourage the peoples of the world who yearn for the precious freedoms and peace we enjoy. We live in a remarkable time in which waves of hope unprecedented in history are sweeping through the Soviet Union, Eastern Europe, and China. The uprisings in Tiananmen Square, the broken ceasefire in Nicaragua, and repressive governments, like those in South Africa and Panama, that are at odds with their people, serve as sobering reminders of how strong is the cry for justice in so many countries around the globe.

As we gratefully remember our veterans this November 11, let us rededicate ourselves to the democratic values they sacrificed so much to preserve and to the path to justice for all peoples of the world.

EAST GERMANY

Mr. KENNEDY. Mr. President, all of us are awed by the accelerating changes in East Germany. The irresistible desire of individuals for liberty has met the immovable object of a hostile government, and the immovable object has moved.

A quarter century ago, President Kennedy traveled to West Berlin. He spoke about the Berlin Wall and about the indivisibility of liberty. He understood that when people anywhere are unjustly denied their freedom, the rest of us are not truly free. With four simple majestic words—"Ich bin ein Berliner"—he touched the hearts and hopes of Berliners and millions of others everywhere who yearn for liberty and justice.

Now, the Government of East Germany has heeded that yearning and announced dramatic and historic steps toward its fulfillment. Friends of freedom everywhere welcome the announcement that the government will open its borders, will permit citizens to travel freely, and will move toward free and democratic elections.

For two and a half decades, the Berlin Wall has symbolized the repression of the people of East Germany and the other nations behind the Iron Curtain. But the forces of freedom are too powerful to be denied. Over the past few weeks, one astounding event after another has proved the validity of this enduring truth. The people of East Germany deserve their freedom, no less than their brothers and sisters in Poland, Hungary, and all the other nations of Eastern Europe.

Today's developments demonstrate again the invincibility of the human spirit. The concrete and barbed wire of the Berlin Wall are no match for the ideas of liberty and democracy—and soon, we hope, the Wall itself will come tumbling down as well.

I ask unanimous consent that the text of President John F. Kennedy's remarks in West Berlin on June 26, 1963, regarding the Berlin Wall be printed in the RECORD.

There being no objection, the President's remarks were ordered to be printed on the RECORD, as follows:

REMARKS IN THE RUDOLPH WILDE PLATZ, BERLIN—JUNE 26, 1963

I am proud to come to this city as the guest of your distinguished Mayor, who has symbolized throughout the world the fighting spirit of West Berlin. And I am proud to visit the Federal Republic with your distinguished Chancellor who for so many years has committed Germany to democracy and freedom and progress, and to come here in the company of my fellow American, General Clay, who has been in this city during its great moments of crisis and will come again if ever needed.

Two thousand years ago the proudest boast was *"civis Romanus sum."* Today, in the world of freedom, the proudest boast is *"Ich bin ein Berliner."*

I appreciate my interpreter translating my German!

There are many people in the world who really don't understand, or say they don't what is the great issue between the free world and the Communist world. Let them come to Berlin. There are some who say that communism is the wave of the future. Let them come to Berlin. And there are some who say in Europe and elsewhere we can work with the Communists. Let them come to Berlin. And there are even a few who say that it is true that communism is an evil system, but it permits us to make economic progress. *Lass' sie nach Berlin kommen.* Let them come to Berlin.

Freedom has many difficulties and democracy is not perfect, but we have never had to put a wall up to keep our people in, to prevent them from leaving us. I want to say, on behalf of my countrymen, who live many miles away on the other side of the Atlantic, who are far distant from you, that they take the greatest pride that they have been able to share with you, even from a distance, the story of the last 18 years. I know of no town, no city that has been besieged for 18 years that still lives with the vitality and the force, and the hope and the determination of the city of West Berlin. While the wall is the most obvious and vivid demonstration of the failures of the Communist system, for all the world to see, we take no satisfaction in it, for it is, as your Mayor has said, an offense not only against history but an offense against humanity, separating families, dividing husbands and wives and brothers and sisters, and dividing a people who wish to be joined together.

What is true of this city is true of Germany—real, lasting peace in Europe can never be assured as long as one German out of four is denied the elementary right of freemen, and that is to make a free choice. In 18 years of peace and good faith, this generation of Germans has earned the right to be free, including the right to unite their families and their nation in lasting peace, with good will to all people. You live in a defended island of freedom, but your life is part of the main. So let me ask you, as I close, to lift your eyes beyond the dangers of today, to the hopes of tomorrow, beyond the freedom merely of this city of Berlin, or your country of Germany, to the advance of freedom everywhere, beyond the wall to the day of peace with justice, beyond yourselves and ourselves to all mankind.

Freedom is indivisible, and when one man is enslaved, all are not free. When all are free, then we can look forward to that day when this city will be joined as one and this country and this great Continent of Europe in a peaceful and hopeful globe. When that day finally comes, as it will, the people of West Berlin can take sober satisfaction in the fact that they were in the front lines for almost two decades.

All free men, wherever they may live, are citizens of Berlin, and, therefore, as a free man, I take pride in the words *"Ich bin ein Berliner."*

NOTE: The President spoke at 12:50 p.m. from a platform erected on the steps of the Schöneberger Rathaus, West Berlin's city hall, where he signed the Golden Book and remained for lunch. In his opening remarks he referred to Mayor Willy Brandt, Chancellor Adenauer, and Gen. Lucius D. Clay.

NATIONAL TRAUMA AWARENESS MONTH

Mr. BYRD. Mr. President, on November 7, I introduced a joint resolution to designate May 1990 as "National Trauma Awareness Month." This is the third year I have sought this designation for the month of May. My purpose in this continuing effort is to make the American people more aware

of the enormity of the traumatic-injury problem in the United States.

Trauma is the medical term for any physical injury, accidental or intentional. Such traumatic injuries can be caused by motor-vehicle accidents, falls, fires, household accidents, and violent crimes. That list does not exhaust the causes of trauma, however. Those causes are myriad. Typically, those who died this year in Hurricane Hugo and the California earthquake succumbed more from trauma than any other cause. Indeed, more Americans under age 45 die from trauma than from any other single cause—more than heart attacks, cancer, strokes, or the countless other diseases to which mankind is subject. Each year, 60 million Americans suffer a traumatic injury—8 million seriously. Of this number, 340,000 people are permanently disabled and 93,000 die. In costs to our economy, annually more than $110 billion is lost in wages, medical expenses, disability payments, and other costs related to traumatic injuries.

And perhaps the worst, most frightening feature of trauma is that any one of us, or any one of our loved ones, could at any time become the victim of a crippling, painful, or deadly traumatic injury.

That does not mean, however, that we are helpless in fighting back against the occurrence or the effects of trauma.

Fortunately, through prevention programs and the establishing of comprehensive emergency medical systems, the impact of trauma and traumatic injury can be limited.

National programs to promote seatbelt use and to crack down on drunk driving can help. Education programs to make people more aware of the need for home safety—the proper use of ladders, care about leaving toys on dark stairways, careful handling of firearms, keeping dangerous medicines and other substances out of reach of small children, and the use of household smoke alarms are excellent examples of attempts at such awareness efforts. And across our country, increased numbers of hospitals and clinics are building and equipping special units to treat and heal trauma victims.

But those programs represent but a fraction of the education and services that ought to be in place to fight and treat trauma.

Encouragingly, after Congress designated the months of May 1988 and May 1989 as trauma awareness months, organizations such as the American Trauma Society were able to mount campaigns in every State to educate our citizens about trauma, the implications of trauma, and the means available to prevent or treat trauma.

I am heartened by the victories that we are gaining over trauma. Once again, then, I am enlisting the prestige of the Senate in advancing the national crusade against trauma. Let us hope that the continued nationwide focus on the issue of trauma nad traumatic injury will help to relieve increased numbers of Americans from the suffering, anguish, and loss that trauma has visited upon so many men, women, children, and their loved ones in our country.

THE WALLS COME TUMBLING DOWN

Mr. KASTEN. Mr. President, for 27 years the Berlin Wall has stood as a symbol of the forces that seek to oppress man and destroy his spirit. It is a montrous mass of stone that has laid a ponderous weight on the conscience of the world.

For three decades, men and women all over the free world have asked how a postwar era of progress and tolerance in one-half of the world could coexist with an era of brutal repression and nightmarish terror in the other half.

Mr. President, today, we have our answer: They cannot coexist—because the yearnings of the human heart will always triumph in the long run over the power of intolerance.

The Communist iceberg of hatred, mistrust and oppression is breaking up. The Berlin Wall that is falling today is just a symbol, but it is a very powerful one. So as we watch it crumble, let's reflect on the fact that just as we were all Berliners in 1962 when the Wall divided us, we are all Berliners today—so let's extend a hand to our East German brothers and sisters who are blinking in the powerful light of liberty.

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 and a treaty which were referred to the appropriate committees.

(The nominations and treaty received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on November 8, 1989, during the recess of the Senate, received a message from the House of Representatives announcing that the House disagrees to the amendment of the Senate to the bill (H.R. 3607) to repeal Medicare provisions in the Medicare Catastrophic Coverage Act of 1988; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Ways and Means, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. STARK, Mr. DONNELLY, Mr. COYNE, Mr. PICKLE, Mr. LEVIN of Michigan, Mr. MOODY, Mr. CARDIN, Mr. RUSSO, Mr. ARCHER, Mr. VANDER JAGT, Mr. CRANE, Mr. FRENZEL, and Mr. SCHULZE.

From the Committee on Energy and Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, Mr. SCHEUER, Mr. WALGREN, Mr. WYDEN, Mr. BRUCE, Mr. ROWLAND of Georgia, Mrs. COLLINS, Mr. HALL of Texas, Mr. LENT, Mr. MADIGAN, Mr. DANNEMEYER, Mr. TAUKE, and Mr. BILIRAKIS.

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 11:57 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 215. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 20, 1989, as "National Military Families Recognition Day".

The enrolled joint resolution was subsequently signed by the Acting President pro tempore [Mr. ROBB].

At 1:51 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 80. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 2710.

At 6:24 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Clerk of the House be directed to request the Senate to return to the House the joint resolution (S.J. Res. 216) designating November 12 through 18, 1989, as "Community Foundation Week."

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 1231. An act to establish a commission to investigate and report respecting the dispute between Eastern Airlines and the collective bargaining units, and for other purposes; and

H.R. 2710. An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES PLACED ON THE CALENDAR

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2144. An act to improve forest management in urban areas and other communities, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 1863. An original bill to amend the Public Health Service Act to provide grants for the expansion or renovation of biomedical and behavioral research facilities, and for other purposes (Rept. No. 101-194).

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 1868. An original bill to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal year 1990 for the Arms Control and Disarmament Agency, and for other purposes (Rept. No. 101-195).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1310. A bill to eliminate illiteracy by the year 2000, to strengthen and coordinate literacy programs, and for other purposes (Rept. No. 101-196).

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 73. A concurrent resolution to express the support of the Congress for the Courageous people of Colombia.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Richard Huntington Melton, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federative Republic of Brazil:

Nominee: Richard H. Melton.

Post: Brazil.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: Margaret A. Melton, none.
3. Children and spouses names: Craig H.; Cathleen M.; Pamela M., none.
4. Parents names: John W. Melton; Margaret H. Melton, none.
5. Grandparents names: All deceased more than four years ago, none.
6. Brothers and spouses names: John W. Melton; Chinrana Melton, none.
7. Sisters and spouses names: None.

Cresencio S. Arcos, Jr., of Texas, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Honduras.

Nominee: Cresencio S. Arcos, Jr.

Post: Ambassador to Honduras.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: Patricia, none.
3. Children and spouses names: Victoria & Nicolas, none.
4. Parents names: Cresencio & Guadalupe Arcos, none.
5. Grandparents names: Deceased, none.
6. Brothers and spouses names: Carols Arcos; Daniel Arcos, none.
7. Sisters and spouses names: Imelda and Miguel Villarreal, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably two nomination lists in the Foreign Service which were printed in full in the CONGRESSIONAL RECORDS of October 31 and November 2, 1989, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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. BOREN:

S. 1860. A bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war; to the Committee on Veterans' Affairs.

By Mr. REID:

S. 1861. A bill to amend the Clean Air Act relating to toxic chemicals; to the Committee on Environment and Public Works.

By Mr. CONRAD:

S. 1862. A bill to ensure the continued stability and viability of recreational opportunities on Lake Sakakawea in the State of North Dakota; to the Committee on Environment and Public Works.

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

S. 1863. An original bill to amend the Public Health Service Act to provide grants for the expansion or renovation of biomedical and behavioral research facilities, and for other purposes; placed on the calendar.

By Mr. FOWLER (for himself, Mr. GRAHAM, Mr. MACK, and Mr. NUNN):

S. 1864. A bill to amend the Wild and Scenic Rivers Act to study the eligibility of the St. Mary's River in the States of Florida and Georgia for potential addition to the Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

By Mr. DANFORTH (for himself, Mr. NUNN, and Mr. SANFORD):

S. 1865. A bill to require the Comptroller General of the United States to review and report on the effectiveness and fairness of agency policies and procedures for distributing Federal research funds; to the Committee on Governmental Affairs.

By Mr. SASSER (for himself and Mr. GORE):

S. 1866. A bill to extend the period during which certain property is required to be placed in service to qualify for transition relief under section 203 of the Tax Reform Act of 1986; to the Committee on Finance.

S. 1867. A bill to extend the period during which certain property is required to be placed in service to qualify for transition relief under section 203 of the Tax Reform Act of 1986; to the Committee on Finance.

By Mr. PELL, from the Committee on Foreign Relations:

S. 1868. An original bill to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal year 1990 for the Arms Control and Disarmament Agency, and for other purposes; from the Committee on Foreign Relations; placed on the calendar.

By Mr. NICKLES (for himself, Mr. REID, and Mr. WILSON):

S. 1869. A bill to provide for a statement of costs for congressional mass mailings, and that no more mass mailings of franked mail may be mailed by a Member of Congress, if necessary additional funds are not appropriated, and for other purposes.

By Mr. BENTSEN:

S. 1870. A bill to establish the United States-Mexico Border Regional Commission and to assist in the development of the economic and human resources of the United States-Mexico border region of the United States; to the Committee on Environment and Public Works.

By Mr. DECONCINI:

S. 1871. A bill to amend the Food Security Act of 1985 to clarify the application of certain payment limitations to certain leases involving tribal landlords, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DANFORTH (for himself, Mr. NUNN, and Mr. SANFORD):

S. Res. 206. A resolution to establish a point of order against material that earmarks research moneys for designated institutions without competition; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOREN:

S. 1860. A bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war;

to the Committee on Veterans' Affairs.

ELIGIBILITY OF FORMER PRISONERS OF WAR FOR OUTPATIENT MEDICAL SERVICES

● Mr. BOREN. Mr. President, today I am introducing legislation to clarify the statute that defines the prioritization of the eligibility of veterans for medical treatment by the Department of Veterans Affairs. This bill amends section 612(a)(1) of title 38, United States Code, to ensure that all POW's receive outpatient care.

In my view, every former prisoner of war captured while serving on orders from the U.S. Government should automatically be eligible for VA medical care.

The evolution of medical treatment for POW's has been a long slow process but has more recently grown into a comprehensive system meeting most of their needs. Much of the credit goes to Members presently serving on the Senate Veterans Committee.

In the early 1940's, the VA procedures for determining compensation and health care eligibility did not yet recognize former POW's as a separate group with special needs. Congress took a small step in the War Claims Act of 1948 by providing $1 a day imprisoned for "inadequate food rations" in violation of the Geneva Convention. After a study in 1950, Congress added another $1.50 per day for "inhumane treatment" and included benefits for survivors. POW's from the Korean conflict or their survivors were authorized, in 1954, payments of $2.50 per day of internment. More recently in 1970, Congress provided $5 per day of confinement, $2 per day for inadequate rations, and $3 per day for inhumane treatment to Vietnam POW's or their survivors.

Recognizing in 1946 the difficulty in defining service-connection for compensation and medical treatment because of lack of official records in POW cases, it was established that the benefit of every reasonable doubt should be resolved in favor of the veteran. This may have eased the ability to assess severe physical and mental damage from brutality, torture, hunger, and disease but there is no way to quantify the stresses of capture—fear, uncertainty, loneliness—on the health and emotions of POW's throughout their lives.

The Congress, during the late 1970's and 1980's, has made significant progress to ensure the provision of adequate health care and compensation for POW's. An example is the broadening of the law to allow the presumption of service-connection in 15 diseases for POW's detained or interned for not less than 30 days.

My bill will correct a problem arising in Public Law 100-322 which included prioritization of veterans for medical care by the DVA. Although for the first time POW's are named as entitled to inpatient care, the problem occurs in that outpatient care is restricted to POW's with 50 percent or more disability.

I am told that, as of June 1989, there are 78,000 former prisoners of war. The provision of outpatient care to these deserving individuals with less than 50 percent disability is estimated by CBO to be less than $1 million of the more than $11 billion in the VA medical care annual budget.

Since I believe the U.S. Government must be committed to provide the health care needs resulting from internment as a prisoner of war, I have introduced this bill to make certain that we never deny medical treatment to a former prisoner of war. I urge quick action on this measure by my colleagues.

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. 1860

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

SECTION 1. ELIGIBILITY OF FORMER PRISONERS OF WAR TO RECEIVE OUTPATIENT MEDICAL SERVICES FROM THE DEPARTMENT OF VETERANS AFFAIRS.

Section 612(a)(1) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of clause (B);

(2) by striking out the period at the end of clause (C) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(D) to any former prisoner of war for any disability.".●

By Mr. REID:

S. 1861. A bill to amend the Clean Air Act relating to toxic chemicals; to the Committee on Environment and Public Works.

TOXIC POLLUTION DETECTION ACT OF 1989

Mr. REID. Mr. President, on May 8, 1988, a severe fire and explosion occurred at an industrial complex near Henderson, NV. This disaster at the Pacific Engineering and Production Co. [PEPCON] caused massive damage to public and private property in Clark County and the City of Henderson. In addition, the accident generated a chemical reaction which dispersed a large toxic cloud over the area where it remained for several hours. Officials evacuated schools, parks and other facilities.

When the cloud dispersed to the northeast contiguous counties and States were further threatened.

The shock waves from these explosions, which registered 3.5 on the Richter Scale, overturned automobiles, knocked pedestrians to the ground and created property damage totaling $73 million.

There were 350 injuries. Miraculously only 2 people died.

In 1984, poisonous gas leaked from the Union Carbide plant in Bhopal, India and killed 3,400 people. Five years after that unprecedented chemical disaster, an average of two people still die every day. Sadly, Mr. President, both disasters may have been avoided.

Today, I am introducing the Toxic Pollution Detection Act of 1989 to require continuous monitoring of hazardous substances emitted into the workplace at industrial facilities nationwide. Monitoring systems would avert unnecessary disasters; enable us to learn more about the effects of different kinds of air pollution; and reduce worker exposure to dangerous levels of environmental contaminants.

Our production processes have become so advanced, and our technologies have multiplied to such a degree, that we are able to do more in the industrial arena than we ever thought possible. Scientific innovations continue to enhance our capabilities.

But, at some point, we have to step back and eliminate the side-effects of our progress. In too many cass, workers and residents are exposed to toxic chemicals at a level that is entirely unacceptable. Often, the company is also not aware of these chemical emissions.

Reports required by title III of the Superfund legislation indicate that more than 2.4 billion pounds of hazardous chemicals are released into the air every year. But we report the extent of all this pollution after it has done its damage.

I propose we go one step further. My bill calls for the continuous monitoring of emissions as they flow into the air of our workplaces and communities.

If monitoring technology was used in Henderson, NV or Bhopal, India, plant managers would have been alerted to the release of toxic gas, and could have taken action to avert the ensuing disaster. Lives could have been saved. Senseless tragedies could have been avoided.

Because the monitoring data is stored, it can be retrieved and analyzed to determine any correlation between an increased incidence of illness and the release of particular environmental contaminants.

Monitoring data also provides a record that corporations can use in the event of liability actions taken against them. If companies are not guilty as accused, they will be able to absolve themselves with documentation. Companies can use this data to conclusively demonstrate that they were not the source of specific contaminants.

The available chemical monitoring technology can measure and report

the magnitude, frequency, and chemical specifically of emissions.

The few systems in use today permit the monitoring of a many as 25 different toxic gases at as many as 50 points in a facility. The system analyzes the levels of each pollutant at each location every 6 minutes. This information is then stored in a computer with the capacity to trigger a low level alert, or to sound an alarm if any monitored contaminant exceeds its threshold limit value. The system also can tell emergency teams what contaminants have leaked beyond their set safety limit.

Too often, these emergency response teams face unnecessary risks because plant managers are unable to identify the leaked contaminant. There is far too little chemical monitoring by the private sector. Only a few companies have installed monitoring equipment. This slow response represents unnecessary environmental danger and worker exposure.

The toxic Pollution Detection Act requires industries that use certain toxic chemicals to invest in and utilize these chemical monitoring systems. The only monitoring information available now are the reports which tell us what happened yesterday—or last month—or last year. By that time, the damage may already have been done.

In the past few months, I have heard evidence that confirms the necessity of my bill, I have chaired hearings in Washington, DC, and Los Angeles, CA, to investigate health problems stemming from toxic substance exposure in the workplace. I heard evidence that raises serious questions on how prepared we are to utilize our most important scientific advances. Our economy and defense will not thrive without these new chemicals and materials. But their very existence threatens the lives and health of those exposed to such substances.

My bill will enable us to use advanced materials and chemicals without jeopardizing workers in factories or residents of nearby neighborhoods. I urge my colleagues to support this measure. I ask unanimous consent that the text of my bill accompanied by a section-by-section analysis, be printed in the CONGRESSIONAL RECORD following my statement.

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

S. 1861

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 "Toxic Pollution Detection Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) there have been numerous releases of toxic chemicals into the environment and the workplace;

(2) these releases are hazardous to the health of the public, workers, and emergency response personnel;

(3) these hazards should be minimized and prevented to the maximum extent possible;

(4) technology is available to provide early detection of such releases through the use of continuous monitoring systems;

(5) such continuous monitoring systems are not required by Federal environmental or occupational protection laws; and

(6) the installation of such technologies should be required at all facilities which use toxic chemicals that may be released into the environment or the workplace.

SEC. 3. AMENDMENT.

Section 114 of the Clean Air At (42 U.S.C. 7414) is amended by adding the following new subsection:

"(e)(1) Not later than 6 months after the date of enactment of this subsection, the Administrator shall promulgate regulations for the detection of releases into the environment and the workplace of covered substances capable of being monitored at any facility subject to this subsection, which if released may present an actual or potential risk to human health or the environment. Such regulations shall be adequate to assure protection of human health and the environment. The Administrator shall consult with the Administrator of the Occupational Safety and Health Administration prior to the promulgation of regulations that may affect the workplace environment.

"(2) For the purposes of this subsection, the term 'covered substance' means—

"(A) an extremely hazardous substance listed under section 302 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11002) present above a threshold planning quantity established under such section;

"(B) a toxic chemical listed under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023) present above a threshold amount for reporting established in such section;

"(C) a hazardous chemical listed under section 311(e) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11021) present above a threshold quantity established under section 311 of such Act; or

"(D) a hazardous pollutant listed under section 112 of the Clean Air Act (42 U.S.C. 7412) which is subject to an emission standard under such section.

"(3) For the purposes of this subsection, the Administrator or a State may designate additional facilities which shall be subject to the requirements of this subsection after public notice and opportunity for comment. Any facility so designated shall be promptly notified.

"(4) Regulations promulgated pursuant to paragraph (1) shall require continuous monitoring of all devices and systems (including but not limited to pumps, compressors, valves, flanges, pipes and pipelines, connectors, processes, containers, and vessels), storage, facilities, and transfer points in which covered substances are present. For the purposes of this subsection continuous monitoring means the use of an automated system which provides—

"(A) readings of ambient concentrations of all covered substances present, at intervals of not more than 30 minutes, at all locations at which such covered substances are present at the facility;

"(B) continuous records of such monitoring results to a central location within the facility and capacity to store and retrieve such records;

"(C) a low level alarm before the ambient level of a covered substance exceeds the applicable threshold limit value or other legally applicable limitation, whichever is more stringent; and

"(D) a high level alarm which notifies the facility operator and the appropriate emergency response agencies of an emergency situation relating to a catastrophic release or other malfunction of a device or system, and differentiates between an early warning and a situation presenting a present or potential risk to human health or the environment.

"(5) Not later than 9 months after the enactment of this subsection or 9 months after the date on which a facility becomes subject to the requirements of this subsection, the owner or operator of each facility to determine the location and condition of all interior and exterior systems and devices (including pumps, compressors, valves, flanges, pipes and pipelines, connectors, containers, and vessels), storage facilities, and transfer points in which covered substances are present.

"(6) Not later than 24 months after the enactment of this subsection or 24 months after the date on which a facility becomes subject to the requirements of this subsection, the owner or operator of each facility subject to this subsection shall be in compliance with regulations promulgated pursuant to paragraph (e)(1) and shall so certify such compliance to the State in which the facility is located and the Administrator, together with the results of the audit required to be performed under paragraph (5).

"(7) The report required under paragraph (6) of monitoring results shall be filed annually thereafter with the State, the Administrator, the State Emergency Response Committee established under section 301 of the Emergency Planning and Community Right-to-Know Act and the local emergency planning committee established under such section. Such report shall be made available to the public upon request.".

SEC. 4 AMENDMENT.

(a) Section 114(a) of the Clean Air Act is amended as follows:

"(1) in paragraph (1), by striking "may" and inserting in lieu thereof "shall" after "the Administrator";

(2) by amending paragraph (1)(D) to read as follows:

"(D) sample such emissions on a continuous basis both prior to and after treatment before being emitted into the ambient air (in accordance with such methods, at such locations and in such manner as the Administrator shall require), and".

(3) by adding at the end thereof the following new paragraph:

"(3) The Administrator shall promulgate revised regulations to implement the requirements of subsection (a)(1)(D) not later than 12 months after the date of enactment of this paragraph.".

(b) Section 304(a)(1) of the Clean Air Act (42 U.S.C. 7604) is amended by striking "or" before "(B)" and inserting in lieu thereof "or (C) a monitoring requirement under section 114 of this Act,".

SECTION-BY-SECTION ANALYSIS TOXIC POLLUTION DETECTION ACT OF 1989

The purpose of this bill is to require the installation of continuous monitoring systems at facilities that use certain toxic chemicals, which when released into the at-

mosphere or the workplace may cause serious harm to human health or the environment. The bill is written as a new subsection (e) to section 114 of the Clean Air Act, the generic monitoring provision of the law.

Paragraph (e)(1) requires the Administrator of the Environmental Protection Agency (EPA) to promulgate regulations for the detection of releases into the environment and the workplace of certain specified substances. The Administrator is given six months to do so, and is required to consult with the Occupational Safety and Health Administration on matters relating to the workplace.

SUBSTANCES AND FACILITIES COVERED

Paragraph (e)(2) specifies the substances covered by the regulations:

(1) *Substances listed under section 302 of the Emergency Planning and Community Right to Know Act of 1986.* Section 302 covers 406 chemical substances in specified quantity thresholds, which are derived from EPA's "Chemical Emergency Preparedness Program Interim Guidelines". They are designated as "extremely hazardous substances" under Section 302. Under existing law, if a listed substance is present at a facility in a quantity greater than the listed threshold, the facility must notify the local "Emergency Response Commission" that it is covered by section 302. Releases of listed substances must be reported to a local emergency committee and the state.

Under the proposed legislation, these substances are made subject to the continuous monitoring requirement because they are extremely hazardous in nature, and early knowledge of a release will provide warning not now available for workers and the community through early detection.

(2) *"Hazardous chemicals" so categorized by regulations promulgated pursuant to the Occupational Safety and Health Act.* Section 311 of the Emergency Planning and Community Right-to-Know Act applies to any facility at which a hazardous chemical is present, as defined by 29 CFR 1910.1200(c) of the OSHA Hazard Communication Standard, and which is required to prepare an MSDS. (A hazardous chemical is defined as a "chemical which is a physical hazard or a health hazard"; a "chemical" is defined as any element, chemical compound or mixture of elements and/or compounds".) Any such facility must also file its MSDS with the local emergency planning committee, the local fire department and the state.

Section 312 of the Emergency Planning and Community Right-to-Know Act requires these facilities at which hazardous chemicals are present to file a chemical inventory form annually that estimates the annual maximum and average daily amounts of each category of hazardous chemicals at the facility and their general location. The categories to be used for the reports are the categories of health and physical hazards established under the OSHA Act of 1970 and its implementing regulations, i.e., carcinogens, corrosives, irritants. These initial reports are to be filed with the local and state emergency response organizations and the local fire department, starting on March 1, 1988 annually thereafter.

Authority is also provided under section 312 for disclosure of more detailed information about the manner of storage of a specific chemical at a specific facility upon request of a local or state entity or the public. This information can be kept confidential at the request of the facilty owner or operator.

The proposed legislation would require continuous monitoring of these substances, which are by definition a hazard in the workplace.

(3) *Toxic chemicals listed under section 313 of the Emergency Planning and Community Right-to-Know Act.* Section 313 lists 329 toxic chemcials which are routinely released into the environment as a result of normal business operations, as distinct from abnormal, emergency releases. The statutorily listed toxic chemicals are those which cause, or can reasonably be anticipated to cause, significant adverse human health effects, various chronic human health effects, and significant adverse effects on the environment.

Section 313 applies to any facility within SIC Codes 20-39 at which 75,000 or more pounds of one or more of these toxic chemicals is manufactured, or processed each year, and any facility that uses more than 10,000 pounds of a listed toxic chemical a year for purposes other than manufacturing or processing. (The threshold decreases to 50,000 lbs. in 1989, and to 25,000 lbs. thereafter.) Each such facility must file a yearly report starting on July 1, 1988 which details an estimate of the quantity of each chemical present, and for each wastestream, the method(s) of treatment or disposal used, as well as an estimate of the treatment efficiency of each method, and an estimate of the annual amount of the toxic chemical entering each environmental medium (air, water, land, waste treatment and storage facilities).

The bill would take the next step beyond reporting of events that have occurred in the distant past, by requiring continuous monitoring to detect releases so that they can be remedied.

(4) *Air pollutants subject to section 112 of the Clean Air Act.* This provision regulates air pollutants known to cause or which may reasonably be anticipated to cause adverse effects on human health or the environment. Although only eight substances are now regulated under section 112, all of the pending clean air proposals would require EPA to promulgate technology-based standards for scores of additional substances which have toxic characteristics.

FACILITY AUDIT

Each facility subject to this bill is required to perform an audit to determine the location of each system or device, storage facility and transfer point which must be monitored continuously. The audit must be performed no later than nine months after enactment of this legislation.

INSTALLATION OF MONITORING SYSTEM

Within twenty-four (24) months after enactment, each covered facility must have installed a continuous monitoring system, and be in compliance with all requirements of the detection regulations promulgated by EPA.

STACK MONITORING

Section 3 of this bill amends the existing monitoring provision of the Clean Air Act to require the sampling of the input and output of stack emissions on a continuous basis. EPA is required to promulgate revised monitoring regulations to implement this continuous monitoring provision within twelve months.

These regulations will apply to any stationary source subject to an emissions limitation under the Clean Air Act, including requirements of State Implementation Plans.

ENFORCEMENT

Enforcement of the continous monitoring requirements is provided through the existing authorities of the Clean Air Act. These include enforcement by the federal government or a state through an administrative order, or judicial action. Civil penalties of up to $25,000 per day of violation and injunctive relief may be sought.

In addition, this bill authorizes citizen suits to enforce the proposed new continuous monitoring requirements. Any person may bring a civil action against a person alleged to be in violation of the continuous monitoring requirements, or against EPA for failure to take the actions required by the new legislation, such as failure to promulgate the mandated monitoring regulations within the specified deadline.

By Mr. CONRAD:

S. 1862. A bill to ensure the continued stability and viability of recreational opportunities on Lake Sakakawea in the State of North Dakota; to the Committee on Environment and Public Works.

NORTH DAKOTA RESERVOIR MANAGEMENT IMPROVEMENT ACT

Mr. CONRAD. Mr. President, I am introducing the North Dakota Reservoir Management Improvement Act of 1989.

As my colleagues know, the Plains states have suffered from a serious drought during 1988 and 1989. Perhaps no State has been harder hit than North Dakota. The primary impact of the drought has certainly been upon agriculture, but Lake Sakakawea—the impoundment behind the Garrison Dam and one of the Nation's largest man-made lakes—has also been affected dramatically.

As of August 31, storage in Lake Sakakawea, which has a capacity for about 23 million acre feet of water, totaled 14.2 million acre feet, or about 69 percent of the average storage in the reservoir for the period 1967 to 1988.

The lake's level is now down to 1,823 feet above mean sea level, and it continues to drop. It plummeted to 1,820 earlier this year—5 feet below the previous low. The Corps of Engineers predicts that it could drop to as low as 1,816 by next spring. That is more than 30 feet below the optimum operating level of 1,850 feet.

Tourism in the area is down dramatically because recreational use of the reservoir has been made difficult. Many businesses along the lake have closed and will not reopen. Others have serious financial problems and are hanging on by their bootstraps. The water is now 1 mile from one popular resort, and if projections hold, it will be 2 to 3 miles from the water by spring.

Visitation at another popular location along the lake, Fort Stevenson State Park, was down 55 percent in May, 17 percent in June, and 6 percent in July, resulting in a decrease in

income for the marina there of 78 percent from last year.

Mr. President, those declines were in our centennial year when we had literally hundreds of thousands of visitors to North Dakota. Residents are understandably upset by what they view as adverse management of the reservoir by the Corps of Engineers. Low water levels work an obvious hardship on all users of the lake, not just marina owners and others who make their living from tourism on the lake, but also weekend boaters and fishers, cities who get their drinking water from the lake, and all of us who benefit from lower electric rates from hydropower generated at Federal dams.

Recreational users have a difficult time presenting their case because they lack an adequate legal footing to compete with other interests. This bill attempts to remedy that problem by adding recreation and water conservation as authorized purposes at Garrison Dam and Lake Sakakawea.

The bill also requires that the Corps of Engineers establish a drought management plan to cover the reservoir during times of low rainfall and runoff from the Rocky Mountains. Specifically, the bill requires the corps to notify residents of lake level changes due to drought, as well as optimal strategies for meeting all project purposes, especially recreation and water conservation, during rainfall and runoff shortages. These reports are due by October 1, 1990, and must be available for public comment for at least 60 days.

The final section of the bill requires the Secretary of the Army to form a citizens' advisory council to act as a channel of communication between the corp and local residents in resolving disputes. The council would be composed of persons representing recreation; flood control; irrigation; hydroelectric power; municipal, rural, and industrial water use; and navigation.

Although recreation and water conservation were not original purposes when Lake Sakakawea was authorized, the economic impact of the lake cannot be ignored. It is a very significant source of commerce and tax revenue for nearby cities and counties. An industry contributing that much to an area deserves to be recognized and deserves a platform from which to make its case in reservoir management questions.

The measure that I am introducing today is not intended to weaken other functions of Garrison Dam and Lake Sakakawea, such as flood control, irrigation, municipal and industrial water development, and hydropower generation. Rather, it is designed to recognize the significance of recreation and provide a means for recreational interests to have input into reservoir management decisions.

Mr. President, let me just conclude by saying that at the hearing I held in North Dakota about a month ago we learned for the first time that in the midst of this drought, the most serious drought in 50 years, that in 3 of the last 4 months for which the records are complete, the Corps of Engineers has allowed the highest levels of release from that lake in the last 7 years. That is a policy that simply cannot be defended in the face of the adverse economic consequences to my State.

Mr. President, this bill is an attempt to start to rectify the damage that has been done.

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

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

S. 1862

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 "North Dakota Reservoir Management Improvement Act of 1989".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) public demand for recreational use of the reservoir created by the Garrison Dam project in North Dakota, known as Lake Sakakawea, has increased substantially in recent years;

(2) the project, which was originally authorized for flood control, navigation, and hydroelectric power, has brought many benefits to North Dakotans in the form of increased recreational opportunities;

(3) these recreational uses in turn are a significant source of commerce and tax revenue for the counties and municipalities near the lake;

(4) the recent droughts in North Dakota and across the upper Great Plains have increased the importance and difficulty of managing Federal water impoundment projects with a variety of competing purposes;

(5) despite the efforts of managing authorities to balance these project purposes, additional studies and public involvement are needed to ensure consideration of recreational uses;

(6) the possibility remains that future shortages of rain will adversely affect the recreational use of the lake, and steps must be taken in advance to prepare for such shortages; and

(7) the project would be better managed with public opinion taken into account.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure the consideration of recreational benefits and water conservation in the management of the Garrison Dam project;

(2) to provide for proper planning for droughts in the future; and

(3) to strengthen existing mechanisms for public involvement in the management of water levels in Lake Sakakawea.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "Act" means the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (70 Stat. 881, chapter 665) (commonly known as the Flood Control Act of 1944);

(2) the term "lake" means Lake Sakakawea, the reservoir of the Garrison Dam project;

(3) the term "project" means the Garrison Dam project in North Dakota, authorized by the Act;

(4) the term "Secretary" means the Secretary of the Army, acting through the Corps of Engineers; and

(5) the term "water conservation" means the management of the lake's water levels through reduced usage or measured usage to build capacity of water in order to ensure the highest possible fulfillment of all project purposes.

SEC. 4. PROJECT PURPOSES.

In addition to the purposes for which the project is managed under the Act and other laws, the Secretary shall manage the project for the purposes of recreation and water conservation.

SEC. 5. DROUGHT MANAGEMENT.

(a) DROUGHT MANAGEMENT PLAN.—The Secretary shall establish, revise, and develop for the project a drought management plan to cover the project in times of low rainfall and low water runoff from the Rocky Mountains.

(b) PLAN CONTENTS.—The plan required by subsection (a) shall include—

(1) mechanisms for notifying lake residents and users of impending drought conditions; and

(2) strategies for meeting all designated project purposes in times of water shortages, including reduced usage or measure usage to build capacity of water.

(c) DRAFT REPORT.—(1) Not later than October 1, 1990, the plan required by subsection (a) shall be included in a draft report to the appropriate district engineer and shall be submitted to—

(A) the Congress;

(B) officials of the State of North Dakota concerned with water supply and water quality management;

(C) local officials in areas immediately adjacent to the project; and

(D) other interested parties deemed appropriate by the Secretary.

(2) The Secretary shall conduct public meetings on the draft plan and invite public comment for a period of at least 60 days.

(d) FINAL REPORT.—Not later than January 1, 1991, a final report of the district engineer including the plan required by subsection (a) shall be submitted to the persons named in subsection (c)(2).

SEC. 6. PUBLIC PARTICIPATION.

(a) PUBLIC OPINION.—In managing the water levels of the lake, the Secretary shall, to the extent feasible, take into consideration the views of the public.

(b) CITIZENS' ADVISORY GROUP.—(1) In furtherance of the purpose of subsection (a), the Secretary shall form a citizens' advisory group to advise the Secretary in project management decisions that will affect the public.

(2) The citizens' advisory group formed pursuant to paragraph (1) shall be comprised of persons representing the following interests in the use of water from the Garrison Dam project:

(A) Flood control.

(B) Irrigation.

(C) Hydroelectric power.

(D) Municipal, rural, and industrial water use.

(E) Navigation.

(F) Recreation.

(3) Persons who serve on the citizens' advisory group formed pursuant to paragraph (1) shall receive no compensation or reimbursement of expenses for such service.

(4) The citizens' advisory group formed pursuant to paragraph (1) shall not be an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.).

By Mr. FOWLER (for himself, Mr. GRAHAM, Mr. MACK, and Mr. NUNN):

S. 1864. A bill to amend the Wild and Scenic Rivers Act to study the eligibility of the St. Marys River in the States of Florida and Georgia for potential addition to the Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

POTENTIAL ADDITION OF THE ST. MARYS RIVER TO THE WILD AND SCENIC RIVERS ACT

● Mr. FOWLER. Mr. President, I rise to introduce the St. Marys Wild and Scenic Rivers Study Act.

This legislation would amend section 5(a) of the Wild and Scenic Rivers Act to include the St. Marys River for study as a potential addition to the National Wild and Scenic Rivers System.

The Wild and Scenic Rivers System was created in 1968 to prevent the despoiling of America's last remaining pristine and free-flowing waterways—in particular those with outstanding scenic, fish and wildlife, recreational, geological, historical, cultural, or other similar values.

Mr. President, I believe that if any river in this country qualifies to be studied for this purpose, the St. Marys does. It has already been included in the Nationwide Rivers Inventory published by the National Park Service in 1982. It is described in the inventory as an attractive, clear, subtropical swamp river with varied and colorful flora and white sandbars—and was noted for having remarkable values in every category.

The river, which forms the boundary between Georgia and Florida, flows for 120 miles from the Okefenokee Swamp directly into the Atlantic Ocean near the Cumberland Island National Seashore.

It is home to varied wildlife, including many threatened and endangered species—from the bald eagle to the red-cockaded woodpecker, from the Florida black bear to the West Indian manatee.

Presently human population and development are sparse for most of the length of the river, until it reaches St. Marys, GA, and Fernandina, FL, at the coast. We have an excellent opportunity to maintain the higher reaches of this natural treasure in a condition very close to their wild state.

This is, however, a limited opportunity. Time is running out on this rare unspoiled blackwater river system as development pressures close in from both sides of the river. These forces will be very difficult to control in this fragile watershed that bounds two separate State jurisdictions.

Enactment of this legislation would postpone any Federal water projects until completion of the study. It would have no effect on private lands, hunters, or fishermen. The bill provides for completion of the study within 3 years of enactment.

The study would be conducted by the Department of the Interior and presented to the President along with recommendations from other Federal agencies and the Governors of Georgia and Florida. The President of the United States would then submit a recommendation to Congress whether the St. Marys should be incorporated into the Wild and Scenic Rivers System.

The St. Marys River is one of the very few nearly unspoiled rivers left in this Nation. I believe the least we can do is give it the consideration for protection it deserves because of its natural beauty and its ecological importance.

I also think we owe it to the children of Florida and Georgia, who may be denied any remnant of their natural birthright—and who run a real risk of never experiencing the wild and scenic beauty of an unmolested, free-flowing river in their home States, in their lifetimes.●

By Mr. NICKLES (for himself, Mr. REID, and Mr. WILSON):

S. 1869. A bill to provide for a statement of costs for congressional mass mailings of franked mail may be mailed by a Member of the Congress, if necessary additional funds are not appropriated, and for other purposes; to the Committee on Rules and Administration.

STATEMENT OF COSTS OF CONGRESSIONAL MAILINGS

Mr. NICKLES. Mr. President, today, Senator REID, Senator WILSON, and I are introducing legislation which would require all Members of Congress to disclose their mass mail costs and would shut down mass mailings once appropriations for official mail has been exhausted. The lack of these provisions in the fiscal year 1990 legislative branch appropriations conference report, which passed earlier today, has left significant loopholes in a worthy official mail reform effort.

Mr. President, the Senate has passed legislation to achieve these needed reforms before, but the House has, as of yet, refused to go along. As chairman and ranking member of the Senate Legislative Branch Subcommittee, Senator REID and I included such provisions in the subcommittee's fiscal year 1990 appropriations bill. It was in conference with the House that the two provisions we are reintroducing today, disclosure and limiting mass mail to the appropriated amount, were dropped.

Mr. President, the disclosure provisions are nearly identical to the provisions which passed the Senate with one exception. In addition to requiring the per capita mail costs to be published, this legislation would also require the number of pieces of mail per capita to be disclosed.

The provision limiting mass mailing to the appropriated amount is a variation of what passed the Senate. The provision I am offering would not allow any Member of the House or Senate to mail any more mass mailings once the Postal Service determined that the appropriation for the Member's Chamber had been exhausted and so notified the House or the Senate, as the case may be. By distinguishing between the two Chambers we take advantage of the separate mail accounts for each Chamber established under the fiscal year 1990 appropriations measure.

One positive note of the conference that will provide increased accountability between the House and Senate appropriations for the two Chambers. In and of itself, this change accomplishes little in the way of reducing mail costs and abuse. But if the House continues past practices of running up mail costs and the Senate can stay within the appropriated amount, the finger of blame will point squarely at the House and its members. With the increased accountability, needed reforms such as these I am introducing will surely be demanded by the American people and adopted by Congress.

Due to a lack of accountability for mail costs, it is a little known fact that on average, House Members have been spending four times as much as Senators on congressional mail per constituent.

Perhaps it is this information which causes the House to be so averse to disclosing individual Member's mail costs. Disclosure of mail costs is nothing new to the Senate. Senators' individual costs of mailing to constituents has been publicized since 1985. It's an honest, up-front practice that has helped curb the use and abuse of the frank.

The conferees on the fiscal year 1990 legislative branch spending bill also rejected the proposal to stop congressional mailings once the appropriated funds have been exhausted. Oddly enough, current law requires the Postal Service to continue accepting and delivering congressional mail even after funds for such mail have run out.

During fiscal year 1990, $68.5 million will remain available for official mail costs by the House and Senate with $44.5 million allocated to the House and $24 million allocated to the

Senate—$31.7 million provided in the bill will pay for fiscal year 1989 arrearages.

The amount of official mail funds available for use during fiscal year 1990 is a significant, but perhaps meaningless, reduction from the actual levels for previous years. The amount provided for fiscal year 1990 use is lower than the actual costs incurred in every even-numbered year since 1980. But, as I have stated, this reduction is meaningless unless the House and Senate stay within these limits. History shows this isn't likely to happen unless Congress is legislatively required to do so.

Mr. President, I ask unanimous consent that a document comparing the original or regular appropriation for official mail with the actual cost for fiscal years 1972–89 be included in the RECORD at this point.

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

I. CONGRESS' OFFICIAL MAIL ORIGINAL APPROPRIATION COMPARED TO ACTUAL COST

Fiscal year	Original appropriation	Total cost	Cost compared to regular appropriation
1972	14,594,000	23,206,337	8,612,337
1973	21,226,480	26,285,410	5,058,930
1974	30,500,000	31,302,243	802,243
1975	38,756,015	35,976,325	(2,779,690)
1976	46,101,000	52,973,703	6,872,703
Transition quarter [1]	11,525,000	19,174,774	7,649,774
1977	46,904,000	41,419,599	(5,484,401)
1978	48,926,000	48,926,000	0
1979	64,944,000	42,942,642	22,001,358
1980	50,707,000	61,905,902	11,198,902
1981	36,633,000	53,862,013	17,229,013
1982	75,095,000	100,038,225	24,943,225
1983	55,196,000	72,432,960	17,236,960
1984	107,077,000	110,957,336	3,880,336
1985	73,944,000	85,160,794	11,216,794
1986	100,000,000	95,938,635	(4,061,365)
1987	91,423,000	63,624,912	(27,798,088)
1988	82,163,000	113,359,647	31,196,647
1989 [2]	53,926,000	85,626,000	31,700,000

[1] Transition quarter when fiscal year shifted from July to October.
[2] Fiscal year 1989 actual cost is based on the Postal Service's arrearage estimate.

Source: 1972–88 figures and 1989 regular appropriation figure from "U.S. Congress Official Mail Costs: Fiscal Year 1972 to Present," by John Pontius, Congressional Research Service, June 13, 1989.

Mr. NICKLES. Mr. President, earlier I mentioned that House Members have been incurring mail costs four times that of Senate Members. Simply put, the cost figures demonstrate that for each congressional mailing constituents receive from their U.S. Senator, they are getting four from their Representative.

Under the funding levels provided under the fiscal year 1990 legislative branch appropriations bill, the House will receive $44.5 million for official mail while the Senate will have $24 million available for its use. In reality, the Senate mail account should be twice as large as the House mail account as two Senators represent the same constituent represented by a single House Member.

When considering House and Senate Members' mail costs, comparing on a per constituent or per capita basis is the only way to fairly assess mail costs as total dollar figures do not reflect the difference in population between a congressional district and a State.

In order to compare mail costs on a per constituent basis, the Senate account must be divided by one-half to compare with the House as each U.S. citizen from a State is represented by three elected officials in Congress, one in the House and two in the Senate.

In recent years, House Members, on average, have been spending approximately four times the amount being spent by Senators on a per constituent basis. Mr. President, I ask unanimous consent that a historical summary of these mail costs appear in the RECORD at this point.

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

II. COMPARISON OF HOUSE AND SENATE OFFICIAL MAIL COSTS

The following statistics show House mail costs averaged among Members compared to Senate mail costs averaged among Members on a per constituent basis.

An examination of the actual total mail costs of the House of Representatives and the Senate for fiscal years 1972 to 1988 demonstrates that House Members, on average, have spent more than Senators by the factor listed below:

1972	7.7
1973	4.9
1974	4.6
1975	4.3
1976	5.2
1977	4.1
1978	5.1
1979	3.7
1980	4.7
1981	4.7
1982	3.0
1983	2.5
1984	3.1
1985	2.3
1986	3.4
1987	4.6
1988	4.4

Source: Statistics derived from "U.S. Congress Official Mail Costs: Fiscal Year 1972 to Present," by John Pontius, Congressional Research Service, June 13, 1989.

Mr. NICKLES. Mr. President, it is because of these figures that the other body prefers to hide when it comes to mail costs. It is unfortunate that these costs and their actions to hide these costs has evaded public scrutiny for so long. This is not to suggest that disclosure will result in the elimination of mass mailings. It will not. But it will enhance accountability which has been desperately lacking.

These changes are simple and straightforward. And they are sorely lacking in the conference report.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD following my remarks.

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

S. 1869

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

SECTION 1. STATEMENT OF COSTS AND RELATED EXPENSES OF CONGRESSIONAL MASS MAILINGS.

(a) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms and Doorkeeper of the Senate shall send to each Senator a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senator during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the State. A compilation of all such statements shall be sent to the Committee on Rules and Administration. A summary tabulation of such information shall be published quarterly in the CONGRESSIONAL RECORD and included in the semiannual Report of the Secretary of the Senate. Such summary tabulation shall set forth for each Senator the following information: the Senator's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the number of pieces and the cost of such mail divided by the total population of the State from which the Senator was elected.

(b) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the House Commission on Congressional Mailing Standards shall send to each Member of the House of Representatives a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Member during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the area from which such Member was elected. A compilation of all such statements shall be sent to the House Committee on House Administration. A summary tabulation of such information shall be published quarterly in the CONGRESSIONAL RECORD and included in the quarterly Report of the Clerk of the House. Such summary tabulations shall set forth for each Member of the following information: the Member's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the number of pieces and cost of such mail divided by the total population of the area from which the Member was elected.

SEC. 2. RESTRICTIONS ON FRANKED CONGRESSIONAL MASS MAILINGS EXCEEDING APPROPRIATED FUNDS.

Section 3216(c) of title 39, United States Code, is amended by inserting "(1)" after "(c)" and adding at the end thereof:

"(2)(A) If, at any time during a fiscal year, the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank by the House of Representatives during that year have exhausted the amount appropriated for use by the House of Representatives, then no more mass mailings (as defined in section 3210(a)(6)(E)) may be mailed by any Member of the House of Representatives during the remainder of that fiscal year, unless additional funds are appropriated for

use by the House of Representatives and paid to the Postal Service.

"(B) If, at any time during a fiscal year, the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank by the Senate during that year have exhausted the amount appropriated for use by the Senate, then no more mass mailings (as defined in section 3210(a)(6)(E)) may be mailed by any Member of the Senate during the remainder of that fiscal year, unless additional funds are appropriated for use by the Senate and paid to the Postal Service.".

By Mr. BENTSEN:

S. 1870. A bill to establish the United States-Mexico Border Regional Commission and to assist in the development of the economic and human resources of the United States-Mexico border region of the United States; to the Committee on Environment and Public Works.

UNITED STATES-MEXICO BORDER REGIONAL DEVELOPMENT ACT

● Mr. BENTSEN. Mr. President, I am pleased to introduce today legislation to bring badly needed development assistance to the United States-Mexico border areas. This legislation, the United States-Mexico Border Regional Development Act, has been introduced in the House of Representatives by my distinguished colleague Congressman RON COLEMAN of El Paso. This bill would establish a southwest border regional commission to spur economic development along the border and to help meet the pressing health and infrastructure needs of that area of our Nation.

Mr. President, there are few if any areas of our country more in need of economic assistance. This area has the dubious distinction of having the county with the lowest per capita income in the United States—Starr County, TX. In fact, 4 of the 10 lowest per capita income counties in the Nation are along the United States-Mexico border.

The border areas have a large supply of good labor, unfortunately, because the unemployment rate is extremely high in these areas. In addition to high unemployment and low per capita income, the border also suffers from a severe lack of infrastructure and poor health conditions. A large part of the health problems stem from the fact that tens of thousands of people along the border live in unincorporated communities known as colonias. Many of these colonias lack even basic water and sewer services. As a result the disease problems in these areas are severe.

In addition, along the border we are less able to cope with these increased health hazards since there is only one doctor for every 1,150 patients—compared to 600 patients per physician in the rest of Texas.

The border between the United States and Mexico is the only place in the world where a major industrialized country shares a boundary with a developing nation.

That single fact compounds all the problems confronting people who live along the border in Texas.

Tens of millions of gallons of raw sewage are pumped into the Rio Grande every day by cities on the Mexican side of the border, compounding the health problems that we have in Texas, particularly in the colonias which have no water or sewer systems.

Along the border unemployment is higher and per capita income lower than anywhere else in Texas, or most of the rest of the United States.

The border is also the third fastest growing region in America. The population is projected to double by the year 2000, compounding the difficulty and magnitude of the problem.

This proposal is a major, dramatic initiative to offer Texans who live along our border with Mexico a bigger share in the American dream.

No one is suggesting that the United States-Mexico Border Regional Commission will have the power or resources to bring prosperity to the border, but I am convinced it can help set the stage for economic development. It can help us overcome inertia, solve problems and realize the potential of the region.

This proposal is a classic example of how our public and private sectors can work together to solve problems in America. The way I see it, the Regional Commission would help direct resources toward infrastructure, education and public health. The border area is rich in opportunity, and with a healthy, well-educated work force and the infrastructure to support modern industry the private sector will see to it that the economic opportunity that has so long bypassed this region is finally brought in. This Commission can be the catalyst that sparks the private sector interest and investment this area so desperately needs.

The United States-Mexico border unites as well as divides two great nations. It is a logical, attractive place to site manufacturing facilities and start up joint ventures to meet the growing needs of American and Mexican markets. The Regional Commission can get the ball rolling by building up the infrastructure and developing the human capital along the border. Then it will be up to the private sector to move in, broaden the tax base, create jobs, help train people to fill them and seek markets on both sides of the border.

I want to compliment RON COLEMAN for his leadership on this issue in the House.

I am pleased to work with him on this issue. I was born on that border, in the Rio Grande Valley of south Texas, and many members of my family are still there. My roots run deep there. The valley is my home.

But the issue here is much more than the old home ties. The issue is whether tens of thousands of U.S. citizens are going to have a share of the hope and opportunity that we call the American dream. The issue is whether children will continue to walk through ankle-deep sewage after a hard rain, and whether we as a nation want to endure the expense to taxpayers and the suffering to sick children and their families of the rampant disease problems resulting from the lack of the most basic amenities. Amenities that most Americans take for granted—a sink with running water, a flush toilet. The issue is whether the citizens of these areas will continue to be the poorest of the poor, consigned to third-world living and economic conditions, or whether they will have an opportunity to be one of those thousand points of light.

Mr. President, I urge my colleagues to join me in supporting passage of this needed legislation.●

By Mr. DECONCINI:

S. 1871. A bill to amend the Food Security Act of 1985 to clarify the application of certain payment limitations to certain leases involving tribal landlords, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

CLARIFICATION OF THE FOOD SECURITY ACT OF 1985

● Mr. DECONCINI. Mr. President, today I am introducing legislation which addresses some of the problems that Indian tribes are facing under current agricultural restrictions on the payment limitation to Indian farming ventures.

In 1978, the Department of Agriculture [USDA] exempted Indian tribes from payment limitation requirements for the number and amount of payments which could be received under USDA programs. This exemption placed an upper limit on the amount of payments based upon tribal members. From 1978 to 1988, Indian tribal ventures participated in USDA programs without regard to the payment limitation provisions. Tribal farming operations were planned and conducted in reliance on the existence of this exemption.

In 1987, the Food Security Act of 1985 was amended in the Agricultural Reconciliation Act. Nothing in the 1987 Act or in its legislative history even suggested that it was intended to alter the existing treatment of Indian farming ventures. However, in 1988, as a result of the act, USDA repealed the Indian tribe exemption. This repeal resulted in onerous restrictions on the Indian farming operations particularly with respect to the leasing of farmland to or from nontribal farmers.

I took great steps to resolve the problems administratively. Through

exhaustive meetings with the representatives from the various tribes, the Bureau of Indian Affairs, and the Department of Agriculture, we worked to find solutions to these problems. After a discussion with Secretary Yeutter and thanks to the able assistance of the Senate Agriculture Committee most of the problems have been resolved.

However, one very serious problem remains. Under the new USDA regulations a tribe is now penalized if they lease tribal farmland to a nontribal farmer, and if the tenant farmer fails to comply with the payment limitation requirements then the tribe is penalized for the noncompliance of this third party. It is the considered opinion of USDA that this problem can only be corrected by legislation.

The legislation that I am proposing is designed to prevent tribes from being penalized for the action of third-party tenants. The legislation would amend 7 U.S.C. 1308(5)(D) by providing that where a tribe cash rents land on the reservation to a tenant, the tribe will not be penalized if the tenant subsequently is found to be out of compliance, so long as (a) the land was leased pursuant to Federal statutes governing the leasing of lands on Indian reservations, (b) the lease was approved by the Secretary of the Interior, and (c) the tenant has a farm operating plan approved by the Secretary of Agriculture prior to its participation during the lease term in any program under the Food Security Act of 1985.

The Congress has continually sought to assist the severely underdeveloped and poverty stricken tribal economies to achieve economic self-sufficiency. This legislation will work to this end by restoring the protection previously afforded to Indian farm operations.●

ADDITIONAL COSPONSORS

S. 219

At the request of Mr. MOYNIHAN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 219, a bill to exclude the Social Security Trust Funds from the deficit calculation and to extend the target date for Gramm-Rudman-Hollings until fiscal year 1997.

S. 346

At the request of Mr. WIRTH, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 346, a bill to amend the Alaska National Interest Lands Conservation Act, and for other purposes.

S. 419

At the request of Mr. SASSER, his name was added as a cosponsor of S. 419, a bill to provide for the collection of data about crimes motivated by race, religion, ethnicity, or sexual orientation.

S. 747

At the request of Mr. DECONCINI, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 747, a bill to amend chapter 44 of title 18, United States Code, regarding assault weapons.

S. 1270

At the request of Mr. MCCAIN, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Washington [Mr. GORTON], and the Senator from North Dakota [Mr. CONRAD] were added as a cosponsors of S. 1270, a bill to provide an Indian mental health demonstration grant program.

S. 1277

At the request of Mr. FORD, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1277, a bill to amend the Federal Aviation Act of 1958 to prohibit the acquisition of a controlling interest in an air carrier unless the Secretary of Transportation has made certain determinations concerning the effect of such acquisition on aviation safety.

S. 1333

At the request of Mrs. KASSEBAUM, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 1333, a bill to amend the International Air Transportation Competition Act of 1979.

S. 1430

At the request of Mr. KENNEDY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1430, a bill to enhance national and community service, and for other purposes.

S. 1457

At the request of Mr. HATFIELD, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1457, a bill to amend the Older Americans Act of 1965 to authorize demonstration projects to provide innovative volunteer opportunities to older individuals to provide nursing aide services to residents of nursing homes.

S. 1613

At the request of Mr. BRADLEY, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1613, a bill to temporarily suspend the duty on tamoxifen citrate.

S. 1622

At the request of Mr. HEINZ, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1622, a bill to promote environmental sector lending by the World Bank.

S. 1630

At the request of Mr. BAUCUS, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 1630, a bill to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

S. 1661

At the request of Mr. PRYOR, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 1661, a bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for qualifying disability expenses.

S. 1710

At the request of Mr. BRADLEY, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1710, a bill to temporarily suspend the duty on iohexol.

S. 1749

At the request of Mr. BRADLEY, the names of the Senator from Georgia [Mr. NUNN], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of S. 1749, a bill to restore previous exemption for edible molasses containing more than six percent (6%) non-sugar solids.

S. 1758

At the request of Mr. GLENN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1758, a bill to provide for the establishment of an Office for Small Government Advocacy and for other purposes.

S. 1791

At the request of Mr. ROCKEFELLER, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1791, a bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes.

S. 1823

At the request of Mr. BENTSEN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1823, a bill to amend the Social Security Act to increase the amount of earnings exempt from reduction under the retirement test under title II of such Act.

SENATE JOINT RESOLUTION 140

At the request of Mr. GLENN, the names of the Senator from Kansas [Mr. DOLE], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Missouri [Mr. BOND], the Senator from Hawaii [Mr. INOUYE], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Joint Resolution 140, a joint resolution designating November 19-25, 1989, as "National Family Caregivers Week."

SENATE JOINT RESOLUTION 212

At the request of Mr. BURNS, his name was withdrawn as a cosponsor of Senate Joint Resolution 212, a joint resolution designating April 24, 1990, as "National Day of Remembrance of

the Seventy-Fifth Anniversary of the Armenian Genocide of 1915-1923."

SENATE JOINT RESOLUTION 218

At the request of Mr. INOUYE, the names of the Senator from California [Mr. WILSON], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Joint Resolution 218, a joint resolution to designate the week of December 3, 1989, through December 9, 1989, as "National American Indian Heritage Week."

SENATE CONCURRENT RESOLUTION 52

At the request of Mr. HATFIELD, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Concurrent Resolution 52, a concurrent resolution to express the sense of the Congress that science, mathematics, and technology education should be a national priority.

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. MOYNIHAN, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Rhode Island [Mr. CHAFEE], the Senator from California [Mr. CRANSTON], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Montana [Mr. BURNS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Indiana [Mr. LUGAR], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Tennessee [Mr. GORE], the Senator from Indiana [Mr. COATS], the Senator from South Dakota [Mr. DASCHLE], the Senator from Vermont [Mr. JEFFORDS], the Senator from Michigan [Mr. LEVIN], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Concurrent Resolution 73, a concurrent resolution to express the support of the Congress for the courageous people of Colombia.

SENATE RESOLUTION 113

At the request of Mr. HEINZ, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Resolution 113, a resolution to discontinue the use of polystyrene foam products in the Senate Food Services.

SENATE RESOLUTION 206—EARMARKING OF UNIVERSITY RESEARCH FUNDS

Mr. DANFORTH (for himself, Mr. NUNN, and Mr. SANFORD) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 206

Resolved, That (a) during consideration by the Senate of a bill, resolution, or conference report or amendments between the Houses—

(1) the Presiding Officer shall sustain a point of order made by any Senator against material that—

(A) designates by name or other means of description a particular public or private college, university, nonprofit institution, or group or consortium of such institutions as the recipient of research funds (including funds for the construction, operation, or maintenance or research facilities); or

(B) otherwise interferes with or precludes award or allocation of research monies in accordance with—

(i) the requirements contained in section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) and section 2304 of title 10, United States Code, in the case of a contract; and

(ii) the use of procedures other than competitive or other merit-based procedures, in the case of a grant;

(2) any part of the measure that contains such material shall be stricken from the bill; and

(3) it shall not be in order to offer such material as an amendment from the floor.

(b) An affirmative vote of three-fifths of the Senators duly chosen and sworn shall be required to sustain an appeal of the ruling of the Presiding Officer on a point of order raised hereunder or to waive or suspend the provisions of this resolution.

● Mr. DANFORTH. Mr. President, on June 18, 1989, the Washington Post disclosed a scandal. Taxpayers' hard-earned dollars are being recycled to lawmakers in a wasteful, damaging chain of events. Universities hire lobbyists. The lobbyists persuade Members of Congress to earmark Federal funds for home State projects. The universities receive their funding and pay the lobbyists. The lobbyists contribute to the Members' campaigns. The Members are reelected. The universities seek more funds. They hire the lobbyists and the cycle starts all over again.

Mr. President, I ask unanimous consent that the Washington Post article be printed in the RECORD immediately following these remarks.

In response to this exposé, the chairman of the Senate Appropriations Committee acted immediately. He authored language in the fiscal year 1990 Interior appropriations bill to break this endless round of earmarked funds, lobbyists' fees, and campaign contributions. This provision, which was recently passed by Congress, requires the registration of all lobbyists who attempt to obtain earmarked university research dollars. Furthermore, it prohibits the use of Federal funds to pay for such lobbying. During debate on this legislation, Senator BYRD eloquently made his case, and I quote from his floor statement of July 26.

Every Senator in this body ought to be repulsed by the perception that we will dole out the bucks if stroked by the right consultant. * * * The American people are fed up. We cannot afford to have scarce resources frittered away on wasteful projects, simply because they are being promoted by well-connected lobbyists. The erosion of the public trust in government officials, and, indeed, trust in the entire government structure will continue if steps are not taken to curb rampant abuses * * *.

Mr. President, the distinguished senior Senator form West Virginia is second to none in his love for the Senate. During his 40 years of loyal Senate service, Senator BYRD has been majority leader and minority leader. He is the President pro tempore. He is the chairman of the Appropriations Committee. He is the distinguished author of a definitive history of the Senate. Time and again, he reminds us, through words and example, of our duties as representatives of the people. He willingly fights unpopular battles to protest the integrity of this body. It should come as no surprise to anyone that, when the honor of the Senate was threatened, ROBERT BYRD took up arms.

I commend Senator BYRD for his timely action. He saw a dangerous practice impugning the integrity of this body and he responded posthaste. Senator BYRD's bill is a good one. Precious Federal dollars should not be lining the pockets of greedy middlemen.

But, Mr. President, upon reflection, I have come to the conclusion that we must go further. The relationship between Congress and the people should be a fiduciary relationship—one based on trust and confidence. The people expect Congress to spend their tax dollars wisely, even frugally. The practice of congressional earmarking of Federal research funds is not consistent with our obligation to the people to manage their money carefully. Once again, it is Senator BYRD who has said it best:

Even when tax dollars are not used to pay lobbyists, the awarding of Federal contracts * * * on any basis other than merit is not in the best interests of the country and should not be tolerated.

Mr. President, we must have the courage to face the root of the problem. Pork-barrel politics is the root of the problem. Until we change our way of doing business, we will continue to jeopardize the integrity of this institution and the people's trust in it.

Congressional earmarking of Federal research funding is an insidious practice. First, it squanders limited research money. Second, it weakens our Nation's impressive research infrastructure—and, consequently, our ability to compete in the international marketplace. Third, it creates a no-win conflict of interest for Members of Congress. Fourth, it undermines public trust in government. And finally, it hurts the very constituents we seek to help. The only solution is to eliminate this practice. Today Senator NUNN and I are submitting a Senate resolution to restore integrity to the Federal research grant process. We must show the American people that

their trust in Congress is not misplaced.

The Federal Government spends over $60 billion annually on research and development. That sounds like a lot, but two-thirds is for defense research and development. Only 14 percent goes to academic institutions. During this decade, Federal R&D spending has increased at a declining rate. The growth from 1988 to 1989 is the lowest rate of real R&D growth since 1975. During the past two decades, other countries have boosted their R&D spending rates faster than the United States. Our biggest competitors spend about the same proportion of their GNP on R&D, but there is a big difference in the kind of R&D that is purchased. As a percentage of GNP, Japan and West Germany heavily outspend the United States in nondefense R&D. In 1989, for example, Japan is expected to spend 2.8 percent of its GNP on nondefense R&D, West Germany will spend 2.6 percent, and the United States will spend 1.7 percent.

Earmarking squanders our precious research dollars. The Federal Government has a finite amount of money. That money should be spent in the most productive way. We should be buying only the highest quality research. Resources available for university research are so scarce that many meritorious proposals go unfunded. We cannot afford congressional porkbarreling of pet projects.

Members of Congress are policymakers. We are not qualified to evaluate and choose among competing scientific research proposals. None of us is a practicing physicist, engineer, chemist, or biologist. None of us knows what revolutionary idea is waiting in the laboratory, unknown to any but a few brilliant scientists, but soon to be the next technology of the future—the next superconductor, the next high definition television. American taxpayers deserve the best research their money can buy. To get the best return on our research, spending decisions must be based on merit, not politics. When research money is spent on the basis of politics, on the basis of who sits on what committee, on the basis of self-serving lobbying, we are wasting the public's money.

America's research institutions are the best in the world. The quality of our basic science and technology is essential to the national defense, public health, economic vitality, and competitiveness. Since the end of World War II, we have built and sustained a capacity for basic research—mostly in our universities—that is the envy of the world. This academic infrastructure was built on the peer review process. We maintain its excellence through careful review by experts who ensure that support goes to our best scientists and engineers. But this merit-based system is undermined by congressional earmarking. In the words of former Secretary of Defense Casper Weinberger:

> The competition process which has been supported by Congress has contributed to the preeminence that our nation's universities enjoy * * * earmarking of research funds for specific universities, without merit competition, establishes a precedent that could jeopardize this preeminence.

Earmarking does not just reallocate funding that would otherwise go to Harvard, Stanford, and MIT. Rather, it takes money from competitive research universities—large and small, private and public, in all regions. As National Science Foundation Director Eric Bloch stated in a speech last year:

> [Earmarking] is the wrong way to make these decisions. A political approach squanders scarce resources and the result may be a weaker national science and technology capability and a weaker nation.

Unfortunately, earmarking is on the rise. In fiscal year 1989, Congress earmarked at least $289 million to specific colleges and universities for pet projects. This is a 1-year increase of 23 percent over the fiscal year 1988 total of $225 million. In fiscal year 1989, nearly 17 percent of the total Department of Agriculture appropriation of $337.3 million for university research was earmarked, half of it for research and the other half for facilities construction. Similarly, 15 percent of the Department of Energy's university research budget of $489.9 million was earmarked. The research and development budget of the National Institute of Standards and Technology [NIST] is only $159 million in fiscal year 1989, of which nearly 10 percent was earmarked. What should be an objective academic decision is becoming a political one.

Because every good research project cannot be funded, politicians find it irresistible to slice up the hog when it comes their way. The system creates a terrible dilemma for every one of us. A Senator is expected to promote the interests of his constituents by bringing home the bacon. Everyone is tempted to play the earmarking game. The mentality is akin to a run at the bank. "If others are doing it, I have to do it too, or my State won't get anything."

However, by succumbing to the temptation, by acting in the narrow interest, Members are undermining our great university system—including their own States' universities. Earmarking shrinks the amounts of research funds available for the truly deserving projects at all universities, including those schools that receive earmarked money. When we fund one special research project, pressure from other universities grows. As they see the pie getting smaller, panic sets in. More institutions seek earmarked funding. Each time an institution successfully bypasses the normal merit procedure, more schools and Members are persuaded that political maneuvering is necessary.

In the end, this creates a no-win situation for Members, as well as for constituents. If Members do not earmark funds, they risk being accused of neglecting their constituents. If they do earmark, they are criticized by the press for serving parochial interests at the expense of the Nation. Recent news headlines highlight this problem. "Legislators Dunk For Plums in Federal Pork Barrel," Boston Globe, July 5, 1989; "Hog Heaven," Common Cause magazine, July/August, 1986; "Select Few in Congress Decide How the Money Will Be Spent," Washington Post, May 30, 1989; "Biggest Pork Barrel Ever: $225 Million For Projects That Bypassed Merit Review," the Chronicle of Higher Education, January 27, 1988; "Science Gets Political; Congress' Pork-Barrel Grants Threaten Our Progress," Los Angeles Times, March 29, 1987. The press continually challenges the validity of these decisions—as indeed it should. Even as Congress attempts to please the voters, the voters are further convinced of Congress' venality and ineptitude.

Interestingly, earmarking does not even help the States that lose in the merit review process. From fiscal 1980 through fiscal 1989, five States received nearly 42 percent of all earmarked money. Three of the five, Massachusetts, New York, and Illinois, are also among the top 10 recipients of Federal research grants based on merit review. Overall, the 10 States that rank the lowest in merit-based research support have won less than 8 percent of the earmarked funds. Those who argue that congressional earmarking rewards the have-nots are mistaken.

The solution is to eliminate the pressure to earmark. The only way to eliminate the pressure is to prohibit earmarking altogether. Academic research is facing a funding crisis. By eliminating the incentive to earmark, we restore objectivity and integrity to the grant process.

The resolution that we are introducing establishes a point of order against any legislation which earmarks civilian or defense research funds, or research facilities construction or operations moneys. When the point of order is sustained, the offending provision is automatically deleted and cannot be offered as a floor amendment. The point of order could only be overruled by a supermajority of the Senate.

Mr. President, the Washington Post article did not impugn the integrity of the universities. It did not even impugn the integrity of the lobbyists. But it did challenge the integrity of this institution. We can change that.

Taxpayers can continue to get quality research. And our universities and scientists can still have the best kind of incentive—good, old-fashioned competition on the merits. Universities won't be pitted against each other to woo Congressmen.

If this resolution is enacted, only the best, most technically qualified research will be funded. Our university system will benefit. America's research base will be stronger. Congressmen will be released from the no-win conflict-of-interest dilemma.

Mr. President, a number of my colleagues may agree that a system based on merit is preferable to a system based on politics, but they may not trust the present merit review system. I have heard it said that the merit review system is an old boys' network, that we need earmarks to help generate research in our smaller, less advantaged schools. Mr. President, I submit that these arguments are shortsighted. University research is too important, too critical to our economic future, to be left to politics.

The merit review system works. We have been using it in this country for over 50 years, beginning with the establishment of the National Cancer Advisory Council. Merit review provides an equitable, objective means for qualified, impartial scientists to select worthwhile research project applications for Federal funding. Although specific merit review procedures vary among the Federal agencies, scientific excellence lies at the heart of these decisions. In recent years, with scarce Federal funding, more agencies have adopted the merit review system because it is the fairest method to allocate limited funds.

For instance, the National Science Foundation has developed an external peer review system to ensure that the best proposals receive awards. External reviewers are selected from approximately 60,000 scientists throughout the country, representing every State. These men and women come from large universities and small colleges, industry, and government and foreign research organizations. Once a proposal is received, it is categorized according to its scientific field and given a preliminary assessment by the NSF program officer for that field. Then several peer review scientists review the proposal, either through a mail review, a panel review, or a combination of the two. The merit recommendations are sent to the NSF program officer who compiles the peer review information and makes an award recommendation to the NSF directors. The directors make the final funding decision. The National Science Foundation's merit review process has been in existence for nearly 40 years. It has worked well. It is the appropriate way to conduct business.

Is it an old boys' network? Does it ensure that the established east and west coast universities receive the major share of Federal research funds? Mr. President, there is no evidence to suggest such a conspiracy. The only old boys' network is here in Congress, where Members who don't know their way around a test tube or a Bunsen burner are making critical, long-range funding decisions based on political pressures and parochial interests.

But let us not ignore these concerns. Where criticisms are legitimate, they must be corrected. We should audit the process. We should require regular and periodic reviews of the system used in each agency to ensure fairness and effectiveness. To this end, we are also introducing S. 1865, legislation to require a General Accounting Office [GAO] audit of the agencies' award policies and procedures, a review of the implementation of those policies and procedures, and an evaluation of their effectiveness. The GAO would report its findings at the beginning of each Congress. If the deck is stacked in favor of a few established institutions, or a select group of prominent scientists, we can eliminate bias and ensure that all qualified researchers can compete on an equal footing.

Some Members may be concerned that the less advantaged schools will never have an opportunity to compete in the merit system if we don't build them up first through earmarks. But the situation we are facing in the international marketplace is too serious to neglect the best research. You don't go into battle unprepared. We are in an economic war, fighting for America. How can we compete with the best and brightest of Japan and Europe if we don't support our own? Our scientists and students cannot win the competitiveness war without resources. If we squander our limited research dollars on projects that have not been subject to merit review, that have not been scrutinized by the experts, we doom the entire system to mediocrity.

If we want to help the less advantaged institutions—and I think we should—we should do it through established programs, not by picking winners and losers based on political horse trading. We have a responsibility to provide high-quality educational opportunities for our young scientists and engineers throughout the Nation. Congress has created such programs to develop local high-quality institutions, like the Experimental Program to Stimulate Competitive Research [EPSCOR]. That program was started in 1978 to improve the quality of science and engineering and to increase the number of scientists and engineers able to compete successfully for Federal grants. Awards based strictly on merit, totaling millions of dollars and benefiting hundreds of scientists, have been made to institutions in many States. The National Science Foundation's merit review process takes geographic factors into consideration. These are legitimate policy choices that we in Congress should make. But impartial scientific review by experts must be the larger context for funding decisions.

As Robert Rosenzweig, president of the Association of American Universities, said:

> We can't build quality and intellectual worth simply by putting money in places where the foundation for quality doesn't exist.

Unless research projects and facilities are awarded to universities based on a competitive scientific review, the quality of science in the United States will deteriorate. In an era of budget deficits and annual squabbles over desperately needed research funding, congressional earmarking makes a difficult dilemma even worse. If we expect to keep our lead in research and development, we must get the most out of every research dollar.

The resolution we are submitting today allows the merit review system to do its job: Choose those proposals eligible for Federal aid based on their technical and scientific merit. Only then can we be assured that research facilities are not being built without adequate staff to support them. Only then can we be assured that moneys are being distributed fairly to universities throughout the Nation. To quote my distinguished colleague, Senator NUNN:

> If we accept earmarking, the pressure on every Senator to take care of his state's universities will be enormous. Is that what we want? To pit our schools against one another at the pork barrel?

The answer is a resounding "No." The time to act is upon us. To keep our lead in research and technology, American universities must receive the dollars they deserve based on merit, not on politics. To accomplish this, we have to stop earmarking. The time to stop it is now.

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

AS FEDERAL FUNDING TIGHTENS, LOBBYISTS FIND A SURER WAY

(By Dan Morgan)

Until 1985, the National Defense Stockpile Transaction Fund was a little-known entity in the federal bureaucracy that bought and sold scarce commodities such as chrome and titanium for the country's strategic needs.

That was before the Washington lobbying firm of Cassidy and Associates figured out that it could be a useful device for getting money out of the Appropriations committees of Congress for its university clients.

Gerald S.J. Cassidy, a former congressional staffer who heads the lobbying firm, persuaded the appropriators to pass millions of dollars through the Stockpile Fund to finance the construction of "strategic materi-

als research centers" at universities in their home states and districts.

Since 1985, they have used this method to set aside $78 million for nine universities—including four Cassidy clients. The annual amount has been growing. As markups of the 1990 spending bills get under way this month, the Cassidy firm has two new university candidates for the pass-through funds and is seeking a second $3 million for Loyola College's still-unfinished "Center for Advanced Information and Resource Management Studies"—a project whose relevance to the stockpile is not clear.

Under Cassidy's tutelage, the appropriators have come to appreciate the potential of the Stockpile Fund as a vehicle for justifying appropriations for construction of university facilities. Management of the stockpile itself was transferred from the General Services Administration to the Defense Department in February 1988. But the Appropriations subcommittees on Treasury, Postal Service and general government, which have jurisdiction over GSA, have refused to relinquish control over the stockpile to the defense appropriations subcommittees.

The stockpile story points up one of the legislative ironies of the 1980s. As domestic programs have been cut or held at low levels, some lobbyists have prospered as never before.

As universities, research labs, towns and counties found it increasingly difficult to get funds from the executive branch, pressure mounted to obtain grants the sure way—through line items written directly into appropriations legislation by Congress.

These pressures have brought Capitol Hill lobbyists into the picture as seldom before. And those developments, in turn, connected with the insatiable demand of members of Congress for ever larger campaign war chests to ward off challengers. In some cases, Washington lobbyists, law firms and corporate representatives became an extension of the fund-raising operations of congressional offices as those offices were becoming more crucial to the lobbyists for funds-starved clients.

"The whole atmosphere was entirely different in the '70s," when money seemed less important, said a lobbyist who asked not to be identified. But in the 1980s, he added, "Everything got ginned up. People came to work in government to make contacts and then went out and sold those contacts. And the whole thing was driven by the rising cost of campaigns."

"Self-interest is the name of the game," said another lobbyist. "It's a difficult way to establish national policy."

Few if any lobbying firms have been more successful at exploiting the new era of budgetary austerity than Cassidy and Associates. Cassidy, 48, is a liberal Democrat who twice served as general counsel of the Senate Select Committee on Nutrition and Human Needs, chaired by then-Sen. George S. McGovern (D-S.D.). Cassidy was a founder in 1975 of what is now Cassidy and Associates.

Since 1983, it has helped place language in appropriations bills that allocated more than $400 million in grants to at least 38 clients—mostly for construction.

Cassidy does not reveal his fees, but a spokesman said that the firm has charged as much as $50,000 a month to a client who received "a much broader representation than the majority of our clients." One new client, Western Townships Utilities Authority of Plymouth, Mich., is charged $300 an hour, according to a recent lobbying report.

The firm grossed $15 million last year, and expects to reach $21 million to $22 million this year, having added 30 clients since Jan. 1. Cassidy reports.

PUTTING MONEY BACK INTO POLITICS

Some of this money circulates back into politics.

Cassidy, his wife, members of his staff and his clients have contributed $100,000 to $200,000 to congressional campaigns since 1983, according to Federal Election Commission reports. In 1987-88 alone, Cassidy and his wife, Loretta P. Cassidy, contributed $49,250 to dozens of incumbents and challengers, most of them Democrats.

Several of Cassidy's non-university clients, including Ocean Spray Cranberries and Pirelli Cable Co., have political action committees and have given heavily in the last five years. In addition, Cassidy and his clients have contributed generously to university chairs named for members of Congress, and have participated in numerous testimonials and fund-raisers for charities.

At the same time, Cassidy has unabashedly used his congressional connections. Since 1982, he has hired a steady stream of Appropriations Committee staffers and aides of top House and Senate members.

Cassidy established close relations in the House with then-Speaker Thomas P. "Tip" O'Neill Jr. (D-Mass.) and then-Majority Leader Jim Wright (D-Tex.). In 1984, the firm hired one of O'Neill's top aides, Carl F. Godfrey. Two years later, as Wright was about to replace O'Neill as speaker, Cassidy gave a job to Richard M. Pena, a foreign policy adviser to Wright.

In early 1987, Cassidy hired Donald P. Smith from the staff of the House Appropriations subcommittee on energy and water development, where the Cassidy firm had scored some of its most impressive legislative successes. From fiscal 1984 through fiscal 1988, 16 Cassidy clients were allocated several hundred million dollars in legislation cleared by the subcommittee.

Cassidy described Smith as a "very good friend" of the subcommittee chairman, Rep. Tom Bevill (D-Ala.) There is no House rule against former House employees lobbying their former employers, but Cassidy said Smith was assigned to other duties when he first joined the firm.

Cassidy also gave a part-time job to the wife of Rep. Doug Walgren (D-Pa.) for 21 months beginning in September 1985. Carmala Walgren said she did no lobbying and performed mainly pro bono work for the Children's Inn at the National Institutes of Health.

At the time, Walgren was chairman of a subcommittee that has jurisdiction over the National Science Foundation and played a role in making policy for federal support of university research. That job gave him a critical position in deciding whether it was appropriate for Congress to earmark funds for favored academic research projects. Walgren said he took the position that it was "not wrongful" for Congress to earmark funds in that way.

Cassidy defends his aggressive style of operation as a means to a beneficial end—getting federal money for deserving academic and scientific projects.

"I think it's positive and I applaud the members [of Congress] who are taking the lead in doing that," he said during an interview in his Metropolitan Square building offices, where the firm occupies 14,000 square feet. "The dollars would not be spent if they were not being pushed through by members who had an interest in seeing technology advanced."

"The term 'pork barrel science' really sticks in the craw," said Roy Meyers, Cassidy's comunications director, responding to suggestions that the projects are without value. "These things are up and going. They are good, viable projects that contribute to the national interest."

Defenders of the system of earmarking funds for congressionally favored research argue that although the system may not be ideal, even haphazard allocation of funds for basic research can produce useful results.

However, that view is challenged by critics such as the Association of American Universities, which said that lobbyist and members of the Appropriations Committees are not the best judges of the nation's academic and scientific needs.

Evaluating the congressionally mandated projects is difficult. Congress's watchdog arm, the General Accounting Office, seldom if ever tries.

Others suggest that the earmarking of funds for favorite projects in their home states spares members of the key Appropriations panels from feeling the full pain of the budget squeeze and may make it easier for Congress to postpone the tough choices on taxes, spending and national priorities necessary to end massive federal deficits.

A STRATEGY IS BORN

The Stockpile Fund story illustrates how a successful lobbying idea can mushroom from a brainstorming session in a downtown Washington office into a multimillion-dollar spending program.

As Cassidy's president and chief operating officer, James P. Fabiani, recalled the story, it involved a little luck.

A client, the University of Massachusetts at Amherst, was losing scientists and urgently needed new ideas, he said. Cassidy officials learned that the scientists specialized in work on plastic-like materials that could substitute for rare metals such as titanium. Using computerized compilations of appropriations laws, researchers matched up the word "titanium" with the National Defense Stockpile Transaction Fund, and a strategy was born, according to Fabiani.

It was a natural fit. Rep. Silvio O. Conte, the ranking Republican on the powerful House Appropriations Committee, represented the town of Amherst, and had been Fabiani's boss on Capitol Hill until 1982. Fabiani held an education degree from the university.

As ranking minority member of the full committee, Conte is a member of the subcommittee that originated spending legislation for GSA and the stockpile. Cassidy had contributed $500 to Conte's campaign in 1984, and Fabiani had given $1,000.

The idea was for Amherst to create a "strategic and critical materials research facility" and have money passed through the Stockpile Fund to finance its construction. Conte had $9.5 million inserted in the House subcommittee's version. To balance it, then-Sen. Paul Laxalt (R-Nev.) put in the same amount on the Senate side for a similar center at the University of Nevada in Reno.

Each facility received another $5 million the following year.

In the fiscal 1988 spending measure, five projects were added and the Amherst center got a final $5 million.

One of the new recipients was the University of Hawaii at Manoa, a Cassidy client

that was allocated $19 million over the next two years for a "strategic ocean minerals research facility." Hawaii was well-positioned on the Appropriations Committees to get the funds. Rep. Daniel K. Akaka (D-Hawaii) is a senior member of the Appropriations subcommittee on Treasury, Postal Service and general government, and Sen. Daniel K. Inouye (D-Hawaii) sits on the Senate Appropriations Committee.

Both members have received campaign contributions from the Cassidy and Associates staff, Vincent M. Versage, a former aide to Hawaii's other Democratic senator, Spark M. Matsunaga, contributed $2,000 to Akaka in 1987-88. Versage works on the Hawaii account at the Cassidy firm.

A NEW IMAGE FOR LOYALA PROJECT

Early last year, Loyola College in Maryland hired Cassidy and Associates. Officials of several other Jesuit colleges that were Cassidy clients recommended the firm, according to Loyola Provost Thomas Scheye. At the time, Loyola College's planned computing center was still not much more than a hole in the ground. The college had raised only $5.5 million of the $13.5 million it needed to complete the building.

But in the hands of two of Cassidy's lobbyists, the project was given a stylish new image.

In the presentation shaped by Fabiani and Versage, the center became more than just a place to train college and graduate students in computers. It was also to house a Center for Advanced Information and Resources Management Studies."

Scheye said he felt this description was justified. Loyola had a business school, and had trained defense contractors and employees of the Social Security Administration in management techniques and computers, he noted.

But even the Cassidy firm had to stretch to see how such a center could be funded through the national stockpile. The link was made thanks to a House Armed Services Committee report expressing concern about the management of the Stockpile Fund.

According to language drafted by Cassidy and Associates and congressional staff, and inserted into a Senate Appropriations subcommittee report on June 17, 1988, the new Loyola center would "begin to address these and other federal systems management problems on a government-wide basis."

The report of the Senate subcommittee stated that "specialized management education and training" should be made available to the National Defense Stockpile and recommended $4 million for the Loyola center for this purpose.

On Aug. 12, House and Senate conferees approved $3 million for Loyola.

Scheye said the college had been in contact with the Maryland congressional delegation earlier about getting federal money, but that Fabiani and Versage focused particularly on Sen. Barbara A. Mikulski (D-Md.), an adjunct professor at Loyola, and Rep. Steny H. Hoyer (D-Md.). Both serve on the Appropriations subcommittees that oversee the stockpile.

Scheye said he considered the fee of "close to" $10,000 a month that Loyola is still paying the Cassidy firm as money well spent. "They taught us things about how you deal with members of Congress," he said. "But I think Congress helped because our representatives are convinced we can make a contribution in this area."

Meanwhile, advocates and critics of the stockpile earmarking continue their debate. The Bureau of Mines, whose modest, competitive program of research grants to 32 colleges and unversities in 32 states used to be only a vehicle for supporting research in this area, maintains that these earmarked funds passed through the stockpile fund are being spent "absent clearly defined national needs or peer review of the research projects proposed."

The stockpile fund itself has not been affected by the earmarking. It continues to buy and sell reserves of strategic materials and is essentially self-supporting. The earmarked appropriations are simply passed through the fund, which does not even administer or oversee them.

This year, the Cassidy firm is seeking another $3 million for Loyola and is representing two new applicants, Rochester Institute of Technology and Michigan Technological University.

A recent round of hiring appears to be taking the firm in new directions, toward lobbying of the executive branch and different congressional areas. Among recent additions to Cassidy's staff are retired general P.X. Kelley, former Marine Corps commandant; Peter O. Murphy, former special U.S. trade negotiator; Robert A. Farmer, chief fund-raiser in Massachusetts Gov. Michael S. Dukakis's 1988 presidential campaign who will keep his job as treasury of the Democratic National Committee; and Robert K. Dawson, former associate director of the Office of Management and Budget.

At OMB, Dawson oversaw the Energy Department budget and was a steady critic of congressional earmarks for favorite projects within the budget.

THE CASSIDY CLOUT

Funds earmarked to Cassidy clients by House and Senate Appropriations subcommittees since 1983:

Subcommittees on Energy and Water:

Catholic U., laboratory, $13.9 million.

Columbia U., laboratories, $23.7 million.

Atlanta U., technology center, $12 million.

Brown U., technology center, $9.8 million.

U. of Alabama, nuclear research center, $12.3 million.

St. Christopher's Hospital, Philadelphia, $14.8 million.

Arizona State, engineering center, $15 million.

Indiana U., education center, $3 million.

Children's Hospital, Pittsburgh, $15 million.

Mount Sinai Medical Center, gene institute, $12.7 million.

Medical U. of S. Carolina, cancer research center, $16 million.

U. of Alabama at Huntsville, applied optics center, $10.6 million.

Drexel U., technology center, $12 million.

Boston U., physics institute, $8.5 million.

Boston College, multipurpose center, $4 million.

Loma Linda U., cancer research center, $19.6 million.

Northwestern U., research institute, $25.3 million.

Northwestern U., science center, $6 million.

W. Virginia U., energy center, $6 million.

Pirelli Cable Co., more than $5.4 million.

Subcommittees on Transportation:

Barry University, airway management facility, $4 million.

Subcommittees on Defense:

Rochester Institute of Technology, microelectronics, $11 million.

Lehigh U., innovation center, $7.5 million.

Subcommittees on Treasury and Postal Service:

U. Mass at Amherst, critical materials center, $19.5 million.

U. of Hawaii at Manoa, material research center, $19 million.

U. of Utah, polymer center, $11 million.

Loyola College, Md., resource management center, $3 million.

Subcommittees on Commerce, Justice and State:

Boston U., science and engineering building, $19 million.

Pirelli Cable Co., $4 million.

Subcommittees on Rural Development and Agriculture:

U. Nebraska, technology center, $50,000.

Gonzaga U., technology center, $1.875 million.

U. of S. Mississippi, polymer institute, $10 million.

U. of Hawaii and Oceanic Institute, aquaculture centers, $3 million.

Louisiana Public Facilities Authority, $13 million.

Subcommittees on Veterans Affairs, HUD, Independent Agencies:

Challenger Space Center, $10 million (pro bono client).

Subcommittees on Labor, Health and Human Services and Education:

U. of Bridgeport; technology institute, $5 million.

Subcommittees on Foreign Operations:

Fudan Foundation, $4 million (no figure specified by subcommittee).

American Hospital in Shanghai, $3 million (no figure specified by subcommittee).

Subcommittees on Interior:

West Virginia University, energy research center, small amount.

Northwestern University, energy research center, small amount.

THE REVOLVING DOOR

The Cassidy and Associates employees listed here were hired from Appropriations Committees and key congressional offices. Their date of hire appears in parentheses.

James P. Fabiani, House Appropriations subcommittee on labor, health and human services. (1982)

Donald P. Smith, House Appropriations subcommittee on energy and water. (1987)

George A. Ramonas, staff of Sen. Pete V. Domenici (R-N.M.), member, Senate Appropriations Committee. (1985)

Elliott M. Fiedler, staff of Rep. David R. Obey (D-Wis.), chairman, Appropriations subcommittee on foreign operations. (1987)

Julia M. Jones, staff of Rep. Joseph M. McDade (R-Pa.), member, House Appropriations Committee.

Carl F. Godfrey, executive assistant to then Speaker Thomas P. O'Neill Jr. (D-Mass.). (1984)

Richard M. Pena, foreign policy aide to then-Majority Leader Jim Wright (D-Tex). (1985)

Jonathan M. Orloff, staff of Sen. Edward M. Kennedy (D-Mass.), chairman, Committee on Labor and Human Resources. (1985)

James H. Johnson, staff of then-Rep. Trent Lott (R-Miss.), GOP Whip. (1984, hired as consultant)

Willard F. Cox, staff of then-Rep. Don Fuqua (D-Fla.), chairman, Committee on Science and Technology. (1983)

Vincent M. Versage, staff of Sen. Spark M. Matsunaga (D-Hawaii), member, Committee on Energy and Natural Resources. (1984)

Peter Glavas, staff of Sen. David L. Boren (D-Okla.), member, Finance Committee. (1988)●

● Mr. NUNN. Mr. President, by introducing this resolution, Senator DANFORTH continues to demonstrate his leadership in the effort to eliminate earmarking of Federal funds to universities, colleges, and other institutions. The Senate Armed Services Committee has consistently opposed any earmarking of Defense funds. Senator DANFORTH, while not a member of our committee, has always been a strong partner in our fight. In fact, he has been the leader in the Senate in this effort. I have welcomed his support in the past and I now fully support the resolution he has introduced.

Last year, the House and the Senate agreed to a provision in the Defense Authorization Act which directs that grants and contracts to universities and colleges be competitively awarded based strictly on merit. This legislation took effect on October 1. Both the House and Senate Armed Service Committees reaffirmed their opposition to earmarking in their actions on this years Defense authorization bill. In addition, the Senate recently defeated an attempt to introduce three new earmarking projects using defense research funds.

Research funds are becoming harder to find to support any federally funded research at universities and colleges. This does not imply, however, that there is any less need for this research. Today, U.S. industry and commerce are being challenged around the world, in both development of new products and in producing them for the marketplace. Further, while there recently has been a warming in our relations with the Soviet Union, it would be foolish indeed to reduce our defense research programs that help maintain our warfighting technological superiority. The foundation of our Nation's lead in science and technology lies in the research done by our colleges and universities. Where that work should be performed must be decided on the basis of institutional merit by those best qualified to decide. I believe that congressional earmarking is not the way to allocate these funds. Merit-based competition is the best way to make these allocations.

Senator DANFORTH's resolution enhances the antiearmarking provisions already in place for the Defense Department. It provides the Senate with a straightforward method to oppose earmarking by permitting a point of order to be raised whenever an earmarking occurs. Further, it expands the fight against earmarking beyond the Defense Department to extend across the entire scope of federally funded research projects. The Federal Government funds about two-thirds of all research performed in universities and colleges. The Defense Department ranks third as a provider of these funds, contributing between 10 and 15 percent of the total. There definitely is a need to enforce merit-based awards of grants and contracts for all federally funded programs and Senator DANFORTH's resolution provides us with just such a mechanism.

Mr. President, the future of the Nation resides in our colleges and universities. They are the pillars that support the Nation's research and technology infrastructure. They produce both the new ideas and the scientists and engineers vital to our Nation's security and economic prosperity. Our universities and colleges are unmatched in their accomplishments and they must be properly supported if we are to maintain our position as a world leader. The academic community has made clear its opposition to statutory earmarking. The presidents of the National Science Foundation and the National Academy of Science have spoken out against this practice. The Secretary of Defense recently stated his opposition to earmarking of research funds in a letter he sent to me. Pork barrel politics has no place today in funding Federal research at colleges and universities. I urge our colleagues to support the DANFORTH resolution and provide this body with an effective tool to stop this unnecessary practice.●

AMENDMENTS SUBMITTED

LEGISLATIVE BRANCH APPROPRIATIONS, FISCAL YEAR 1990

WILSON AMENDMENT NO. 1091

Mr. WILSON proposed an amendment to the amendment of the House to the amendment of the Senate numbered 6 to the bill (H.R. 3014) making appropriations for the legislative branch for the fiscal year ending September 30, 1990, and for other purposes, as follows:

In Amendment number 6, in the text proposed by the House to be inserted, strike out all up to and including *"Provided,* That, of the amounts" and insert in lieu thereof the following:

"$100,229,000 of which $8,978,000 is available only for Senate official mail costs, to be disbursed by the Secretary of the Senate, $14,530,000 is available only for House official mail costs, to be disbursed by the Clerk of the House, $31,721,000, which may only be expended in fiscal year 1990, and $45,000,000 is available for Model Projects Program for Pregnant and Post Partum Women and their Infants to be spent pursuant to 42 U.S.C. 290aa-13 to remain available until expended;

"Provided, That subsection (c) of section 3216 of title 39, United States Code, is repealed;

"Provided further, That notwithstanding any other provision of this Act, there is hereby prohibited the use of the franking privilege for unsolicited mass mailings, as described in section 3210(a)(6)(E) of title 39, United States Code;

"Provided further, That only monies appropriated by law for official mail costs of the Senate and the House of Representatives may be used to defray such costs;

"Provided further, That the Committee on Rules and Administration may establish a minimum allocation of funds for mail costs of Senators representing states with fewer than three million residents and may allocate funds for the mail costs incurred by Senators prior to the date of enactment of this Act prior to making an allocation of funds to each Senator for authorized mail costs; and

"Provided further, That of the amounts".

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1990

COATS (AND OTHERS) AMENDMENT NO. 1092

Mr. COATS (for himself, Mr. DOLE, Mr. MCCAIN, Mr. ARMSTRONG, Mr. HUMPHREY, Mr. NICKLES, Mr. MACK, Mr. HELMS, Mr. BURNS, Mr. ROTH, Mr. KASTEN, Mr. DANFORTH, Mr. MURKOWSKI, Mr. WILSON, Mr. THURMOND, Mr. GORTON, Mr. SYMMS, Mr. BOND, and Mr. BOSCHWITZ) proposed an amendment to the bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes, as follows:

At the appropriate place, insert the following:

SEC. . LEGISLATIVE LINE ITEM VETO ACT OF 1989.

(a) SHORT TITLE.—This section may be cited as the "Legislative Line Item Veto Act of 1989".

(b) ENHANCEMENT OF SPENDING CONTROL BY THE PRESIDENT.—The Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"PART A—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"GRANT OF AUTHORITY AND CONDITIONS

'SEC. 1101. (a) IN GENERAL.—Notwithstanding the provisions of part B of title X and subject to the provisions of part B of this title, the President may rescind all or part of any budget authority, if the President—

"(1) determines that—

"(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

"(B) such rescission will not impair any essential Government functions; and

"(C) such rescission will not harm the national interest; and

"(2)(A) notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations Act or a joint resolution making continuing appropriations providing such budget authority; or

"(B) notifies the Congress of such rescission by special message accompanying the submission of the President's budget to

Congress and such rescissions have not been proposed previously for that fiscal year.

The President shall submit a separate rescission message for each appropriations bill under paragraph (2)(A).

"(b) RESCISSION EFFECTIVE UNLESS DISAPPROVED.—(1)(A) Any amount of budget authority rescinded under this title as set forth in a special message by the President shall be deemed canceled unless during the period described in subparagraph (B), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

"(B) The period referred to in subparagraph (A) is—

"(i) a Congressional review period of 20 calendar days of session under part B, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;

"(ii) after the period provided in clause (i), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

"(iii) if the President vetoes the rescission disapproval bill during the period provided in clause (ii), an additional 5 calendar days of session after the date of the veto.

"(2) If a special message is transmitted by the President under this section during any Congress and the last session of such Congress adjourns sine die before the expiration of the period described in paragraph (1)(B), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in paragraph (1)(B) (with respect to such message) shall run beginning after such first day.

"DEFINITIONS

"SEC. 1102. For purposes of this title the term 'rescission disapproval bill' means a bill or joint resolution which only disapproves a rescission of budget authority, in whole, rescinded in a special message transmitted by the President under section 1101.

"PART B—CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS

"PRESIDENTIAL SPECIAL MESSAGE

"SEC. 1111. Whenever the President rescinds any budget authority as provided in section 1101, the President shall transmit to both Houses of Congress a special message specifying—

"(1) the amount of budget authority rescinded;

"(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental function involved;

"(3) the reasons and justifications for the determination to rescind budget authority pursuant to section 1101(a)(1);

"(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

"(5) all facts, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

"TRANSMISSION OF MESSAGES; PUBLICATION

"SEC. 1112. (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under sections 1101 and 1111 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

"(b) PRINTED IN FEDERAL REGISTER.—Any special message transmitted under sections 1101 and 1111 shall be printed in the first issue of the Federal Register published after such transmittal.

"PROCEDURE IN SENATE

"SEC. 1113. (a) REFERRAL.—(1) Any rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

"(2) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this section.

"(b) FLOOR CONSIDERATION IN THE SENATE.—

"(1) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(2) Debate in the Senate on any debatable motion or appeal in connection with such a bill shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(3) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

"(c) POINT OF ORDER.—(1) It shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission of budget authority transmitted by the President under section 1101.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission disapproval bill.

"(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.".

COMMODITY EXCHANGE ACT AUTHORIZATION

GORTON AMENDMENT NO. 1093

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill (S. 1729) to amend the Commodity Exchange Act to reauthorize such act, and for other purposes, as follows:

At the end of title VIII, add the following new section:

SEC. . TRANSFER OF AUTHORITY FOR STOCK INDEX FUTURES.

(a) IN GENERAL.—Section 2(a) (7 U.S.C. 4a) is amended by adding at the end the following new paragraph:

"(12) Notwithstanding any other provision of law—

"(A) contracts of sale (or options on such contracts) for future delivery of a group or index of securities (or interest therein or based on the value thereof) shall be deemed to be securities under the Federal securities laws and subject to the exclusive jurisdiction of the Securities and Exchange Commission; and

"(B) the functions of the Commodity Futures Trading Commission relating to the regulation of stock index futures under this Act are transferred to the Securities and Exchange Commission.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on March 1, 1990.

NIOBRARA RIVER DESIGNATION AS WILD AND SCENIC RIVER

JOHNSTON AMENDMENT NO. 1094

Mr. MITCHELL (for Mr. JOHNSTON) proposed an amendment to the bill (S. 280) to amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the Wild and Scenic Rivers System, as follows:

On page 11, line 2, strike "With" and insert in lieu thereof "Within".

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION

GORE (AND HOLLINGS) AMENDMENTS NOS. 1095 AND 1096

Mr. MITCHELL (for Mr. GORE, for himself and Mr. HOLLINGS) proposed two amendments to the bill (S. 916) to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes, as follows:

AMENDMENT NO. 1095

On page 31, at the end of line 21, insert the following: "None of the NASA Small Business Innovation Research Program funds may be used for travel or civil service salaries."

AMENDMENT NO. 1096

On page 32, line 19, delete the "." and insert the following: ": *Provided*, That the National Space Council shall reimburse other agencies for not less than one-half of

the personnel compensation costs of individuals detailed to it.

SEC. 302. Not more than six individuals may be employed by the National Space Council without regard to any provision of law regulating the employment or compensation of persons in the government service, at rates not to exceed the rate of pay for Level VI of the Senior Excutive Schedule, as provided pursuant to section 5382 of title 5, United States Code.

SEC. 303. Section 5314 of title 5, United States Code is amended by adding at the end thereof.

"EXECUTIVE SECRETARY, NATIONAL SPACE COUNCIL

SEC. 304. The National Space Council may, for the purposes of carrying out its functions employ experts and consultants in accordance with section 3109 of title 5, United States Code, and may compensate individuals so employed for each day (including travel time) at rates not in excess of the maximum rate of pay for grade GS-18 as provided in section 5332 of title 5, United States Code.

SEC. 305. (1) The National Space Council is requested to initiate a review of United States launch policy including the Nation's expendable launch vehicle and satellite industries, their current and projected markets, the existing and projected level of foreign competition in these industries, the extent and level of support from foreign governments in these markets and industries, the consequences of the entry of nonmarket providers of launch services and satellites into the world market, restrictions on the use of foreign launch services and the export of United States satellites, and the importance of the United States launch vehicle and satellite industry to the national and economic security.

(2) The findings of this review and any policy recommendations are to be submitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation in the Senate by August 1, 1990.

GORE (AND OTHERS) AMENDMENT NO. 1097

Mr. MITCHELL (for Mr. GORE, for himself, Mr. HOLLINGS, and Mr. BENTSEN) proposed an amendment to the bill S. 916, supra, as follows:

On page 32, immediately after line 19, insert the following:

TITLE IV—NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM

SEC. 401. Section 203(1) of Public Law 100-147, the National Aeronautics and Space Administration Authorization Act of 1988, (42 U.S.C. 2486a(1)) is amended by inserting "and undergraduate" immediately after "graduate".

SEC. 402. Section 209(a) of Public Law 100-147, the National Aeronautics and Space Administration Authorization Act of 1988, (42 U.S.C. 2486g(a)) is amended by inserting "and undergraduate" immediately after "graduate".

GORE (AND OTHERS) AMENDMENT NO. 1098

Mr. MITCHELL (for Mr. GORE, for himself, Mr. HOLLINGS, and Mr. METZENBAUM) proposed an amendment to the bill S. 916, supra, as follows:

Strike all on page 29, line 11, through page 30, line 24.

HOLLINGS (AND GORE) AMENDMENTS NOS. 1099 THROUGH 1106

Mr. MITCHELL (for Mr. HOLLINGS, for himself, and Mr. GORE) proposed eight amendments to the bill, S. 916, supra, as follows:

AMENDMENT No. 1099

On page 17, line 18, delete "$894,500,000" and insert in lieu thereof "$903,500,000".

AMENDMENT No. 1100

On page 18, line 6, delete "$625,500,000" and insert in lieu thereof "$631,500,000".

AMENDMENT No. 1101

On page 19, line 14, delete "$35,000,000" and insert in lieu thereof "$38,000,000".

AMENDMENT No. 1102

On page 19, line 25, delete "$1,305,300,000" and insert in lieu thereof "$1,340,300,000".

AMENDMENT No. 1103

On page 24, line 8, delete "$2,032,200,000" and insert in lieu thereof the following: "$2,049,200,000".

AMENDMENT No. 1104

On page 24, immediately after line 4, insert the following:

(38) Construction of the Advanced Solid Rocket Motor Facility, Yellow Creek, Mississippi, $90,000,000.

(39) Construction of a Space Station Orbital Debris Radar Facility, $15,000,000.

(40) Construction of a Wake Shield Facility, $2,500,000.

AMENDMENT No. 1105

On page 32, immediately after line 3, insert the following new sections:

FUNDING FOR SPACE SHUTTLE STRUCTURAL SPARES

SEC. 110. The Administrator is authorized to use up to $25,000,000 of the funds appropriated in section 101(g) of the Joint Resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-242), for space shuttle structural spares.

FUNDING FOR EXTENDED DURATION ORBITER DEVELOPMENT

SEC. 111. The Administrator is authorized to use up to $25,000,000 of the funds appropriated in section 101(g) of the Joint Resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-242), for continued development of an extended duration orbiter.

FUNDING FOR SPACE TRANSPORTATION SYSTEM

SEC. 112. The Administrator is authorized to use up to $25,000,000 of the funds appropriated in section 101(g) of the Joint Resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-242), for space transportation system requirements.

AMENDMENT No. 1106

On page 20, line 2, after the word "motor" insert the following: ", of which $35,000,000 is authorized only for tooling and equipment associated with the Advanced Solid Rocket Motor Facility authorized in subsection (c)(38) of this section,".

NOTICES OF HEARINGS

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRANSTON. I announce, for the information of Senators, that the Committee on Veterans' Affairs, which I am privileged to chair, has rescheduled its Wednesday, November 15, 1989, hearing on Department of Veterans' Affairs health care for rural veterans to begin at 8 a.m. in SR-418.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on Wednesday, November 15, 1989, to consider the nomination of Kyo R. Jhin to be chief counsel for advocacy for the Small Business Administration. The hearing will be held in room 428A of the Russell Senate Office Building and will commence at 1:30 p.m. This hearing was originally scheduled for November 14, 1989. For further information, please call John Ball, staff director of the committee at 224-5175, or Tracy Crowley at 224-3099.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on November 9, 1989, beginning at 11 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate S. 1096 (S. 1336), to provide for the use and distribution of funds awarded the Seminole Indians; S. 1270, to provide an Indian mental health demonstration grant program; S. 1526, to authorize the State of Oklahoma and the Kiowa, Comanche, and Apache Tribes to enter into an agreement regarding the exercise of State jurisdiction over a portion of Indian country located in Comanche County, OK; S. 1781, the Native American Language Act; S. 1783, to regulate Indian child protection and prevent child abuse on Indian reservations and S. 1813, to ensure that funds provided under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters.

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

COMMITTEES ON LABOR AND HUMAN RESOURCES AND THE JUDICIARY

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committees on Labor and Human Resources and the Judiciary be authorized to meet during the session of the Senate on Thursday, November 9, 1989, at 10 a.m. for a hearing on "The Impact of Drugs on Children and Families."

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, November 9, 1989, at 3:30 p.m. to hold a closed meeting on intelligence matters.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on November 9, 1989, at 10 a.m. to hold a hearing on the human genome initiative and the future of biotechnology.

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

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on November 9, 1989 at 2 p.m. to hold a hearing on the nomination of Deborah Wince-Smith, of Ohio, to be Assistant Secretary of Commerce for Technology Policy.

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

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, November 9, 1989, at 10 a.m. to hold a hearing on S. 712, Puerto Rico status referendum.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate November 9, 1989, at 9:30 a.m. for a hearing to receive testimony on amendment 267 to S. 406, the Competitive Wholesale Electric Generation Act of 1989.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, November 9, at 9:30 a.m. for a hearing on the subject: Crisis in science and math education.

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

COMMITTEE ON THE JUDICIARY

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on November 9, 1989, at 9:30 a.m., to hold a hearing on the nomination of Vaughn R. Walker to be U.S. district judge for the northern district of California.

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

COMMITTEE ON ARMED SERVICES

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, November 9, 1989, at 2:30 p.m. to consider the nomination of: Christopher Jehn to be Assistant Secretary of Defense for force management and personnel; G. Kim Wincup to be Assistant Secretary of the Army for Manpower and Reserve Affairs; and Barbara S. Pope to be Assistant Secretary for the Navy for Manpower and Reserve Affairs.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. MOYNIHAN. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a meeting to consider the nomination for the Department of Veterans Affairs of David E. Lewis to be Assistant Secretary for Aquisition and Facilities, Ronald E. Ray to be Assistant Secretary for Human Resources and Administration, and Edward G. Lewis to be Assistant Secretary for Information Resources Management on Thursday, November 9, 1989, at 10:30 a.m. in SR-418.

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

ADDITIONAL STATEMENTS

NETHERLANDS ENVIRONMENTAL CONFERENCE

● Mr. BIDEN. A 2-day international conference of environmental ministers from 70 countries recently concluded in The Netherlands. Proposals that dared to push the world toward concrete agreements to address global warming were put forward. A strong consensus of the environmental ministers supported a resolution committing each country to freeze carbon dioxide emissions and then reduce them by 20 percent. The initiative demonstrates how seriously the threat of global warming is taken by countries around the world.

But that resolution was not adopted because three countries—the United States, Japan, and the Soviet Union—objected, and instead, insisted on a watered-down resolution stating that emissions should be stabilized at an unknown level following an unknown timetable. The effect is a gutting of the resolution. Intentions are expressed, but firm targets and dates are omitted.

One of our representatives to the meeting, Environmental Protection Agency Administrator William Reilly, explained our Nation's position in the following manner:

> We did not come here prepared to make a commitment to stabilize emission by the year 2000.

It is that simple. They were not prepared.

But let us be clear by what was meant by "not prepared." It does not mean the proposal came as a surprise, that there was no inkling of it prior to the meeting. It was well-known that the Dutch hosts were planning to place just such a proposal before the environmental ministers. An article in the Washington Post of October 25 stated:

> At the Nov. 6-7 meeting in the Netherlands, the Dutch government is expected to propose an international freeze on carbon dioxide at current levels by the year 2000.

Instead of "not prepared," a more accurate description is "not willing."

In Mr. Reilly's defense, news reports prior to the meeting also made clear that he supported a more aggressive position on global warming, but others within the administration fought strongly against him. In fact, Mr. Reilly had to overcome objections just to be able to attend the meeting.

Events surrounding the United States' participation in The Netherlands meeting continue a disturbing pattern. In January, Secretary of State James Baker promised action from our Nation on global warming. In the 10 months since that meeting, Secretary Baker has sought to bring that promise into reality. Unfortunately, he has run into the same resistance as has Mr. Reilly. Delay has become the hallmark of our Nation's global environmental policy.

What is President Bush doing while these reversals of his avowed policies are occuring? His commitment to use the "White House effect" to combat the greenhouse effect has proven hollow. His promise to host an international meeting on global warming has given new meaning to the word "host."

In his press conference 2 days ago, in response to a question on The Nether-

lands meeting, President Bush pointed to the leadership of the United States' science on global warming. There is much that will never be known about the effects of global warming, but there is no dispute over the scientific underpinning of the greenhouse theory. Our science has been a leader in charting the rise in greenhouse gasses.

But while praising our Nation's science, the President ignores the implications of its findings. The standards set by advocates of delay will never be met. It is not a serious approach to dealing with this problem. It is an invitation to disaster.

Some observers may point to the President's chief of staff or his science adviser as the leading advocates of delay, but responsibility clearly rests with the President. Strong sentiments to do something about global warming and calls for a meeting in the White House have come a cropper. It is time he made the actions of the administration more consistent with its pronouncements.

The isolation of the United States on this issue was highlighted by a speech of British Prime Minister Margaret Thatcher yesterday before the United Nations General Assembly. In that speech, Mrs. Thatcher called for completion, by 1992, of an international treaty to address global warming.

In contrast, prior to The Netherlands meeting, Mr. Reilly's proposal for the United States to offer to host the first meeting of a framework convention for a global warming treaty was rejected. Our influence and prestige were reduced accordingly.

What are the risks of the United States rejection of action on global warming? An editorial in the Wilmington News-Journal yesterday put it well:

> If we plead that a modest reduction in the rate at which we pollute will impose economic suffering for us, what can we say to developing countries seeking to burn fossil fuels for earlier stages of development?

That is what makes the retreat of the administration on global warming so damaging, and why it must be reversed.

The next major opportunity for the United States to demonstrate its official commitment to provide the crucial leadership will come in February, when a meeting of the Response Strategies Working Group is to be held in Washington. There is plenty of time for the administration to prepare for the meeting. It is my hope the preparations will be for action, not for delay.●

S. 1542—PERTAINING TO CERTAIN EMPLOYEES OF THE NATIONAL WEATHER SERVICE

● Mr. HATFIELD. Mr. President, recently, I introduced S. 1542, legislation to amend title 5 of the United States Code, to allow certain employees of the National Weather Service to be included under a bill passed last year to assist emergency forest firefighters. S. 1542 ensures that fire weather meteorologists of the Department of Commerce will receive full compensation for their overtime work.

In the last 3 years, 13 million acres of forest land throughout the United States have been consumed by fire—the worst this country has endured in almost a century. Unfortunately, many of the brave people involved in fighting these fires have actually worked many long, strenuous hours without receiving any compensation for their overtime efforts. Because of a cap on overtime pay, many Federal workers are paid substantially less than the men and women with whom they work alongside.

Last year, we were successful in passing the Forest Wildfire Emergency Pay Equity Act. The intention of this bill was to compensate all Federal employees involved in emergency firefighting activities for their overtime activities. Thus, it was our understanding that all firefighting services were provided by either the Department of Agriculture or the Department of Interior.

The purpose and need for this bill was clear—the overtime pay cap that was in place at the time had the potential to destroy firefighters' morale and commitment at the very time that these intangible assets were needed the most. I am pleased to say that the rights of these firefighters are now secured.

Unfortunately, fire weather meteorologists employed by the National Weather Service are still burdened by the same overtime pay cap, and all of its related problems. Under the current law, such employees who work beyond their regular hours do not necessarily receive their full overtime pay. One meteorologist may receive compensation for the hours worked beyond his normal work schedule while another has reached his overtime pay limitation and may be working without compensation.

When onsite at a wildfire, these meteorologists routinely work from 15 to 18 hours a day. Long-term deployments often extend 10 days or longer. Although most fire weather meteorologists do receive all the pay to which they are entitled, the forecasters who, under current law, "max out" their overtime hours cannot exceed the GS-15 level in any 2-week pay period.

Thus, this bill will amend the Forest Wildfire Emergency Pay Equity Act to fully resolve the longtime problem of inequity in emergency overtime pay. It will effect a very small number of employees of the U.S. Department of Commerce and will apply only to wildfire situations.

Mr. President, the National Weather Service supplies specially trained fire weather meteorologists who play a vital role in support of efforts to control wildfires. For example, the consistency, and thus reliability, of field weather services is often adversely affected merely due to pay considerations. National Weather Service meteorological personnel form a team in which local weather forecast expertise is translated into management decisions associated with fire suppression tactics, firefighting field placement, and total resource management at the fire site.

Usually only one meteorologist is assigned to a wildife incident. This meteoroligist is tasked with providing continuous weather support to the suppression agency. The NWS meteorological input to wildfire suppression minimizes the time and resources necessary to bring a fire under control, and helps to prevent the loss of life and property. The meteorologist provides regular weather forecast information to the fire behavior analyst and the fire management team. In addition, he reconnoiters the fire area to learn what local features might be affecting the fire behavior.

The working hours of the fire weather meteorologist are not completely under his control but must meet the needs of the fire management team. He may be called upon at any time of the day or night to provide input to help develop and implement the fire suppression strategy. Thus, applying standard workweek principles to fire weather forecasting situations simply does not make sense. Theirs is not a 9-to-5 job. The fires need to be fought, and we cannot have personnel leaving fire sites just because we are concerned about how much money they are making.

We expect these people to spend long periods away from their families, enduring difficult living conditions, working in the heat and smoke, and subjecting themselves to life-threatening hazards for 15 to 18 hours a day. Shall we also expect them to work for free?

Mr. President, we have paid our debt poorly to these men and women. It is inexcusable that bureaucratic technicalities actually force some meteoroligists to work for free. If the bill currently before us was in place during the devastating 1987 fire season, the cost in overtime to the Treasury would have amounted to about $14,000. An average year would cost only about $5,000.

However, the cost of this bill is not the issue. It is a matter of equity. It is simply not fair to expect these men and women who place their lives on the line to work for free. Fire weather meteorologists who work overtime should be paid overtime.

Although we cannot predict the future budgetary impact of this legislation, we do know that it is relatively small compared to the grandeur of the services performed.

I urge the Senate to quickly adopt this effort to provide economic justice to these hardworking people.●

VETERANS DAY 1989

● Mr. DOMENICI. Mr. President, this Saturday, November 11, is Veterans Day. I know my colleagues will join me in paying tribute to the millions of men and women who have proudly served our country in the U.S. Armed Forces.

Since the very beginning of our country, American men and women have defended our land during times of peace and times of war. They gave us our freedom, and they kept our freedom.

In the name of that freedom and democracy, they have sacrificed so very much to preserve our country and to protect others in the free world.

As we take time to honor America's veterans, let us celebrate the peace that they have secured.

Celebrated on the anniversary of Armistice Day, Veterans Day truly denotes a day dedicated to peace. It was 71 years ago—on the 11th hour of the 11th day of the 11th month—that the "war to end all wars" came to a close.

In 1958, Congress changed Armistice Day to Veterans Day, but the purpose of honoring the contributions and sacrifices of our veterans remained intact. Every November 11, the people of this country pause to honor those who have helped keep our Nation strong and our freedoms secure.

And today, we are very fortunate. Our Nation and the world are experiencing a period of extraordinary peace. We have not been involved in a major conflict since the Vietnam war ended, and we see what might be called the triumph of freedom spreading throughout Eastern Europe.

Changing views and attitudes in the Soviet Union bring great hope of world peace for years to come.

While we have experienced relative peace throughout our 200-year history as a Nation, we never hesitated to call our citizens to arms when the founding precepts of our country have been threatened. And, generously, Americans have answered.

I think President Bush hits the nail right on the head when he states in his Veterans Day proclamation that each American veteran is a source of strength and pride for our country. Over 27 million veterans remind us of this every day.

In my own State, New Mexicans have contributed more than a fair share of troops in all major conflicts since World War II. Currently over 170,000 veterans live in New Mexico. One out of every nine New Mexicans is a veteran.

I am proud of them, and I am proud of our State's support of the Armed Forces.

American veterans have given us the ultimate gift by securing the blessings of liberty for the United States. For this, we owe our veterans our gratitude and deepest thanks.

As we take a moment to honor America's veterans, recalling their sacrifices and achievements, let us remember how fortunate we are to call ourselves Americans. Let us reaffirm our commitment to keep faith with those who have faithfully served America.●

REV. WALTER L. BATTLE

● Mr. DURENBERGER. Mr. President, earlier this year, we in Congress passed a joint resolution declaring the week of September 24, 1989, "National Religious Freedom Week." Rev. Walter L. Battle, of Minnesota, was one of those who dedicated to establishing this national recognition. Today, I wish to honor Reverend Battle, for four decades of dedicated, caring service to humanity.

For the past 40 years, Reverend Battle and his wife Rev. Willa Battle have faithfully served the Minneapolis/St. Paul community in many capacities. In 1949, Reverend Battle founded the Gospel Temple Church in St. Paul, a truly successful beginning to a stellar career of devout service. Nine years later, he founded the House of Refuge in Minneapolis, and most recently established a modern day radio congregation, with a Sunday morning program "Your Church of the Air."

In addition to ministering to his congregations, Reverend Battle has also been active outside the church, working with local youths extensively. In addressing the need for inner city youth to obtain experience necessary to land decent jobs, he was key in organizing "Institute of Learning," an on-the-job training program.

Battle's service extends far beyond the Twin City Metro area, for in 1957 he started a mission to help the spiritually needy in Haiti. This mission has expanded from 100 churches in the beginning, to a current count of 642.

Through his infinite capacity to care, and endless patience to listen, Rev. Walter Battle has enriched our community. His service to the Lord is both admirable and commendable, and reflects a genuine, selfless love of a very special individual.●

A GLIMMER OF HOPE IN LEBANON

● Mr. PELL. Mr. President, the situation in Lebanon remains both desperate and serious. There is hope that the fragile cease-fire will remain intact, that the political settlement sponsored by the Arab League will hold, and that the election of a new Lebanese President will lead to the development of a unified government and the reconstruction of Lebanon. Yet, there is also fear that the opposing forces in Lebanon will prove irreconciliable, and still another vicious cycle of violence, suffering and death will be unleashed.

When viewed together, the dropoff of the shelling of Beirut and the significant movement toward a political settlement in Lebanon justify a degree of optimism. Tempered against this positive spirit, however, is the underlying recognition that the war in Lebanon has been ongoing for more than 14 years; there have been countless intermittent cease-fires, most of which have proved fleeting at best.

The Arab League effort to broker a settlement in Lebanon finally produced a full-fledged agreement at Taif, Saudi Arabia. The Taif accord led directly to the election of Lebanon's first leader since the term of former President Amin Gemayel expired. President Rene Moawad's election was rightly hailed by President Bush and the leaders of other interested Arab and European nations. The Taif accord also provides for a much-needed realignment of Lebanon's legislature.

It is regrettable that Gen. Michel Aoun, leader of the Lebanese Christian forces in Beirut, has announced his opposition to the accord on grounds that it does not provide for a concrete withdrawal of Syrian forces from Lebanon. The manner in which Aoun and his supporters have manifested their opposition has offended sensibilities and raised the specter of the accord's immediate demise. It also leads to the question of whether General Aoun is reflecting the views of his allies and Syria's implacable enemies—the Iraqis—rather than the true interests of the Lebanese.

Mr. President, the Syrian occupying presence in Lebanon serves no legitimate or useful purpose, and I understand that many Lebanese justifiably insist on more concrete assurances for its departure. Yet, I would caution that the all-or-nothing tenor of these objections runs the risk of destroying what little hope there is for Lebanon. While the Taif proposal does not provide an explicit timetable for a Syrian withdrawal, the delegates at Taif reached an understanding that the Syrians would regroup in the Bekaa Valley within 2 years. From there, the status of the agreement and the presence of the Syrian occupiers would be assessed. While there is room for discussion on this point, the overall agreement should not be placed in jeopardy grounds that some find this understanding insufficient.

Now is the time for diplomacy in Lebanon. Granted, diplomacy is a term that seems out of context in Lebanon, given the belligerent state of affairs that has existed for so long. Nonetheless, the opportunity is there, and we would be remiss if we did not seize it. The various parties in Lebanon, now that they have a breathing space, must make a reasoned judgment about their situation and decide to work within the framework that they have before them.

For far too long, the cedar has been hewn into pieces by conflict. Beirut, once a shining example of prosperity and development in the Middle East, has been razed into dust and rubble. Now that a true settlement is within the grasp of Lebanon, it would be tragic to let it fail. I would urge all of the interested parties in Lebanon to heed the call of peace and begin the process of rebuilding. I call upon our own President to focus his efforts on Lebanon and reengage the United States into the drive to restore order. Finally, despite the lessons of experience, I remain hopeful that the Lebanese will unite under their new leader and work together for the sake of the continued existence of their country.●

PAKISTAN'S TEST OF DEMOCRACY

● Mr. McCAIN. Mr. President, democracy in Pakistan was tested this week in the parliamentary confrontation between Prime Minister Bhutto's government and the Islamic Democratic Alliance over a no-confidence motion. It has been only a little more than a year since Pakistan began the transition from military rule to democracy, yet this week's events show how far democracy in Pakistan has come in so little time.

Never before in the Nation's 42-year history has a no-confidence vote been held. In previous confrontations, civilian rule has often been replaced by military rule. What we have witnessed this week marks a fundamental shift for Pakistan, away from contests between democratic and antidemocratic forces, and toward democratic opposition.

Prime Minister Bhutto and the Islamic Democratic Alliance are to be applauded for choosing democratic means to resolve their differences. By confining their confrontation to the National Assembly, they have demonstrated their democratic convictions. They have also shown those who doubt the durability of Pakistan's democracy that it has the resilience to withstand open democratic debate.

The results of the vote show that a viable democratic opposition exists in Pakistan. It is important for us in dealing with emerging democracies to recognize and encourage the development of democratic alternatives. And it is important for Pakistan to know that we recognize and appreciate the vitality of its democracy. A divergence of views is fundamental to democracy; but so also is the tolerance of democratic opposition. This week Pakistan has demonstrated its ability to develop, and tolerate democratic alternatives. In so doing, Pakistan has passed the test of democracy.●

VIOLENCE IN EL SALVADOR

● Mr. SIMON. Mr. President, in the September 20 CONGRESSIONAL RECORD, I mentioned a phone call and a conversation I had with Bishop Merardo Gomez of El Salvador, the Lutheran Bishop of El Salvador.

Unfortunately, less than a month later, there was a bombing of the house next to the bishop's residence, a house that was scheduled to become a church school.

I hope that what happened was not in response to the bishop's talking candidly to an American Senator.

I have written to the El Salvador Ambassador to the United States, and I ask to print that letter in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, November 3, 1989.

His Excellency MIGUEL SALAVERRIA,
Embassy of El Salvador, Washington, DC.

DEAR MR. AMBASSADOR: On September 20, in an exchange on the floor of the United States Senate with Senator TOM HARKIN, I quoted Bishop Merardo Gomez, the Lutheran Bishop, as saying: "Stop sending down these weapons that are killing us. Let us solve our problems down here."

I hope that the bombing was not in reprisal to a frank statement by the Lutheran Bishop to a United States Senator.

I would appreciate your notifying the government of El Salvador that protecting Bishop Gomez, and others who may differ with government policy, is extremely important if a reasonable relationship is to be maintained between the United States and El Salvador.

I look forward to hearing from you.

Cordially,

PAUL SIMON,
U.S. Senator.●

THE IMPORTANCE OF CARRIERS IN AN ERA OF CHANGING STRATEGIC PRIORITIES

● Mr. McCAIN. Mr. President, on Veterans Day, we will commission the U.S.S. *Lincoln*, our fifth Nimitz-class aircraft carrier. The *Lincoln* will be the largest ship ever built for the U.S. Navy. It will displace 100,000 tons. It is 1,040 feet long, and 134 feet wide, and its flight deck has an area of 4½ acres. It will be 244 feet from keel to mast top, the height of a 24-story building.

The U.S.S. *Lincoln's* importance does not, however, lie in its size. It lies in the fact that the *Lincoln* symbolizes the kind of power projection capability we need in an era of glasnost and changing strategic priorities. The *Lincoln* symbolizes the kind of flexible and global power projection we need to deal with future contingencies, it symbolizes the kind of force that needs to be given priority in an era of declining real defense resources, and it symbolizes the kind of capability that must be preserved in an era where we must make major changes in the roles and missions of our forces.

We often talk about scenarios and contingencies, but we often ignore the way in which we actually use our military power. As a result, I recently asked the U.S. Navy to prepare an analysis of how we have used military power since the end of World War II. I ask that the full text of this analysis be included in the record, but some of the key statistics involved virtually speak for themselves.

We have used military force well over 200 times since the end of World War II. While some controversy exists over the precise number of incidents that should be counted, and fully up-to-date figures are not available, it is clear that seapower was used in over 80 percent of these incidents, and that carrier forces were used in over half of these cases.

If we look at the use of naval power in the period between 1945 and 1989, we have more precise figures. There have been 187 times we have used seapower in the period between 1945 and November 1989. The vast majority of these uses have been to prevent war, to limit its escalation, or to protect American citizens or America's friends and allies. There have, however, also been many cases where seapower has had to play a critical role in combat. These cases include South Korea, Vietnam, Grenada, and the raid on Libya—just to name a few.

Mr. President, I ask that two tables outlining these 187 incidents be printed in the RECORD at the conclusion of my statement.

Mr. President, we used our carriers in 125 of these cases, or 67 percent. What is equally important is that we also relied on the U.S. Navy and Marine Corps team. We used amphibious ships in 101 cases, or 54 percent. In virtually all of the cases where we used Marine Corps forces, some 97 percent, we used U.S. Navy forces as well. The U.S. Navy also worked closely with the power projection elements of the U.S. Air Force and U.S. Army. U.S. Navy and U.S. Air Force units were involved in 54 of the 187 cases, or 29 percent. U.S. Army forces were involved in 34 cases, or 18 percent.

It seems almost certain that these trends will continue in the future, with the important change that there will be fewer and fewer cases which involve NATO, and particularly the central region, and fewer cases that involve any element of confrontation

with Soviet or other Warsaw Pact forces.

Regardless of what glasnost finally proves to mean, the world is still unfortunately a very troubled place. Our strategy, our force mix, and the roles and missions of our forces must change to reflect both the decline in our real defense resources and the fact that most of the threats to our interests, and our friends and allies, outside Europe will remain and often intensify.

Glasnost does not change the fact that there have been an average of more than 25 civil and international conflicts in the developing world in every year since the end of World War II. It will not change our growing dependence on trade.

Our energy dependence on imports is growing again, and is currently projected to grow steadily well into the next century. More than 35 percent of our petroleum products came from abroad last year. We are heavily dependent on imports of virtually all our critical minerals and most of our other raw materials.

Equally importantly, we are now critically dependent on the smooth flow of world trade. The total volume of U.S. imports rose from $16.3 billion in 1960 to $42.6 billion in 1970, and $257 billion in 1980. U.S. imports have virtually doubled again since 1980, and reached $460 billion in 1988. Further, global trade in high technology has more than doubled in the last 5 years. Trade in the five most critical technologies has risen from less than $90 billion in 1984 to more than $200 billion today.

Our strategy must reflect the fact that our economy is interdependent with that of our friends and allies, and they are even more dependent on global stability and the free flow of trade than we are. At the same time, it must reflect the fact that they will not suddenly develop power projection forces, or replace the role we play. The United States may not be the world's policeman in an era of détente, but its power projection forces will remain the free world's insurance policy in what will often be less than a kind of gentle world.

Further, we must shape our power projection forces around the reality that carrier task forces are our only insurance against the loss of, or restrictions in our use of, fixed oversea bases. We still have very important overseas bases, and many reliable friends and allies. We continue to improve our ability to project land-based airpower and use cruise missiles. Nevertheless, it is the carrier and amphibious forces that offer the only guarantee we have of full independence of action.

I do not mean in raising these points to imply that we need all of the forces that the U.S. Navy has sought in the past. I feel that we will need major adjustments in the now outdated concept of a 600-ship Navy, and in our naval aviation plan. Further, I strongly feel that we need to strengthen the power projection capabilities of the U.S. Air Force as we reduce the forces we have formerly shaped to meet contingencies required for a NATO-Warsaw Pact conflict.

If we focus on cutting back the large number of Active and Reserve Forces in the United States whose only real mission lay in refighting World War II, and a prolonged general war in Europe, we can afford to do this and will still keep our defense spending at the present level in constant dollars, or even make limited cuts.

We cannot, however, suddenly act as if the degree of resolution and dedication that led us to spend the resources to buy the U.S.S. *Lincoln* is no longer necessary. We are already in our fifth year of real cuts in defense spending. As a result, we will have cut defense expenditures by 11 percent in real terms relative to the peak levels reached under President Reagan.

We cannot afford to act as if we do not need to spend the money to remain a world power, and we need to clearly understand that we can easily afford the capabilities we need. For all the often careless talk about the strains we face in remaining a major power, we need to take full account of the following facts:

Defense spending will soon be only about 5 percent of our GNP. This compares with 39 percent of our GNP in World War II, 14 percent at the time of the Korean conflict, 10 percent in Vietnam, and 6.5 percent at the peak of the Reagan buildup.

Defense spending has dropped from over 90 percent of Federal spending in World War II to 70 percent during the Korean war, and 30 percent during most of the cold war, to levels of less than 25 percent.

Our Armed Forces now are only about 1.7 percent of the labor force, versus 2.2 percent in 1975, and 4.3 percent at the peak of the postwar buildup.

Military R&D has dropped from over 60 percent of all R&D in 1960, to less than 30 percent today.

In short, Mr. President, we not only can afford the power projection forces symbolized by the U.S.S. *Lincoln*, we must sustain those forces. It was our strength and resolution that forced the Warsaw Pact to accept the need for glasnost and Perestroika. It has been our strength and resolution that has prevented or limited conflict after conflict elsewhere in the world since 1945, and it will be that strength and resolution that will be essential to our security in the years to come.

The tables follow:

TABLE 1.—U.S. NAVY CRISIS RESPONSES, 1946–89

Number	Name	Begin date	Length	OAC	CVs	Am	USMC	USAF	USA
1	Coup Haiti	1/12/46	2	A3	0	N	N	N	N
2	Security of Turkey	3/22/46	19	A6	0	N	N	N	N
3	Greece, Pol. Conflict	4/10/46	5	A6	0	N	N	N	N
4	China Civil War	Apr–46	1,038	P4	?	Y	Y	Y	Y
5	Security of Trieste	6/3/46	65	A6	0	N	Y	N	N
6	Turkey/Greece	8/16/46	148	A6	1	Y	Y	N	N
7	Chilean Inauguration	11/1/46	6	P5	1	N	N	N	N
8	Lebanon	12/1/46	4	A6	1	Y	Y	N	N
9	Uruguayan Inaug	2/22/47	9	A4	0	N	N	Y	N
10	Greek Civil War	4/16/47	412	A6	1	Y	Y	N	N
11	Security of Turkey	5/2/47	396	A6	1	Y	N	N	N
12	Cuban Sup, Anti-Truj	Aug–47	59	A3	0	N	N	N	N
13	Security of Trieste	8/16/47	122	A6	0	N	N	N	Y
14	Elections in Italy	11/2/47	94	A6	1	N	N	N	N
15	Relations w/Argentina	1/11/48	7	A4	0	N	N	N	N
16	Arab-Israeli War	1/5/48	466	A6	1	Y	Y	N	N
17	Security of Trieste	1/16/48	88	A6	?	Y	Y	N	N
18	Interests in Persian Gulf	1/20/48	1	A7	0	N	N	N	N
19	Security of Norway	4/29/48	4	A5	1	N	N	N	N
20	Security of Berlin	6/26/48	401	A5	1	Y	Y	Y	Y
21	Gov Change, China	12/9/49	38	P4	1	N	N	N	N
22	Kor War, For Straits	6/27/50	951	P4	1	N	N	N	N
23	Kor War, Sec Europe	7/16/50	715	A5	2	Y	Y	Y	Y
24	Lebanon	8/14/50	1	A6	2	N	N	N	N
25	Security of Yugoslavia	3/15/81	869	A6	2	Y	Y	N	N
26	China-Taiwan Conflict	2/2/53	2	P4	?	N	N	N	N
27	Dien Bien Phu	3/13/54	90	P4	2	N	N	N	N
28	Honduras-Guatemala	5/20/54	14	A3	1	Y	Y	N	N
29	PRC ShDo U.K. A/C	7/24/54	6	P4	2	N	N	N	N

TABLE 1.—U.S. NAVY CRISIS RESPONSES, 1946–89—Continued

Number	Name	Begin date	Length	OAC	CVs	Am	USMC	USAF	USA
30	Vietnam Evacuations	Aug–54	305	P4	0	Y	Y	N	N
31	Accord on Trieste	10/7/54	20	A6	0	N	N	N	Y
32	Tachen Islands	2/8/55	6	P4	6	Y	Y	Y	N
33	Red Sea Patrols	Feb–56	183	A7	0	N	N	N	N
34	Jordan	Mar–56	62	A6	2	Y	Y	N	N
35	Pre-Suez	Aug–56	69	A6	2	Y	Y	N	N
36	Suez War	10/30/56	8	A6	3	Y	Y	Y	N
37	Post-Suez	11/6/56	38	A6	8	Y	Y	N	N
38	Cuban Civil War	Dec–56	435	A3	1	Y	Y	N	N
39	Jordan Unrest	4/25/57	9	A6	2	Y	Y	N	N
40	Haiti	6/14/57	18	A3	0	Y	Y	N	N
41	PRC–ROC tension	Jul–57	63	P4	3	?	Y	N	N
42	Syria	8/21/57	118	A6	4	Y	Y	Y	N
43	Indonesia	12/10/57	174	P4	2	Y	Y	N	N
44	Venezuela	5/13/58	3	A3	0	Y	Y	N	Y
45	Lebanon	5/15/58	48	A6	3	Y	Y	N	N
46	Lebanon	Jul–58	93	A6	3	Y	Y	Y	Y
47	Jordan-Iraq	7/17/58	138	A7	0	N	N	N	N
48	Quemoy	Aug–58	67	P4	6	Y	Y	Y	N
49	Panama	4/30/59	5	A3	0	N	N	N	N
50	Berlin Crisis	May–59	145	A5	2	N	Y	Y	Y
51	Laos	Jul–59	103	P4	1	Y	Y	Y	Y
52	PRC–ROC	7/5/59	6	P4	2	?	N	N	N
53	Panama	Aug–59	93	A3	0	N	N	N	N
54	Congo	7/1/60	124	A4	1	Y	Y	Y	Y
55	Guatemala	11/14/60	27	A3	2	N	N	N	N
56	Laos	1/1/61	6	P4	3	Y	Y	Y	Y
57	Gulf of Guinea-Congo	2/2/61	34	A4	0	Y	Y	N	N
58	Laos	3/21/61	85	P4	3	Y	Y	N	N
59	Bay of Pigs	Apr–61	62	A3	2	Y	Y	Y	N
60	Dominican Republic	5/30/61	12	A3	3	Y	Y	Y	Y
61	Zanzibar	Jun–61	31	P6	0	Y	Y	N	N
62	Kuwait	7/4/61	4	P6	0	Y	Y	N	N
63	Berlin Crisis	Jul–61	102	A5	3	Y	Y	Y	Y
64	Dominican Republic	11/18/61	32	A3	1	Y	Y	N	N
65	South Vietnam	Dec–61	244	P4	0	N	N	N	Y
66	Dominican Republic	1/18/62	2	A3	0	Y	Y	N	N
67	Guatemala Riots	3/14/62	9	A3	1	Y	Y	N	N
68	South Vietnam	4/15/62	849	P4	0	Y	Y	N	N
69	Thailand	5/10/62	90	P4	2	Y	Y	N	N
70	Guantanamo	6/25/62	3	A3	0	Y	Y	N	N
71	Haiti Civil Disorder	Aug–62	14	A3	1	Y	Y	N	N
72	Cuban Missile Crisis	10/14/62	38	A1	8	Y	Y	Y	Y
73	Sino-Indian War	11/19/62	2	P6	1	N	N	N	N
74	Laos	Apr–63	35	P4	2	Y	Y	N	N
75	Haitian Unrest	4/29/63	34	A3	1	Y	Y	N	N
76	Haiti Civil War	8/6/63	17	A3	1	Y	Y	N	N
77	Vietnam Civil Disorder	8/25/63	93	P4	2	Y	Y	N	N
78	PRC–ROC	9/20/63	5	P4	1	N	N	N	N
79	Dominican Republic	9/25/63	81	A3	0	Y	N	N	N
80	Indonesia-Malaysia	Oct–63	78	P4	1	N	N	N	N
81	Zanzibar	1/12/64	2	P6	0	N	N	N	N
82	Tanganyika	1/20/64	7	P6	0	N	N	N	N
83	Carib. Surveillance	1/15/64	92	A3	0	N	N	N	N
84	Panama	Jan–64	101	A3	0	Y	Y	Y	Y
85	Venezuela	Jan–64	310	A3	0	N	N	N	N
86	Cyprus	1/22/64	269	A6	1	Y	Y	Y	N
87	Brazil	3/31/64	4	A4	1	N	N	N	N
88	Laos	4/21/64	42	P4	2	N	Y	Y	N
89	Guantanamo	5/1/64	7	A3	0	Y	Y	N	N
90	Panama	5/7/64	14	A3	0	Y	Y	N	N
91	Dominican Republic	7/24/64	5	A3	0	N	N	N	N
92	Gulf of Tonkin	8/2/64	9	P4	2	N	N	N	N
93	Haiti	8/7/64	3	A3	0	N	N	N	N
94	Panama	1/7/65	6	A3	0	Y	N	N	N
95	Tanzania	1/17/65	1	P6	0	N	N	N	N
96	Venezuela-Colombia	Jan–65	91	A3	0	N	N	N	N
97	British Guiana	Apr–65	11	A3	0	N	N	N	N
98	Dominican Republic	4/24/65	515	A3	2	Y	Y	Y	Y
99	Yemen	Jul–65	32	P6	0	N	N	N	N
100	Cyprus	8/3/65	30	A6	1	Y	Y	N	N
101	Indonesia	10/2/65	8	P4	0	Y	Y	N	N
102	Indo-Pakistani War	9/11/65	25	P6	0	N	N	Y	N
103	Greek Coup	4/21/67	23	A6	1	Y	Y	N	N
104	Six Day War	6/6/67	6	A6	2	Y	Y	Y	Y
105	DD Eilat Sinking	10/21/67	12	A6	2	N	N	N	N
106	Cyprus	11/15/67	24	A6	1	Y	Y	N	N
107	USS Pueblo	1/24/68	59	P4	3	N	N	Y	N
108	EC–121 Shootdown	4/14/69	26	P4	4	N	N	Y	Y
109	Curacao Civil Unrest	5/31/69	1	A3	0	Y	Y	N	N
110	Lebanon-Libya Ops	10/26/69	5	A6	2	Y	Y	N	N
111	Trinidad	4/22/70	6	A3	0	Y	Y	Y	N
112	Jordan	6/11/70	7	P6	1	Y	Y	Y	N
113	Jordan	9/2/70	60	A6	3	Y	Y	Y	Y
114	Haiti Succession	4/22/71	37	A3	0	N	Y	N	N
115	Indo-Pakistani War	12/10/71	30	P6	1	Y	N	N	N
116	Bahama Lines	12/15/71	52	A3	0	N	N	N	N
117	Lebanon	5/3/73	7	A6	2	Y	Y	N	N
118	Middle East War	10/6/73	48	A6	3	Y	Y	Y	Y
119	Middle East Force	10/24/73	22	A7	0	N	N	N	N
120	Oil Embargo-IO Ops	10/25/73	159	A6	1	N	N	N	N
121	Cyprus	7/15/74	39	A6	2	Y	Y	Y	Y
122	Cyprus Unrest	1/18/75	4	A6	1	Y	Y	N	N
123	Ethiopia	2/3/75	4	A7	0	N	N	N	N
124	Mayaguez	5/13/75	3	P4	2	Y	Y	Y	N
125	Lebanon	Aug–75	367	A6	1	Y	Y	N	N
126	Polisario Rebels	1/5/76	18	A5	0	Y	N	N	N
127	Tunisia	7/27/76	25	A6	0	N	N	N	N
128	Kenya-Uganda	7/8/76	20	P6	1	N	N	N	N
129	Korean Tree Incident	8/19/76	21	P4	1	N	N	Y	Y
130	Uganda	2/25/77	6	P6	1	N	N	N	N
131	Ogaden War	Feb–78	51	P6	1	N	N	Y	N
132	Sea of Okhotsk	6/15/78	10	P4	0	N	N	N	N
133	Afghanistan	Jul–78	31	P6	1	N	N	N	N
134	Nicaragua	9/16/78	16	A3	0	N	N	Y	N
135	Iran Revolution	12/6/78	86	P6	1	Y	Y	Y	N

TABLE 1.—U.S. NAVY CRISIS RESPONSES, 1946–89—Continued

Number	Name	Begin date	Length	OAC	CVs	Am	USMC	USAF	USA
136	China-Vietnam	2/25/79	6	P4	1	N	N	N	N
137	Yemen	3/6/79	93	P6	1	N	N	Y	N
138	Soviet Troops in Cuba	10/2/79	46	A3	1	Y	Y	Y	N
139	Afghan/Iran Hostages	10/9/79	472	P6	2	Y	Y	Y	Y
140	Park-Chung Hee	10/26/79	9	P4	1	N	N	Y	Y
141	Korea	5/27/80	33	P4	1	N	N	Y	Y
142	Iran-Iraq War	9/30/80	125	P6	2	N	N	Y	N
143	Poland	12/9/80	24	A5	0	N	N	Y	N
144	Morocco	1/29/81	10	A5	0	N	N	N	N
145	Liberia	8/1/81	15	A5	0	N	N	N	Y
146	Syria	5/3/81	135	A6	2	Y	Y	N	N
147	Libya	8/1/81	20	A6	2	N	N	N	N
148	Sadat-Sudan	10/7/81	24	A6	1	Y	Y	Y	N
149	Central America	10/16/81	47	A3	2	Y	Y	N	N
150	Israeli Invasion	6/8/82	45	A6	1	Y	Y	N	N
151	Peacekeeping Force	8/10/82	30	A6	2	Y	Y	N	N
152	Palestinian Massacre	9/22/82	143	A6	2	Y	Y	N	N
153	Libya-Sudan	2/14/83	11	A6	1	N	N	N	N
154	Honduras	6/14/83	131	A3	1	Y	Y	N	Y
155	Marine Barracks Bomb	8/29/83	170	A6	2	Y	Y	Y	N
156	Libya-Chad	8/1/83	16	A6	1	N	N	N	N
157	KAL 007	9/1/83	66	P4	0	N	N	Y	N
158	Iran-Iraq	10/8/83	92	P6	1	Y	Y	Y	N
159	Korea-Burma	10/11/83	3	P4	1	N	N	Y	N
160	Syria	12/3/83	37	A6	1	Y	Y	N	N
161	Grenada	10/20/83	23	A3	1	Y	Y	Y	Y
162	Central America	3/13/84	264	A3	1	Y	Y	Y	Y
163	Persian Gulf	Apr–84	245	A7	1	N	N	Y	N
164	Red Sea Mines	8/3/84	46	A7	0	Y	N	N	N
165	Beirut Embassy	9/21/84	42	A6	0	Y	Y	N	N
166	Saudi Hijacking	11/6/84	1	A6	1	N	N	N	N
167	Cuba	11/30/84	1	A4	1	N	N	Y	N
168	U.S. Pers. in Lebanon	Mar–85	32	A6	1	N	N	N	N
169	TWA 847 Hijacking	6/14/85	41	A6	1	Y	Y	N	N
170	Persian Gulf	9/13/85	19	A7	0	N	N	N	N
171	Achille Lauro	10/7/85	4	A6	1	Y	Y	N	N
172	Egypt-Air Hijacking	11/23/85	3	A6	1	N	N	N	N
173	Persian Gulf Escort	1/12/86	141	A7	0	N	N	N	N
174	Yemen Civil War	Jan–86	32	P6	0	N	N	N	N
175	OVL–FON Ops	Feb–86	85	A6	3	N	N	N	N
176	Lebanon Hostages	Mar–86	1	A6	0	N	N	N	N
177	LaBelle Disco, Libya	4/10/86	6	A6	2	N	N	Y	N
178	Pakistan hijacking	Sep–86	1	A6	1	N	N	N	N
179	Persian Gulf Ops	Jan–87	579	A7	2	Y	Y	Y	Y
180	Hostages in Lebanon	Feb–87	29	A6	1	N	N	N	N
181	Summer Olympics	Sep–88	31	P4	2	Y	Y	Y	Y
182	Burma Unrest	Sep–88	31	P6	0	Y	Y	N	N
183	Maldives Coup	11/17/88	1	P6	1	N	N	N	N
184	Lebanon Civil War	Feb–89	45	A6	?	Y	Y	N	Y
185	China Civil Unrest	Jun–89	31	P4	1	N	N	N	N
186	Panama Elections	5/11/89	52	A3	1	Y	Y	Y	Y
187	Hostages in Leb	8/1/89	32	A6	2	Y	Y	N	N

Notes.—This table is the result of preliminary research. It is likely that specific items in the table will be adjusted during future work.

Column headings:

Begin date: Date of first known movement of U.S. Navy surface forces in response to crisis. In some cases (primarily in the 1946–1954 period from the Brookings Force Without War database), the begin date is for the first use of U.S. armed forces in the response. When the date is given in the form "Mon-Yr" rather than "M/D/Yr," it is because a specific starting date of operations is not known.

Length: In days, from "Begin date" to known (or the best estimate of the) release date of forces to normal operations. In some cases the date that operations became institutionalized, continuing operatins was used as the end of the crisis response.

OAC: U.S. Navy Ocean Area Code as displayed in figure 1. This is the location of the crisis or of the main portion of the crisis response.

CVs: Largest number of carriers known to be operating in the crisis response at any one point. (Both CVAs and CVSs are counted in this column.) A "?" indicates that carrier involvement is assumed but that exact vessel(s) are not known.

Am: Are amphibious ships know to have been involved in the crisis response? A "?" indicates that amphibious ship involvement is assumed but that exact vessel(s) are now known.

USMC: Are U.S. Marine Corps forces known to have been involved in the crisis response?

USAF: Are U.S. Air Force forces known to have been involved in the crisis response? (This column relies heavily upon the Brookings (and Zelikow) Force Without War data for the 1946–1982 period. If "USAF" or "Transport" aircraft were indicated in the Force Without War database, then a "Y" has been entered. There are a number of cases in which information available indicates USAF involvement even when the Brookings data do not indicate such involvement. In those cases a "Y" was also entered.)

USA: Are U.S. Army forces known to have been involved in the Crisis Response? (This column relies heavily upon the Brookings (and Zelikow) Force Without War database for the 1946–1982 period. If "USA" involvement is indicated in the Brookings data base, then a "Y" has been entered. There are a number of cases in which information available indicates USA involvement even when the Brookings data do not indicate such involvement. In those cases a "Y" was also entered.)

Sources: See Selected Bibliography.

TABLE 2.—DESCRIPTIONS OF U.S. CRISIS RESPONSES

Number	Name	Begin date	Length	OAC	CVs	Am	USMC	USAF	USA
1	Coup Haiti	1/12/46	2	A3	0	N	N	N	N
On 10 January 1946, a military junta overthrew the government of President Elie Lescot in Haiti. USN forces in the Caribbean moved toward Honduras but were soon recalled as the situation quickly stabilized.									
2	Security of Turkey	3/22/46	19	A6	0	N	N	N	N
Amidst Soviet pressure on Turkey and tension over the Soviet presence in Iran, the U.S. Government decided to use the battleship Missouri to return the body of the deceased Turkish ambassador to the United States to Turkey for burial. The Missouri, which departed the U.S. on 22 March, arrived in Istanbul on 5 April. This was taken as a strong sign of U.S. support for and commitment to Turkey.									
3	Greece, Pol. Conflict	4/10/46	5	A6	0	N	N	N	N
On 10 April 1946, following her visit in Istanbul, USS Missouri entered Piraeus harbor. This was during a period of significant Eastern Bloc pressure on Greece and was meant to signal U.S. resolve to support the Greek Government.									
4	China Civil War	Apr–46	1038	P4	?	Y	Y	Y	Y
On 9 January 1946, Communist and government troop movements were suspended in accordance with a truce agreement. In April, the truce collapsed as Communists forces attacked Nationalist-held towns and all-out conflict renewed. Following the breakdown of the truce in China, the U.S. Navy resumed transporting Nationalist troops within the country. Over the next years, significant U.S. force movements occurred within China. For example, in November 1948, 1,250 Marines from Guam reinforced the USMC garrison at Tsingtao and, in mid-December, a contingent of Marines moved from Tsingtao to Shanghai to protect the 2,500 U.S. nationals in the city.									
5	Security of Trieste	6/3/46	65	A6	0	N	Y	N	N
On 2 June 1946, the Governments of the U.S. and U.K. formally protested Yugoslavian obstruction of the Allied Military Government in Trieste. The next day, the U.S. Navy confirmed that the cruiser Fargo was en route to Trieste. In late June, as many as ten Allied warships, including USN and RN battleships, lay off the coast.									
6	Turkey/Greece	8/16/46	148	A6	1	Y	Y	N	N
On 7 August 1946, following Turkish elections, the Soviet Union renewed its demands for a revision of the Montreaux Convention governing access to the Black Sea, and Soviet naval activity in the region began. On 10 August, the Turkish Premier reaffirmed Turkey's intent to continue opposition to the Soviet demands. In the coming months, U.S. and U.K. naval activity in region greatly increased, and on 18 October Turkey rejected the Soviet demands. In the same period the Communist insurgency in Greece grew dramatically. On 5 September CVB Franklin Delano Roosevelt and four escorts arrived in Piraeus to underscore the U.S. support for the Greek Government. On 9 September, as Roosevelt left port, 78 U.S. aircraft flew over the task force. On 30 September, the U.S. Government announced that U.S. Navy units would be permanently stationed in the Mediterranean to carry out American policy and diplomacy.									
7	Chilean Inauguration	11/1/46	6	P5	1	N	N	N	N

TABLE 2.—DESCRIPTIONS OF U.S. CRISIS RESPONSES—Continued

Number	Name	Begin date	Length	OAC	CVs	Am	USMC	USAF	USA
Following a leftist victory in the September election and a month of tensions over the results, the United States announced that a five-ship squadron would visit Chile for the inauguration. The USN ships arrived on 1 November.									
8	Lebanon	12/1/46	4	A6	1	Y	Y	N	N
Just prior to the withdrawal of the last French troops from Lebanon (which occurred in late December), elements of the U.S. Mediterranean Fleet made a well-publicized port visit in Beirut.									
9	Uruguayan Inaug	2/22/47	9	A4	0	N	N	Y	N
To emphasize U.S. support for the new Uruguayan Government, a Navy and Army Air contingent was sent to Montevideo for the 1 March 1947 inauguration. On 23 February seven B–29 Superfortresses representing the Army left Salina, Kansas. The Navy contingent consisted of the light cruiser Fresno and four destroyers.									
10	Greek Civil War	4/16/47	412	A6	1	Y	Y	N	N
On 30 January 1947, the Government of Greece declared martial law amidst the worsening conflict with the Communist insurgents. On 21 February, the United Kingdom announced that it could no longer afford to give military aid to Greece and Turkey. Amidst the debate in the U.S. Congress over an aid package to the two countries, elements of the U.S. Navy's Mediterranean Fleet, including the carrier Leyte, visited Greece ports.									
11	Security of Turkey	5/2/47	396	A6	1	Y	N	N	N
Amidst a significant reduction in the U.K. Eastern Mediterranean presence and continued pressure from the USSR upon Turkey, the U.S. government offered a large aid package to Turkey. In what was seen as linked to the aid package issue, four USN ships (including the aircraft Leyte) made a week-long port visit in Istanbul.									
12	Cuban Sup, Anti-Truj	Aug–47	59	A3	0	N	N	N	N
The Cuban Government began supporting anti-Trujillo forces as early as January 1946. In July 1947, the Trujillo regime began to perceive the exiles as a major threat and, on 18 August, the Dominican Republic's armed forces were put on alert. Following this, USN operations in the Caribbean increased as part of growing U.S. pressure on Cuba. On 28 September, the revolutionary forces were disbanded by Cuba.									
13	Security of Trieste	8/16/47	122	A6	0	N	N	N	Y
In August 1947, there was evidence of progress on the questions surrounding the division of Trieste. On 3 September, an accord for withdrawal from Trieste was signed; 5000 U.S. troops along with equal contingents of British and Yugoslav soldiers were to remain, with the city divided into two zones. Despite the agreement, tension continued as Yugoslavia tested the Anglo-U.S. commitment. For example, on 16 September, 12 U.S. Army troops, who were soon reinforced, blocked the movement of 2,000 Yugoslavian troops into the western zone of the city.									
14	Elections in Italy	11/2/47	94	A6	1	N	N	N	N
Amidst growing fears of a Communist victory and increasing domestic violence, the United States announced a delay to late November of the departure of the last occupation troops in Italy. USN ships were moved to the area as the troops remained through mid-December following President Truman's 12 December pledge that the U.S. would defend Italy despite the withdrawal of the last 1,600 troops.									
15	Relations w/Argentina	Nov–48	7	A4	0	N	N	N	N
In the fall of 1948, a period of gradually worsening U.S. relations was generally linked to the 9 September speech by the Argentinian leader in which he threatened to hang his opponents. Relations improved in November following a two-ship USN port visit.									
16	Arab-Israeli War	1/5/48	466	A6	1	Y	Y	N	N
In early January 1948 the Sixth Fleet began patrol operations in the Eastern Mediterranean as the situation in Palestine deteriorated as the end of the British Mandate period approached. On 15 May Israel declared its independence and Arab forces invaded. On 19 June, the Chief of Naval Operations assigned three destroyers to the U.N. mediator for the Palestinian truce. On 23 July, USS Putnam evacuated the U.N. team from Haifa and became the first USN ship to fly the U.N. flag.									
17	Security of Trieste	1/16/48	88	A6	?	Y	Y	N	N
In early January 1948, Yugoslav Communist labor unions called for a general strike in Trieste. Shortly thereafter, 1,000 Marines of the 2d USMC division left for the Mediterranean one day ahead of schedule. This was perceived as a warning for Yugoslav troops not to molest U.S. Army troops in Trieste. The departure of the marines being replaced was postponed, thereby doubling the USMC presence in the Mediterranean for a period.									
18	Interests in Persian Gulf	1/20/48	1	A7	0	N	N	N	N
To underscore the U.S. commitment to the Persian Gulf region, the USN Persian Gulf Area Command was formally established (the name was changed to Middle East Force in August 1948) with a seaplane tender as the flag (and only) ship. This formalized a deployment that has continued, at some force level, to this day. The Soviet Union criticized the establishment of the command within a few days.									
19	Security of Norway	4/29/48	4	A5	1	N	N	N	N
Amidst fears of a Communist coup in Norway and growing Soviet press attacks on Norway and Sweden, a U.S. ship visit to Oslo was announced in early April. On 29 April, the aircraft carrier Valley Forge and three escorts arrived for a four-day port visit.									
20	Security of Berlin	6/26/48	401	A5	1	Y	Y	Y	Y
On 1 April 1948, the Soviet Union temporarily restricted Western access to Berlin. On 24 June, all Western transportation to the city was cut-off. On 26 June 1948, the Berlin airlift was initiated to offset the blockade. In addition to USN air units that participated in the airlift, a carrier battle group (CVBG) was moved into the North Atlantic. The blockade was declared lifted by the Soviets on 12 May 1949. The airlift continued through 30 September 1949.									
21	Gov Change, China	12/9/49	38	P4	1	N	N	N	N
On 8 December 1949 the Nationalist government and forces withdrew to Taiwan and formally established the Republic of China (ROC). The next day, the U.S. Navy announced that the Pacific Fleet was understrength and would be reinforced by vessels from the Atlantic. On 29 December, "Boxer" was assigned to the Western Pacific in the first aircraft carrier deployment there since April 1949.									
22	Kor War, For Straits	6/27/50	951	P4	1	N	N	N	N
During the Korean War, USN forces were ordered to the Formosa Straits on a number of occasions to counteract threats of a People's Republic of China (PRC) invasion of Taiwan. For example, at the very beginning of the war, aircraft from the carrier "Valley Forge" flew over Taipei in a demonstration of U.S. commitment to the Republic of China. In April 1951, TF 77 was ordered to the Taiwan Straits from Korean waters to counteract a threatened invasion of Taiwan from Communist China. TF 77 operated in the Straits from 11 to 14 April, then returned to Korean waters.									
23	Kor War, Sec Europe	7/16/50	715	A5	2	Y	Y	Y	Y
With the outbreak of war on the Korean peninsula, it was feared that the Soviets would invade Western Europe. Over the next two years, U.S. forces were built up in Europe.									
24	Lebanon	8/14/50	1	A6	1	N	N	N	N
At the request of the Lebanese Government, USS Midway (CVB), Leyte (CVL), Salem (CA), Columbus (CA), and destroyers visited Beirut and gave a carrier aircraft demonstration. This demonstrated U.S. presence in the Mediterranean in spite of the deep U.S. involvement in Korea.									
25	Security of Yugoslavia	3/15/51	869	A6	2	Y	Y	N	N
In the Summer of 1948 Yugoslavia was expelled from the Comintern. Over the next several years, there were serious tensions between Yugoslavia and its Communist neighbors. In March 1951, Tito claimed that Romania, Hungary, Bulgaria, and the Soviet Union were massing forces along Yugoslavia's border. In mid-March, a reinforced Marine Corps battalion arrived in the area. Later in March, the relief force for the Mediterranean arrived six weeks early to cover "the politically critical spring period." In the last week of May, the Fleet was augment with another aircraft carrier. In September 1952, President Tito went to sea aboard the carrier Coral Sea (a demonstration to the Soviet Union that American aid was available and acceptable to Yugoslavia).									
26	China-Taiwan Conflict	2/2/53	2	P4	?	N	N	N	N
Three years after President Truman gave TF77 orders to operate in the Formosa Straits to both prevent an attack by the PRC on Taiwan and by the ROC against the mainland, President Eisenhower ordered that TF72 should cease the blockade of Taiwan. Eisenhower's goal was to "de-neutralize" the island.									
27	Dien Bien Phu	3/13/54	90	P4	2	N	N	N	N
On 13 March 1954, the battle for Dien Bien Phu began in earnest as the Viet Minh launched their first major assaults on the French garrison. On 19 March, USN forces in the region, including the carriers Wasp and Essex were put on alert. The carrier task group steamed on 22 March for a position off the Indochina coast. On 18 April, USN pilots flew 25 aircraft from Saipan (CVL–48) to a French airfield in Indochina. On 7 May, Dien Bien Phu fell.									
28	Honduras-Guatemala	5/20/54	14	A3	1	Y	Y	N	N
In January 1954, the leftist Guatemalan Government requested arms from the Soviet Bloc in reaction to a U.S. decision to support an anti-Government "liberation" movement. On 20 May the first Soviet arms shipment arrived. On that day, the Caribbean Sea Frontier established air-sea patrols in the Gulf of Honduras to protect Honduras from invasion and to control arms shipments to Guatemala. On 3 June, the U.S. airlifted arms to Honduras, and on 18 June, the U.S. announced a complete arms embargo against Guatemala. The crisis ended after a 29 June coup that led to an anti-Communist government in Guatemala.									
29	PRC ShDo U.K. A/C	7/24/54	6	P4	2	N	N	N	N
On 23 July 1954, aircraft shot down a Cathay Pacific (U.K.) airliner, killing 10 of 18 aboard (including 6 Americans). USN aircraft from the carriers Philippine Sea and Hornet provided air cover to the rescue operations. On 26 July, three aircraft from Philippine Sea shot down two PRC fighters that had fired upon them.									
30	Vietnam Evacuations	Aug–54	305	P4	0	Y	Y	N	N
Acting under the terms of the Indochina accords of 1954, the USN and USMC assisted in the relocation of civilians and materiel from North to South Vietnam. Over the course of operation "Passage to Freedom," over 310,000 civilians, 88,000 tons of cargo, and 8,100 vehicles were transported. The operation involved 109 ships and craft, 59 of which were from the amphibious forces.									
31	Accord in Trieste	10/7/54	20	A6	0	N	N	N	Y
On 5 October 1954, an agreement settling the nine-year-old Trieste discord was signed. Ships from the Sixth Fleet moved into the Adriatic Sea as the 3,000 U.S. Army occupation troops were withdrawn. The withdrawal was completed on 26 October.									
32	Tachen Islands	2/8/55	6	P4	6	Y	Y	Y	N
In January 1955, PRC forces began to bombard the Tachen Islands, and, in early February, the ROC decided to evacuate of the islands. The U.S. Navy evacuated over 15,000 civilians and 11,000 military personnel from the islands.									
33	Red Sea Patrols	Feb–56	183	A7	0	N	N	N	N

TABLE 2.—DESCRIPTIONS OF U.S. CRISIS RESPONSES—Continued

Number	Name	Begin date	Length	OAC	CVs	Am	USMC	USAF	USA
In response to the growing tension in the Middle East (which centered around the Suez Canal), a destroyer patrol was formed in the Red Sea.									
34	Jordan	Mar-56	62	A5	2	Y	Y	N	N
Following a period of growing internal tension and foreign policy turmoil, King Hussein dismissed British General Glubb as Commander of the Jordanian Arab Legion. In reaction to this move, two carriers (Coral Sea and Randolph) and an amphibious force were moved into the Eastern Mediterranean. The formation of a new cabinet in May effectively ended this crisis.									
35	Pre-Suez	Aug-56	69	A6	2	Y	Y	N	N
Egypt nationalized the Suez Canal on 26 July 1956. Tensions immediately rose as both France and the United Kingdom began preparations for military operations. Two carriers (Coral Sea and Randolph) and an amphibious force (which was reinforced in early September) were moved into the Eastern Mediterranean. The fleet dispersed in mid-September as the level of tension in the area appeared to subside.									
36	Suez War	10/30/56	8	A6	3	Y	Y	Y	N
On 29 October 1956, Israel attacked Egypt and, the next day, the United Kingdom and France joined in the invasion. The United States opposed the invasion. Major portions of the Sixth Fleet, including three carriers, were moved into the Eastern Mediterranean. Amphibious forces evacuated over 2,000 endangered Western nationals from the region.									
37	Post-Suez	11/6/56	38	A6	8	Y	Y	N	N
On 5 November 1956, the Soviet Union sent threatening diplomatic notes to Israel, France, and the United Kingdom. The next day, a ceasefire took effect and Egyptain President Nasser requested the assistance of the Sixth Fleet to forestall Soviet intervention. On 7 November, Washington received reports that the USSR would transit six ships from the Black Sea to the Mediterranean. In response, the CNO ordered that a three carrier task force to sail from the U.S. to the Western Pacific and a two-carrier task force was directed to the Azores. USN forces worldwide were ordered to maintain readiness to execute emergency war plans. Surveillance operations in the Mediterranean were intensified as well. Tensions continued at a high level until U.N. forces were brought into Egypt to serve as a "buffer" on 15 November. The Sixth Fleet was removed from 24-hour alert status on 13 December.									
38	Cuban Civil War	Dec-56	435	A3	1	Y	Y	N	N
During the final phases of Castro's campaign from late 1956 through early 1959, U.S. Navy and Marine forces deployed intermittently to the area. The most significant event came following a 23 October 1958 request by the State Department for the evacuation of U.S. nationals from the Cuban port of Nicaro. The next day Kleinsmith (APD-134) conducted the evacuation without incident. The carrier Roosevelt stood by farther out to sea as a contingency force to cover the operation.									
39	Jordon Unrest	4/25/57	9	A6	2	Y	Y	N	N
On 15 April 1957, King Hussein dismissed the Jordanian cabinet, leading to urban demonstrations on the 22nd through the 24th. On the 25th, the new royalist government declared martial law. On the same day, major elements of the Sixth Fleet deployed towards the Eastern Mediterranean to demonstrate American support for the King.									
40	Haiti	6/14/57	18	A3	0	Y	Y	N	N
On 14 June 1957 Haiti's provisional government was overthrown by a military coup. The United States responded with a theater alert of amphibious and surface units of the Caribbean Ready Amphibious Squadron.									
41	PRC-ROC tension	Jul-57	63	P4	3	Y	Y	N	N
In June 1957, a build up of PRC forces opposite Taiwan was reported. In response, Navy forces were deployed to the region with a maximum concentration (three aircraft carriers) occurring in September.									
42	Syria	8/21/57	118	A6	4	Y	Y	Y	N
Because of changes in the Syrian Government, Syria's relations with both the United States and neighboring countries deteriorated. Major portions of the Sixth Fleet were moved to the Eastern Mediterranean, and aircraft were redeployed from Western Europe to Adana, Turkey, as the U.S. made assurances to Syria's neighbors that the U.S. would support them against external aggression.									
43	Indonesia	12/10/57	174	P4	2	Y	Y	N	N
From December 1957 through June 1958, there were a number of revolts against the authority of the Sukarno regime. Primarily because of concern over the safety of U.S. citizens and their property, a contingency evacuation force operated north of Sumatra for much of this period. The standby force was disbanded after the central governmenmt contained the rebellions in June 1958.									
44	Venezuela	5/13/58	3	A3	0	Y	Y	N	Y
On 13 May 1958, a mob attacked the motorcade carrying Vice President Nixon from the airport to Caracas. Two companies of the 2nd Marine Division were airlifted from Camp Lejeune to Guantanamo, Cuba, where they boarded an amphibious ship. Two Army companies of airborne infantry were moved from Ft. Campbell, Kentucky, to Puerto Rico. The alert was cancelled on the 15th, following the Vice President's departure from Venezuela.									
45	Lebanon	5/15/58	48	A6	3	Y	Y	N	N
On 15 May 1958, Lebanese President Chamoun informed the U.S. ambassador that U.S. assistance might be requested because of the entrance of Syrian partisans into Lebanon. Three aircraft carriers and a reinforced Marine force were deployed off Lebanon's coast. By 1 July, reports that there had been no massive infiltration of forces led to the withdrawal of most of the forces from the area.									
46	Lebanon	Jul-58	93	A6	3	Y	Y	Y	Y
On 14 July 1958, following a turn for the worse with serious rioting in Beirut, Lebanese President Chamoun requested U.S. assistance. On the same day there was a coup in Iraq that overthrew a pro-Western government. The first Marine Corps unit landed the next day. The supporting naval force included over 60 vessels, including 3 carriers and an 8-ocean-going minesweeper (MSO) mine force.									
47	Jordan Iraq	7/17/58	138	A7	0	N	N	N	N
Following the coup against the pro-Western Iraqi Government, Jordan's King Hussein requested and received a contingent of British paratroopers. Several surface vessels were redeployed in connection with the British operation.									
48	Quemoy	Aug-58	67	P4	6	Y	Y	Y	N
On 23 August 1958, PRC forces began to shell the Quemoy Islands group, raising the possibility that the islands be cut off from Taiwan. By the first week of September, a Marine Amphibious Ready Group and six CVs were in the area, and three USMC fighter squadrons had moved from Japan to Taiwan. Elements of the Seventh Fleet escorted ROC resupply vessels to within 3 miles of the islands. Tensions eased with a ceasefire on 6 October.									
49	Panama	4/30/59	5	A3	0	N	N	N	N
On 25 April 1959, a small force landed on Panama's Caribbean coast. The United States offered the Panamanian Government small arms, and a small surveillance patrol was established off Panama's coast to deter additional landings. The invaders surrendered on 1 May.									
50	Berlin Crisis	May-59	145	A5	2	N	Y	Y	Y
From fall 1958 on, there was a growing tension over Berlin as the Soviets threatened to turn control of access to the city over to the German Democratic Republic. From April through September 1959, the Soviets interfered with the transit of supply trains to West Berlin. There was a general alert of Navy forces throughout the world during most of the May through September timeframe. The most immediate and visible part of the Navy's response came in the Mediterranean, where the carrier force was brought to an advanced state of readiness and deployed in an alert posture. The response terminated on 30 September 1959 following the end of Soviet harassment along the access routes to West Berlin.									
51	Laos	Jul-59	103	P4	1	Y	Y	Y	Y
In early July 1959, the Laotian Government requested U.S. civilian technicians to assist in the training of the Royal Laotian Army and, later that month, Pathet Lao forces launched an offensive along the North Vietnamese border. In mid-July elements of the Seventh Fleet (including one CVBG and an amphibious force) were deployed near the Vietnamese coast for possible intervention in Laos. The Seventh Fleet returned to normal operations in October after tensions subsided.									
52	PRC-ROC	7/5/59	6	P4	2	?	N	N	N
In relation to growing tensions between the PRC and ROC, and in support of U.S. operational activity off the coast of China, a two-carrier battle group (Ranger and Lexington) conducted operations in the vicinity of Taiwan.									
53	Panama	Aug-59	93	A3	0	N	N	N	N
In reaction to growing civil disorder in Panama, surface combatants were used for surveillance operations. The surveillance operations continued through November 1959.									
54	Congo	7/1/60	124	A4	1	Y	Y	Y	Y
The former Belgian Congo (now Zaire) became independent on 30 June 1960. Elements of the army quickly revolted, and widespread civil disorder resulted. CVS Wasp with a Marine company aboard, was dispatched to assist in the evacuation of Western nationals. During the remainder of the year, the USN supported U.N. forces in the Congo by providing sealift for U.N. force contingents.									
55	Guatemala	11/14/60	27	A3	2	N	N	N	N
At the request of the Nicaraguan and Guatemalan Governments, President Eisenhower ordered the Navy to establish a patrol off of their Caribbean coasts to guard against possible infiltration. The patrol force included one CVA (Shangri-La), one CVS (WAsp), and eight surface ships.									
56	Laos	1/1/61	6	P4	3	Y	Y	Y	Y
Following the Pathet Lao capture of strategic positions on the central plain of Laos, Seventh Fleet forces (including two CVAs (Lexington and Coral Sea), one CVS (Bennington), and an amphibious force) were ordered to the South China Sea. After the situation in Laos stabilized, the units were directed to withdraw on 6 January.									
57	Gulf of Guinea-Congo	2/2/61	34	A4	0	Y	Y	N	N
In early February 1961, the Amity I task force (two amphibious ships, and two destroyers) provided troop lift for U.N. forces in the Congo. As the situation deteriorated, the Amity I force was rerouted to the area on 5 March, apparently at the request of the U.S. Ambassador. On 7 March, the force was released from contingency operations.									
58	Laos	3/21/61	85	P4	3	Y	Y	N	N
Because of the deteriorating position of government forces in Laos, elements of the Seventh Fleet were ordered to the South China Sea. While on station, U.S. Navy aircraft conducted reconnaissance missions over Laos. The alert status of the force was relaxed following the start of ceasefire negotiations in mid-June.									
59	Bay of Pigs	Apr-61	62	A3	2	Y	Y	Y	N
On 17 April 1961, American-trained and -supported Cuban exiles invaded Cuba. By 20 April, Cuban forces had decisively defeated the exiles. Carrier task forces and at least one Marine Corps battalion stood by during the operation. USN units remained in the vicinity as the U.S. attempted to ensure that the captured exiles were not abused by the Cuban Government and tried to negotiate terms for their release.									
60	Dominican Republic	5/30/61	12	A3	3	Y	Y	Y	Y

TABLE 2.—DESCRIPTIONS OF U.S. CRISIS RESPONSES—Continued

Number	Name	Begin date	Length	OAC	CVs	Am	USMC	USAF	USA
General Rafael Trujillo was assassinated on 30 May 1961. The Caribbean Ready Amphibious Squadron was reinforced by two additional amphibious squadrons, and a three-carrier task force deployed to the region. The alert was cancelled on 10 June as the Dominican Republic's domestic situation stabilized.									
61	Zanzibar	Jun-61	31	P6	0	Y	Y	N	N
In response to rioting on Zanzibar, the vessels of the Amity II force moved to the vicinity of the island. The safety of the U.S. space tracking station on the island was a principal concern.									
62	Kuwait	7/4/61	4	P6	0	Y	Y	N	N
Shortly following Kuwait's independence (19 June 1961), Iraq claimed that Kuwait had been improperly withheld from Iraq and that Iraw planned to annex Kuwait. On 30 June Kuwait requested assistance from the United Kingdom, and Royal Marines landed within 24 hours. On 4 July, the five vessels of the Amity II cruise were directed to sail to the vicinity of Aden to serve as a contingency force. This order was cancelled on 7 July.									
63	Berlin Crisis	Jul-61	102	A5	3	Y	Y	Y	Y
Following a period of increased Soviet pressure over the status of Berlin, German Democratic Republic forces established barriers along the border between the two sectors of Berlin on 13 August 1961. In response, the U.S. sent reinforcements to the Berlin Brigade. Prior to this, in response to the mounting Soviet pressure, the Navy's forces were augmented with 33 reserve ships and approximately 8,000 Naval Reserve personnel. Elements of the Sixth Fleet were put on alert and a CVS group was moved to the Northeast Atlantic.									
64	Dominican Republic	11/18/61	32	A3	1	Y	Y	N	N
On 18 November, Dominican President Balaguer declared a state of emergency following the return to the Dominican Republic of two brothers of the slain Trujillo (see response 60). The Caribbean Ready Amphibious Squadron was deployed off the coast and was reinforced by the Roosevelt CVBG. Operational activity included amphibious force feints directed at the beach and flyovers of A-4Ds just outside Dominican territorial waters to underscore Secretary of State Rusk's statement that the U.S. would not "remain idle" if the Trujillos attempted to reestablish the dictatorship. The Navy's response ended following the formation of a Council of State on 19 December.									
65	South Vietnam	Dec-61	244	P4	0	N	N	N	Y
During the December 1961 through August 1962 period, the U.S. increased its military involvement in Vietnam. In December, for example, the first major U.S. Army contingent arrived. On 22 December, a newly formed USN anti-infiltration coastal patrol began operations. These patrols terminated on 1 August 1962.									
66	Dominican Republic	1/18/62	2	A3	0	Y	Y	N	N
On 18 January 1962, a coup ousted the regime in the Dominican Republic. Within six hours, a USN force was ready for a planned show-of-force operation. The deployment was cancelled on 19 January, apparently because the U.S. was satisfied with the course of events in the Dominican Republic.									
67	Guatemala Riots	3/14/62	9	A3	1	Y	Y	N	N
Following student rioting on 13 March 1962 which led to an outbreak of more general civil disorder, the U.S. established a precautionary deployment off the coast of Guatemala. The force included CVA Midway and the Caribbean Ready Amphibious Squadron.									
68	South Vietnam	4/15/62	849	P4	0	Y	Y	N	N
On 15 April 1962, a Marine company arrived in Saigon. It was the first USMC advisory unit to arrive in the Republic of Vietnam, and its arrival denoted a qualitative change in Navy/Marine Corps operations in South Vietnam.									
69	Thailand	5/10/62	90	P4	2	Y	Y	N	N
Following major victories by Pathet Lao forces that moved their units closer to the Thai border, the U.S. carried out an administrative landing of Marine forces in Thailand at the request of the government of Thailand. About 3,400 Marines moved to Thailand between 17 and 20 May. The United Kingdom, Australia, and New Zealand sent forces to Thailand as well.									
70	Guantanamo	7/25/72	3	A3	0	Y	Y	N	N
For the first eight months of 1962, there was a particularly serious period of harassment of the U.S. base at Guantanamo. A major response took place in July when it was feared that the security of the installation might be threatened in conjunction with Cuban celebration of the 26th of July revolutionary holiday. The Caribbean Ready Amphibious Squadron deployed to Guantanamo on 25 July, and major air demonstrations were conducted over the base that evening. The alert was terminated on the 27th.									
71	Haiti Civil Disorder	Aug-62	14	A3	1	Y	Y	N	N
In early August 1962, U.S. decision-makers were apprehensive concerning potential civil disorders in Haiti. In response the Caribbean Ready Amphibious Squadron was positioned for possible employment and a two-destroyer patrol was established in the Gulf of Gonave.									
72	Cuban Missile Crisis	10/14/62	38	A3	8	Y	Y	Y	Y
A 14 October overflight provided evidence that Soviet MRBMs were deployed in Cuba. On 22 October, President Kennedy announced a quarantine of the island nation. Approximately 180 U.S. Navy ships, including 8 carriers and a 60-ship amphibious force, were involved in the response. The blockage was lifted on 20 November.									
73	Sino-Indian War	11/19/62	2	P6	1	N	N	N	N
During the Sino-Indian War, Indian Prime Minister Nehru requested U.S. fighters for possible combat operations against the PRC. In response, an American aircraft carrier was dispatched from the Pacific towards Indian waters; but the crisis passed 24 hours after Nehru made this appeal, and the CV turned back before it reached the Bay of Bengal.									
74	Laos	Apr-63	35	P4	2	Y	Y	N	N
After Pathet Lao forces had inflicted serious defeats on the neutralist faction in Laos, U.S. forces deployed to the area. The two carriers (Ticonderoga and Ranger) and a three-ship amphibious group returned to normal Seventh Fleet assignments on 5 May, two weeks after a cease-fire agreement was reached.									
75	Haitian Unrest	4/29/63	34	A3	1	Y	Y	N	N
On 16 April 1963, the Haitian Government announced it had uncovered a plot to overthrow the Duvalier regime. Over the coming weeks, tension continued to mount. On 29 April, a 30-man USMC training force was withdrawn from Haiti. On 8 May, Navy ships evacuated 2,279 civilians. Both the United Kingdom and France deployed ships during the crisis. On 17 May, the U.S. broke diplomatic relations with Haiti. On 3 June, following stabilization of the situation, the U.S. resumed diplomatic relations and the Navy forces were released from contingency tasking.									
76	Haiti Civil War	8/6/63	17	A3	1	Y	Y	N	N
Groups of Haitian exiles invaded Haiti on 5 and 15 August 1963. On 6 August the Caribbean Ready Amphibious Squadron sailed to the Gulf of Gonave, where it remained until 22 August. The Haitian Government easily defeated the rebels.									
77	Vietnam Civil Disorder	8/25/63	93	P4	2	Y	Y	N	N
U.S. Navy forces responded to domestic disturbances in South Vietnam that culminated in the 1 November 1963 coup overthrowing President Diem. On 25 August, CINCPACFLT was ordered to station Naval forces off the South Vietnamese coast prepared to evacuate American nationals. On 11 September, CINCPAC returned all Navy forces to normal operations. This deployment was the first of several in the worsening South Vietnamese internal crisis. Shortly following the coup, two aircraft carriers (Hancock and Oriskany) and an amphibious force were operating off the Vietnam coast. On 7 November, the last units were released for normal operations.									
78	PRC-ROC	9/20/63	5	P4	1	N	N	N	N
On 20 September 1963, the CVA Hancock was directed to move to a position off Taiwan in anticipation of a PRC bombardment of the offshore islands. This followed a period of active ROC raiding of the mainland.									
79	Dominican Republic	9/25/63	81	A3	0	Y	N	N	N
On 25 September 1963, a coup overthrew the government of President Bosch. The United States suspended diplomatic relations and cut off economic aid. The Caribbean Ready Amphibious Squadron was alerted for the response. The alert was cancelled on 14 December.									
80	Indonesia-Malaysia	Oct-63	78	P4	1	N	N	N	N
The Federation of Malaysia was created on 16 September. The Sukarno regime in Indonesia laid claim to some of Malaysia's territories and conducted a guerilla war in provinces on the island of Boreno. The Western response was carried out primarily by the United Kingdom. There were, however, a number of demonstrative actions taken by the U.S. included a 29 November through 17 December port visit by the seaplane carrier AV Salisbury Sound to Singapore.									
81	Zanzibar	1/12/64	2	P6	0	N	N	N	N
On 12 January, a rebel movement overthrew the regime in Zanzibar. On 13 January, the U.S. DD Manley evacuated 54 U.S. citizens and 36 nationals of other countries to Tanganyika.									
82	Tanganyika	1/20/64	7	P6	0	N	N	N	N
On 20 January 1964, there was an army mutiny in Tanganyika. The DD Manley was directed to return there for possible evacuations. On 25 January, British forces landed and put down the mutiny.									
83	Carib. Surveillance	1/15/64	92	A3	0	N	N	N	N
As a result of possible arms smuggling, a two-destroyer patrol was stationed in the southern Caribbean for surveillance and interception operations.									
84	Panama	Jan-64	101	A3	0	Y	Y	Y	Y
Following serious rioting in the Canal Zone (which left 4 U.S. soldiers and 20 Panamanians dead), the Government of Panama suspended diplomatic relations with the United States on 9 January. An amphibious force was kept in the region until a week following the 3 April U.S.-Panamanian agreements that restored diplomatic recognition.									
85	Venezuela	Jan-64	310	A3	0	N	N	N	N
The U.S. established special surveillance operations in response to reports that Cuba was supplying Venezuelan rebels with arms and personnel. The patrol aircraft and surface ship patrols were terminated on 7 November, after observing more than 200 vessels.									
86	Cyprus	1/22/64	269	A6	1	Y	Y	Y	N
After conflict between Greek and Turkish factions renewed on 21 January 1964, elements of the Sixth Fleet were deployed to the vicinity of Cyprus. While U.S. Navy vessels conducted patrols off Cyprus throughout this period, there were several phases to this conflict. Aircraft carriers were deployed off Cyprus for most of March, early June, and from 8 August to 2 September									
87	Brazil	3/31/64	4	A4	1	N	N	N	N

TABLE 2.—DESCRIPTIONS OF U.S. CRISIS RESPONSES—Continued

Number	Name	Begin date	Length	OAC	CVs	Am	USMC	USAF	USA
	Following domestic unrest, the Forrestal CVBG moved off Santos, Brazil. This unit was on station from 31 March to 3 April. There was a military coup, and a new President was sworn in on 2 April.								
88	Laos	4/21/64	42	P4	2	N	Y	Y	N
	Following an abortive rightist coup attempt on 19 April, Pathet Lao units made gains. On 21 April the Kitty Hawk CVBG was ordered to a position in the South China Sea. On 18 May carrier aircraft began low-level aerial reconnaissance missions over Laos. Following the 7 and 8 June shooting down of Navy reconnaissance aircraft, planes from Constellation and Kitty Hawk flew air strikes against Pathet Lao antiaircraft positions. On 21 May, the standing carrier presence at Yankee Station in the South China Sea was initiated.								
89	Guantanamo	5/1/64	7	A3	0	Y	Y	N	N
	In the midst of serious Cuban harassment of the Guantanamo base, on 27 April 1964, there were indications that the Government of Cuba intended to have demonstrations take place along the base's perimeter. The Caribbean Ready Amphibious Squadron deployed to the base for the period 1–7 May.								
90	Panama	5/7/64	14	A3	0	Y	Y	N	N
	Because of fears that violence might accompany the Panamanian presidential elections, the Caribbean Ready Amphibious Squadron was deployed off the coast of Panama. It remained there for a week following the 13 May certification of the election results.								
91	Dominican Republic	7/24/64	5	A3	0	N	N	N	N
	U.S. Navy surface ships and patrol air craft conducted four days of special patrol operations designed to detect Cuban arms shipments directed at the Dominican Republic.								
92	Gulf of Tonkin	8/2/64	9	P4	2	N	N	N	N
	On 2 August 1964, North Vietnamese MTBs engaged USS Maddox; two of the patrol boats were sunk. On 4 August, two destroyers were engaged, and again two patrol boats were sunk. On 5 August, aircraft from the carriers Ticonderoga and Constellation carried out retaliatory strikes against the North Vietnamese mainland. The Gulf of Tonkin Resolution of 10 August 1964 is used as the starting point for the Vietnam-Indochina War. U.S. Navy activity in the region from this point through the evacuations in April 1975 are considered to be part of the conflict and thus are excluded from consideration in this work.								
93	Haiti	8/7/64	3	A3	0	N	N	N	N
	On 7 August 1964, CINCLANT initiated a two-day surveillance operation designed to locate a ship that was believed to be connected with Haitian military forces.								
94	Panama	1/7/65	6	A3	0	Y	N	N	N
	In anticipation of possible rioting that might accompany the first anniversary of the 9 January 1964 riots, forces in USCINCSO were put on alert. One LST was put on alert for the 9–12 January period.								
95	Tanzania	1/17/65	1	P6	0	N	N	N	N
	On 17 January 1965, a destroyer was ordered to move to a position off Tanzania following the request by the Department of State for a ship for potential evacuation of U.S. nationals from the country. The alert was cancelled later that same day.								
96	Venezuela-Colombia	Jan–65	91	A3	0	N	N	N	N
	In response to reports of clandestine arms shipments and movement of personnel, surface ship and patrol aircraft surveillance patrols were established in the Caribbean.								
97	British Guiana	Apr–65	11	A3	0	N	N	N	N
	In response to domestic violence, air and surface patrols were established. On 11 April Navy aircraft located a Cuban ship that was believed to be carrying arms to rebel forces within British Guiana. Surveillance was held until a Royal Navy vessel arrived on the scene.								
98	Dominican Republic	4/25/65	515	A3	2	Y	Y	Y	Y
	Following a period of mounting tension in the Dominican Republic, on 25 April 1965, the U.S. Embassy indicataed that a landing might be required to protect American lives and conduct evacuations. Between 27 and 30 April, some 2,400 evacuees were removed by the deployed amphibious force. The first troops went ashore on 28 April, and by 1 May, a total of 1,580 Marines and 2,262 Army troops were on the island. On 28 June 1966, U.S. forces began to be withdrawn from the country.								
99	Yemen	Jul–65	32	P6	0	N	N	N	N
	July and August 1965 were critical months in the Yemeni civil war. MIDEASTFOR surface combatants carried out surveillance and presence missions during this period.								
100	Cyprus	8/3/65	30	A6	1	Y	Y	N	N
	During a period of growing tension on Cyprus that centered on proposed changes to the electoral system, a CVBG and an amphibious force operated off the island.								
101	Indonesia	10/2/65	8	P4	0	Y	Y	N	N
	On 30 September 1965, there was an abortive rebellion involving elements of the Indonesian Communist Party and the Indonesian army. An amphibious task force stood by as a contingency evacuation force following the attempted coup.								
102	Indo-Pakistani War	9/11/65	25	P6	0	N	N	Y	N
	The Indo-Pakistani War broke out in the first week of September 1965. On 11 September, two ships from MIDEASTFOR left Bahrain en route to Karachi, Pakistan, to act as a contingency evacuation force. On the 15th, USAF planes evacuated U.S. civilians from West Pakistan.								
103	Greek Coup	4/21/67	23	A6	1	Y	Y	N	N
	The military coup occurred on 21 April 1965. In response, the America CVBG was immediately dispatched to the Ionian Sea. Two amphibious groups were included in the contingency task force.								
104	Six Day War	6/6/67	6	A6	2	Y	Y	Y	Y
	On 13 May 1967, Egypt reinforced its forces in the Sinai border and Israel mobilized in response. Following several weeks of growing tension, the war commenced on 5 June. The fleet was initially held back to indicate American noninvolvement in the fighting. On 6 June, two carrier task forces moved closer to the fighting. On 10 June, the President ordered a high-speed carrier movement toward Syria to facilitate a cease-fire agreement.								
105	Eliat Sinking	10/21	67	12	A6	2	N	N	N
	On 21 October 1967, Egyptian ships sunk the Israeli destroyer Eilat using surface-to-surface missiles. In response, two carrier task forces were ordered to a position 100 miles north of Egypt.								
106	Cyprus	11/15/67	24	A6	1	Y	Y	N	N
	On 15 November 1967, there was renewed communal violence on Cyprus. This led to a contingency deployment of Sixth Fleet units in anticipation of possible evacuations. On the 24th, U.S. citizens were evacuated by commercial aircraft with no military involvement.								
107	USS Pueblo	1/24/68	59	P4	3	N	N	Y	N
	On 23 January 1968, North Korean Forces seized USS Pueblo in international waters. On the 24th, TG 70.6 (CVA Enterprise) was directed to Korea. Through 22 March, a standing two-carrier force was maintained off Korea, and intermittent deployments were maintained after that point until the release of Pueblo's crew on 22 December.								
108	EC–121 Shootdown	4/15/69	26	P4	4	N	N	Y	Y
	On 15 April 1969, a U.S. Navy reconnaissance plane was shot down by Democratic Republic of Korea (DPRK, North Korean) fighters over the Sea of Japan. SAR efforts began immediately and TF 71 was activated, drawing units from South-East Asia (including four aircraft carriers). After 26 April, the force was reduced to a one carrier battle group.								
109	Curacao Civil Unrest	5/31/69	1	A3	0	Y	Y	N	N
	Because of riots in Curacao, the fast element of the Caribbean Ready Force (one cruiser and three amphibious ships) was reconstituted on 31 May 1969 and ordered to a position off Curacao in anticipation of possible evacuations. Order was quickly restored and, at sunset on 31 May, the group was ordered to return to normal operations.								
110	Lebanon-Libya Ops	10/26/69	5	A6	2	Y	Y	N	N
	On 1 September 1969 a coup overthrew the Libyan monarchy. At the same time conditions were very unsettled in Lebanon, leading to the 22 October resignation of the Lebanese Prime Minister. Contingency forces in the period 26–30 October included two carrier task forces and the Mediterranean Amphibious Ready Group.								
111	Trinidad	4/22/70	6	A3	0	Y	Y	Y	N
	The Government of Trinidad and Tobago declared a state of emergency on 21 April in response to civil unrest and a munity of 80 troops. The Caribbean Ready Group was ordered to sail to the vicinity in preparation for evacuation operations.								
112	Jordan	6/11/70	7	P6	1	Y	Y	Y	N
	On 9 June 1970 the Popular Front for the Liberation of Palestine (PFLP) seized 32 hostages in a hotel in Amman; 14 Americans were among those held. In addition, on the same day, there was an unsuccessful assassination attempt against King Hussein. CVA Forrestal moved to the Eastern Mediterranean to provide air cover for potential evacuation operations. While the situation in Jordan abated, tensions flared in neighboring Beirut, with an attack on the Jordanian embassy on 12 June. The situation in Lebanon calmed on the 15th, and U.S. forces returned to normal operations on 17 June.								
113	Jordan	9/2/70	60	A6	3	Y	Y	Y	Y
	Sixth Fleet units were put on alert on 3 September 1970 because of rising tensions in the region. On 6 September, the PFLP hijacked civilian airliners and took them to Dawson Field. Fighting soon broke out between Jordanian and Palestinian forces. Two CVs and the Mediterranean Amphibious Ready Group (MARG) were in the Eastern Mediterranean. Following Syrian intervention on 18 September, CVA Kennedy and elements of the 8th Marine Amphibious Brigade (MAB) were ordered form the East Coast to the Mediterranean. On the 19th, troops in Germany and CONUS (82nd Airborne Division) were alerted for movement. By 24 September, all Syrian forces were out of Jordanian territory and, by 5 October, only one carrier was on station in the Eastern Mediterranean.								
114	Haiti succession	4/22/71	37	A3	0	N	Y	N	N

TABLE 2.—DESCRIPTIONS OF U.S. CRISIS RESPONSES—Continued

Number	Name	Begin date	Length	OAC	CVs	Am	USMC	USAF	USA

Haitian President Francois Duvalier died on 21 April 1971 and was succeeded as chief of state by his 19-year-old son Jean-Claude. A surface patrol was established in the Windward Passage because of the possibility that the situation might be exploited by Haitian exiles and/or Cuban forces. Additionally, USMC BLT 2/3, in the U.S., was alerted and carried out a contingency reaction drill (no amphibious ships were diverted to support this).

115	Indo-Pakistani War	12/10/71	30	P6	1	Y	N	N	N

The Bangladesh war began on 3 December 1971 and, on 7 December, the head of the U.N. relief mission in East Pakistan (Bangladesh) indicated that evacuation of foreign civilians might be required. On 10 December, a CVBG (CVAN Enterprise) and an amphibious ready group were ordered to the Indian Ocean. On 12 December, the Royal Air Force evacuated Western nationals from East Pakistan, thereby eliminating the requirement for an American evacuation operation.

116	Bahama Lines	12/15/71	52	A3	0	N	N	N	N

Following seizure of the steamer Johnny Express by Cuban naval forces on 15 December 1971, two U.S. Navy destroyers were put on alert. The remaining four ships of the exile-owned Bahama lines were escorted through the end of January 1972.

117	Lebanon	5/3/73	7	A6	2	Y	Y	N	N

On 3 May 1973, the Palestinian Yarmuk Brigade entered Lebanon from Syria. Two CVBGs (Forrestal and Kennedy) were alerted for potential evacuation operations. By 9 May, the situation had stabilized.

118	Middle East War	10/6/73	48	A6	3	Y	Y	Y	Y

On 6 October 1973 Egyptian and Syrian forces launched a surprise attack on Israel. U.S. Navy forces quickly sortied in response to the war, with two CVBGs (Independence and Roosevelt) and an amphibious force in the Mediteranean and a CVBG (Kennedy) in the Eastern Atlantic. On 25 October U.S. forces went on Defense Condition (DEFCON) III alert status, as possible intervention by the Soviet Union was feared. The Kennedy CVBG and additional amphibious forces entered the Mediterranean. On 26 October, CINCSAC and CINCONAD reverted to normal DEFCON status. On 31 October USEUCOM (less the Sixth Fleet) went off DEFCON III status. The Sixth Fleet resumed its normal DEFCON status on 17 November.

119	Middle East Force	10/24/73	22	A7	0	N	N	N	N

On 24 October, the U.S. merchant ship LaSalle was shot at at the mouth of the Red Sea. Over the next month, a MIDEASTFOR destroyer escorted U.S. merchant ships in the lower Red Sea.

120	Oil Embargo-IO Ops	10/25/73	159	A6	1	N	N	N	N

Following the initiation of the oil embargo in the midst of the October War, a CVBG (Hancock) was ordered from the South China Sea to the Indian Ocean.

121	Cyprus	7/15/74	39	A6	2	Y	Y	Y	Y

On 15 July 1974, immediately after a coup on Cyprus, the carrier America was ordered to augment the Sixth Fleet instead of returning to the U.S. At the same time, port calls for the Forrestal CVBG and the Sixth Fleet amphibious groups were cancelled. On 22 and 24 July, evacuees from Cyprus were brought aboard USN vessels. For the next month, Sixth Fleet units remained on a high state of readiness in the area as the situation remained tense on the island. On 2 September, the last units were released from contingency tasking.

122	Cyprus Unrest	1/18/75	4	A6	1	Y	Y	N	N

Following violent Greek Cypriot demonstrations, some of which were outside the American Embassy in Nicosia, the Joint Chiefs ordered a precautionary deployment of a carrier group to a position southwest of Cyprus. In addition, units of the Sixth Fleet's amphibious force were alerted for possible evacuation duty. By 21 January, the situation had quieted and the alert situation was relaxed.

123	Ethiopia	2/3/75	4	A7	0	N	N	N	N

In 1974, elements of the Ethiopian military seized control of the government and overthrew Emperor Haile Selassie. As the Ethiopian civil war intensified, a two-ship contingency force took position in the Red Sea for potential evacuation of American citizens who operated the U.S. Navy Communications Station in Asmara. On 4 February, these civilians were evacuated by commercial airliners. On 6 February, the contingency force was released.

124	Mayaguez	5/13/75	3	P4	2	Y	Y	Y	N

On 12 May 1975, the SS Mayaguez was seized by Cambodian gunboats and escorted to Koh Tang Island. On 14 May, U.S. Marines recaptured the Mayaguez and went ashore on Koh Tang Island, releasing the crew. Air cover was flown by USAF fighters operating from Thailand and by aircraft operating off Coral Sea.

125	Lebanon	Aug–75	367	A6	1	Y	Y	N	N

During 1974 and 1975, the situation in Labanon generally deteriorated as the nation headed toward civil war. In late June, a U.S. Army colonel was kidnapped and held for two weeks. Starting in August, a contingency evacuation force was maintained for the potential evacuation of the approximately 100 U.S. Government employees and 1,000 U.S. citizens in Lebanon.

126	Polisario Rebels	1/5/76	18	A5	0	Y	N	N	N

On 3 January 1976, the Moroccan Navy stopped a Soviet cargo ship off the Spanish Sahara and found a cargo of arms. In response to the evidence of increased Soviet support for the Polisario rebels, U.S. Navy vessels made three port visits in Morocco during January 1976.

127	Tunisia	7/27/76	25	A6	0	N	N	N	N

To reassure Tunisian officials following Libyan threats against Tunisia, the U.S. Embassy at Tunis requested that the port visit by two vessels to Tunis be extended. A frigate made a port visit at Sfax several weeks later at the request of the State Department.

128	Kenya-Uganda	7/8/76	20	P6	1	N	N	N	N

Because of the possibility of Ugandan military operations against Kenya following the Israeli raid on Entebbe airport, the Ranger CVBG was ordered from the South China Sea to the Western Indian Ocean. In addition, two MIDEASTFOR frigates made successive port calls in Mombassa in mid-July. Ranger was released on 27 July.

129	Korean Tree Incident	8/19/76	21	P4	1	N	N	Y	Y

Following the murder of two U.S. Army officers (and wounding of four U.S. and five South Korean soldiers) on 18 August 1976 in the demilitarized zone, a general buildup and alert of forces occurred in South Korea. The Midway CVBG was ordered from Yokosuka to an operating area in the approaches to the Korea Strait, where it remained until released on 8 September.

130	Uganda	2/25/77	6	P6	1	N	N	N	N

In response to restrictions placed on Americans in Uganda by President Amin, the Enterprise CVBG was ordered to move to a position off the coast of Kenya. The CVBG was released to normal operations after Amin lifted all travel restrictions on Americans.

131	Ogaden War	FEb–78	51	P6	1	N	N	Y	N

In late February 1978, surface ships from MIDEASTFOR began surveillance operations of the Somali invasion of the Ogaden region of Ethiopia. Following the collapse of the Somali army in the Ogaden, the Kitty Hawk CVBG was ordered to a holding point north of Singapore. On 23 March, the CVBG was released without having been sent into the Indian Ocean.

132	Sea of Okhotsk	6/15/78	10	P4	0	N	N	N	N

Following increased Soviet military activity in the Far East, Secretary of Defense Harold Brown asserted that the U.S. did not recognize the Sea of Japan as a Soviet sanctuary. A week later, three USN ships began operations in the Sea of Japan to underscore the Secretary of Defense's comments and to demonstrate the right of free navigation in international waters.

133	Afghanistan	Jul–78	31	P6	1	N	N	N	N

During the growing unrest in Afghanistan, the Enterprise CVBG was ordered to remain in the vicinity of Diego Garcia. Enterprise was released as of 31 July.

134	Nicaragua	9/16/87	16	A3	0	N	N	Y	N

Following a period of growing civil strife in Nicaragua, on 16 September 1978 CINCLANTFLT ordered surface ship surveillance operations off the west coast of Nicaragua. The operations commenced on 20 September and continued to 1 October.

135	Iran Revolution	12/6/78	86	P6	1	Y	Y	Y	N

On 6 December 1978, following a deterioration in the internal situation in Iran, three surface vessels were ordered to remain in the Persian Gulf/Arabian Sea region following completion of exercise "Midlink." From 28 December through 28 January 1979, the Constellation CVBG was kept in the Singapore area for possible deployment to the Indian Ocean. On 14 February, armed leftists briefly took over the American Embassy in Tehran. On 18 and 21 February, Western nationals were evacuated from Bandar Abbas and Chah Bahr by RN and commercial ships (many of the evacuees were transferred to USN ships in international waters).

136	China-Vietnam	2/25/79	6	P4	1	N	N	N	N

In response to the 22 February 1979 PRC invasion of North Vietnam and a large Soviet deployment of vessels to the region, USN vessels including the Constellation CVBG entered the South China Sea to monitor the situation.

137	Yemen	3/6/79	93	P6	1	N	N	Y	N

On 6 March 1979, the Constellation CVBG was ordered from the South China Sea to the Gulf of Aden. The deployment to monitor the fighting between North and South Yemen was, most likely, meant to reassure the Saudis that the U.S. intended to remain in the region despite the fall of the Shah. A carrier presence was kept in the region until 6 June.

138	Soviet Troops in Cuba	10/2/79	46	A3	1	Y	Y	Y	N

On 2 October, the JCS issued an executive order directing the establishment of a Caribbean contingency task force, following a month of news reports about the presence of Soviet troops in Cuba. On 11 October, 1,800 Marines left Morehead City en route to Guantanamo as part of REINFORCEX. In mid-October, the Forrestal CVBG transited close to Cuba in conjunction with the U.S. policy of an increased Navy presence in the Caribbean.

139	Afghan/Iran Hostages	10/9/79	472	P6	2	Y	Y	Y	Y

In October 1979 the U.S. relationship with the Islamic Republic worsened as riots and massive demonstrations outside the American Embassy in Tehran became a common occurrence. On 9 October, a 20 October deployment of the Midway CVBG to the region was ordered. On 4 November, Iranian students seized the U.S. Embassy and took the personnel hostage. On 20 November, the President ordered the Kitty Hawk CVBG into the Indian Ocean. The Soviet invasion of Afghanistan in late December reinforced the decision to maintain two CVBGs in the Indian Ocean. On April 24, an attempted rescue mission failed, with eight U.S. servicemen dead. On 21 January 1981, the hostages were released, after 444 days in captivity.

140	Park-Chung Hee	10/26/79	9	P4	1	N	N	Y	Y

Following the assassination of South Korean President Park Chung Hee, DEFCON 3 was declared on 26 October 1979. The Kitty Hawk CVBG was ordered to a position south of Korea. On 5 November, the DEFCON alert returned to normal.

141	Korea	5/27/80	33	P4	1	N	N	Y	Y

TABLE 2.—DESCRIPTIONS OF U.S. CRISIS RESPONSES—Continued

Number	Name	Begin date	Length	OAC	CVs	Am	USMC	USAF	USA
In 1980 a growing storm of protest calling for democratic reforms led to the declaration of martial law in South Korea and the massacre of several hundred people in the town of Kwangju. A carrier moved to the area in late May and a carrier presence was maintained through 28 June.									
142	Iran-Iraq War	9/30/80	125	P6	2	N	N	Y	N
Following the Iraqi invasion of Iran on 22 September 1980, four USAF AWACS aircraft were deployed to Saudi Arabia on 30 September. On 11 October a reinforcement of the MIDEASTFOR was announced. In mid-October about 60 U.S. British, French, and Australian warships were in the region to prevent potential Iranian interference with oil traffic through the Straits of Hormuz. In February 1981, a decision was made no maintain two CVBGs in the Indian Ocean even though the hostages had been released.									
143	Poland	12/9/80	24	A5	0	N	N	Y	N
Because of instability along the Polish/Soviet border, the chairman of the NATO Military Committee ordered that STANAVFORLANT would not be released for the Christmas holiday. At the same time, the U.S. decided to supply NATO with four AWACS aircraft to monitor the border situation.									
144	Morocco	1/29/81	10	A5	0	N	N	N	N
The Secretary of State, with the concurrence of the Department of Defense, decided that a well-publicized U.S. Naval visit to Agadir would be desirable to send a signal to the Soviets in response to the positioning of three Soviet Navy ships in the region. A three-day visit by CG-20 Turner (CG-20) early in February followed.									
145	Liberia	4/1/81	15	A5	0	N	N	N	Y
On 1 April President Reagan ordered a company of Green Berets and a Navy destroyer to Liberia to show support for the government of Samual K. Doe. On 10 April the Green Berets arrived for 30 days of training exercise with Liberian troops. On 12 April, DD-988 Thorn arrived in Monrovia, Liberia, for a three-day port visit.									
146	Syria	5/3/81	135	A6	2	Y	Y	N	N
Following Israeli reprisal raids against Syrian SAM positions in southern Lebanon, the Forrestal CVBG and the Mediterranean Amphibious Ready Group were ordered into the Eastern Mediterranean on 3 May 1981. In mid-May, the Independence CVBG was retained in Eastern Mediterranean on 3 May 1981. In mid-May, the Independence CVBG was retained in Eastern Mediterranean following a transit through the Suez Canal from the Indian Ocean. On 26 May, Independence was released. On 14 September, the response posture for amphibious forces to conduct evacuation operations was cancelled.									
147	Libya	8/1/81	20	A6	2	N	N	N	N
In response to extensive Libyan claims of sovereignty over international waters, the President authorized Naval exercises in the Gulf of Sidra. During the Freedom of Navigation (FON) operations, two Libyan Air Force fighters were shot down by USN fighters on 18 August.									
148	Sadat-Sudan	10/7/81	24	A6	1	Y	Y	Y	N
Following the 6 October 81 assassination of Egyptian President Sadat at a military parade, a CVBG and the Mediterranean Amphibious Ready Group were ordered to a position 120 n.mi. north of Egypt. The forces were sent to the region because of the possibility of Libyan involvement in the assassination and because of fears of Libyan aggression against either Egypt or the Sudan.									
149	Central America	10/16/81	47	A3	2	Y	Y	N	N
Amidst growing official concern over arms shipments to rebels in El Salvador, a series of maneuvers began in the Caribbean. On 23 December, DD-989 Deyo was tasked to sortie to the coast of El Salvador to conduct surveillance operations. On 2 February, because of the mining of Nicaraguan harbors, the Defense Mapping Agency issued Special Warning #57 warning mariners to avoid Nicaraguan harbors. On 16 Fedruary, DD-970 Caron completed turnover with Deyo, and surveillance operations were to continue in the region for the indefinite future.									
150	Israeli Invasion	6/8/82	45	A6	1	Y	Y	N	N
On 6 June 1982 Israeli forces entered Lebanon in operation "Peace for Galilee." On 8 June the Secretary of Defense ordered the MARG at Rota to the Eastern Mediterranean for potential evacuation of American citizens from Beirut. On 28 June, Israeli forces began a seige of West Beirut. On 20 July, the MARG response posture was relaxed.									
151	Peacekeeping Force	8/10/82	30	A6	2	Y	Y	N	N
On 10 August the alert posture of the Mediterranean Amphibious Ready Group was heightened in light of a likely deployment as part of a peacekeeping force to oversee the evacuation of Palestine Liberation Organization (PLO) forces from West Beirut. On 24 August (EDP), the first of 800 Marines began going ashore at Beirut as part of a joint U.S.-French peacekeeping force. On 8 September, following the removal of the PLO forces from West Beirut, the Marines redeployed aboard the MARG ships.									
152	Palestinian Massacre	9/22/82	143	A6	2	Y	Y	N	N
On 22 September 1982, following the Phalangist Christian force massacre of Palestinians in the Sabra and Shatilla refugee camps, the Mediterranean Amphibious ready Group was ordered to the Eastern Mediterranean. From 27 September through 21 January 1983, two carriers were tethered to Lebanon to provide support for the Marine Corps forces ashore. On 11 February, the response posture for carrier support was relaxed as the situation had stabilized.									
153	Libya-Sudan	2/14/83	11	A6	1	N	N	N	N
Following Libyan threats against Sudan, the Enterprise CVBG moved from a position off Lebanon to a position north of Libya. USN aircraft from Nimitz operated in the Tripoli Flight Information Region and the Nimitz closed to within 85 miles of the Libyan coast.									
154	Honduras	6/14/83	131	3	1	Y	Y	N	Y
In 1983, the U.S. Government expressed great concern over the safety of Honduras, citing the threat of invasion from neighboring Nicaragua. On 14 June, 100 Green Beret military advisors arrived in Honduras. On 18 July, the Ranger CVBG was diverted from a planned Indian Ocean deployment to the vicinity of Central America through 12 August. On 16 August, the Coral Sea CVBG arrived off the east coast of Nicaragua and, on 26 August, New Jersey arrived on station west of Nicaragua. These vessels departed the region in mid-September.									
155	Marine Barracks Bomb	8/29/83	170	A6	2	Y	Y	Y	N
The Eisenhower CVBG was ordered to return at "best speed" to the Eastern Mediterranean on 29 August as the situation in Beirut worsened with more frequent gun battles and growing numbers of USMC casualties. On 12 September, ARG Alpha, the Pacific Amphibious Ready Group, arrived off Beirut. On 4 October, the Eisenhower CVBG was authorized to leave the Beirut area and, on 9 October, ARG Alphas return to PACOM via the Suez was authorized. On 23 October 1983, a suicide bomber struck the Marine Corps barracks in Beirut, killing 241. On the same day, another suicide car bomb killed 85 French paratroopers. Various Sixth Fleet units were ordered to Beirut, both to reassert the U.S. presence and to assist in rescue operations. Following the attack, the Ranger CVBG was diverted from port calls in Australia to the North Arabian Sea, where it operated for 122 days. On 26 February 1984, the withdrawal of the USMC contingent of the international peacekeeping force was completed.									
156	Libya-Chad	8/1/83	16	A6	1	N	N	N	N
Following Libyan aggression against Chad, aircraft from CVN-69 Eisenhower operated in the Gulf of Sidra. CV-43 Coral Sea's departure from the Mediterranean was delayed for a day because of uncertaigty over the situation.									
157	KAL 007	9/1/83	66	P4	0	N	N	Y	N
On 1 September 1983, a Soviet air defense fighter shot down Korean Air Lines flight 007 (KAL 007), killing all 267 aboard. USN surface ships were moved to the vicinity to search for debris and provide an American presence.									
158	Iran-Iraq	10/8/83	92	P6	1	Y	Y	Y	N
Following an 18 September 1983 Iranian threat to block oil exports from the Persian Gulf, ARG Alpha was ordered from the Eastern Mediterranean to the Indian Ocean on 8 October. On 10 October, the Ranger CVBG arrived in the northern Arabian Sea. Ranger, which had been scheduled to depart the region on 18 October, remained through the new year.									
159	Korea-Burma	10/11/83	3	P4	1	N	N	Y	N
During the Secretary of Defense's attendance of funeral ceremonies for the 21 South Korean officials killed by a North Korean bomb in Burma, the Vinson CVBG's departure for the U.S. was delayed. The CVBG operated in waters off Pusan, South Korea, to underscore the U.S. commitment to South Korea.									
160	Syria	12/3/83	37	A6	1	Y	Y	N	N
On 3 December, two F-14s flying over Lebanon were fired upon by Syrian antiaircraft artillery. On 4 December 82, aircraft from Kennedy and Independence were launched against Syrian targets; two were shot down, and one U.S. airman was taken prisoner by Syrian troops.									
161	Grenada	10/20/83	23	A3	1	Y	Y	Y	Y
On 19 October, in response to mounting political strife in Grenada, the JCS issued a warning order indicating the possible requirement for U.S. military assistance to evacuate U.S. citizens from the island. On 20 October, the Independence CVBG and the Amphibious Ready Group en route to the Mediterranean from CONUS were diverted to sail to the vicinity of Grenada to signal U.S. concern regarding evens on the Island. On 25 October Marines and Rangers landed on the island and, by 27 October, all major objectives were secured. On 4 November, Independence and the Amphibious Ready Group renewed their transit to the Mediterranean.									
162	Central America	3/13/84	264	A3	1	Y	Y	Y	Y
In late January 1984, the Secretary of Defense authorized an increase in U.S. Navy presence operations off Central America during the period of 1 February through 31 July to demonstrate support for El Salvador during elections, deter Nicaraguan aggression, and build confidence in the U.S. commitment to Central America. On 13 March, America left for operations off the east coast of Central America that coincided with Salvadoran elections on 25 March. Similar operations through the year included battleship, carrier, and amphibious warfare operations.									
163	Persian Gulf	Apr-84	245	A7	1	N	N	Y	N
Following Iraqi initiation of a major antishipping campaign, the commitment to a continuous CV presence in the North Arabian Sea was renewed. In late May, MIDEASTFOR ships began to escort U.S. flag merchant ships because of the escalating violence in the region. On 4 June, DOD officials announced that the U.S. had sent AWACS planes to Saudi Arabia. (The next day, Saudi warplanes, guided by an AWACS, shot down an Iranian plane in Saudi airspace.)									
164	Red Sea Mines	8/3/84	46	A7	0	Y	N	N	N
On 9 July 1984 a Soviet merchant ship was struck by an unidentified explosion in the Red Sea. On 3 August, following a number of additional mine strikes and an Islamic Jihad announcement that it had laid 190 mines in the Red Sea, a small U.S. mine-countermeasures team was sent to the Red Sea. On 9 August, U.S. minesweeping operations using helicopters operating off USN ships began. In addition to the U.S. efforts, vessels from France, Italy, the United Kingdom, and the Soviet Union conducted minesweeping operations.									
165	Beirut Embassy	9/21/84	42	A6	0	Y	N	N	N

TABLE 2.—DESCRIPTIONS OF U.S. CRISIS RESPONSES—Continued

Number	Name	Begin date	Length	OAC	CVs	Am	USMC	USAF	USA
On 21 September, amidst renewed terrorist threats against the U.S. Embassy in Beirut, three ships were ordered off Lebanon to provide a sea-based contingency response capability. On 18 October, Sixth Fleet units in the Cyprus area were placed on alert because of a terrorist threat to the U.S. Embassy in Nicosia.									
166	Saudi Hijacking	11/6/84	1	46	1	N	N	N	N
Following the 5 November hijacking of a Saudi airliner to Iran, the Enterprise CVBG was ordered to the northern Arabian Sea. On 6 November, the order was cancelled									
167	Cuba	11/30/84	1	A4	1	N	N	Y	N
On 30 November, Nimitz (CVN–68) and an escorting cruiser were ordered from Charlotte Amalie to an area just off the Cuban coast when a Navy-chartered vessel broke down and drifted into Cuban water. The response was cancelled when the USCG ship Reliance took the stricken vessel under tow and removed it from Cuban waters.									
168	U.S. Pers. in Lebanon	Mar–85	32	A6	1	?	N	N	N
Following threats against U.S. personnel at the U.S. Embassy in Beirut, the Eisenhower CVBG was diverted from Majorca to the Eastern Mediterranean while U.S. personnel were evacuated by helicopter to Cyprus.									
169	TWA 847 Hijacking	6/14/85	41	A6	1	Y	Y	N	N
On 14 June 1985, TWA Flight 847 was hijacked to Beirut by Shiite terrorists. The Nimitz CVBG was ordered from Italy to the Eastern Mediterranean, along with the Mediterranean Amphibious Ready Group with 1,800 Marines embarked. Nimitz was on station in the Eastern Mediterranean until 24 July, following the release of the passengers and aircraft.									
170	Persian Gulf	9/13/85	19	A7	0	N	N	N	N
On 13 September 1985, COMIDEASTFOR ordered the escort of an MSC ship because of recent Iranian seizures of merchant vessels. On 22 September, two vessels were diverted from an ASW exercise with the Kitty Hawk CVBG to resume Persian Gulf surveillance operations.									
171	Achille Lauro	10/7/85	4	A6	1	Y	N	N	N
On 7 October 1985, following the Palestinian terrorist hijacking of the Italian cruise ship Achille Lauro, Sixth Fleet vessels (including CV–60 Saratoga) moved to the Eastern Mediterranean. On 10 October, F–14s from Saratoga forced an Egyptian airliner with the hijackers aboard to Italy, where the hijackers were taken into custody.									
172	Egpyt-Air Hijacking	11/23/85	3	A6	1	N	N	N	N
On 23 November 1985, an Egyptian airlines was hijacked to Malta. USN ships, including CV–43 Coral Sea responded to the hijacking and moved toward Malta for contingency purposes.									
173	Persian Gulf Escort	1/12/86	141	A7	0	N	N	N	N
The tension in the Persian Gulf persisted as the Tanker War continued unabated. The 12 January 1986 Iranian boarding of the SS President Taylor led to closer USN escort of U.S. merchant vessels. On 12 May, the destroyer David R. Ray deterred an Iranian Navy attempt to board another U.S. merchant ship.									
174	Yemen Civil War	Jan–86	32	P6	0	N	N	N	N
In January 1986, amidst the bloody civil war in South Yemen, vessels from the Middle East Force, including the flagship La Salle, moved off the Yemeni coast for potential evacuation operations. An RN vessel carried out endangered Western nationals.									
175	OVL–FON Ops	Jan–86	85	A6	3	N	N	N	N
Following terrorist attacks on 27 December 1985 in the Rome and Vienna airports, a series of Freedom of Navigation operations in the Gulf of Sidra (Operations in the Vicinity of Libya, OVL) were approved. Code-named "Attain Document," the first two (26–30 January and 12–15 February) occurred without incident. During "Attain Document III (23–29 March 1986), two SA–5 missiles were shot at U.S. aircraft by a SAM Site on 24 March. Over the next 16 hours, two Libyan patrol boats were sunk by USN aircraft.									
176	Lebanon hostages	Mar–86	1	A6	0	N	N	N	N
A USN vessel was diverted from a point off the coast of Lebanon to stand by to pick up hostages. The vessel was soon returned to scheduled operations as no hostages were released.									
177	LaBelle Disco, Libya	4/10/86	6	A6	2	N	N	Y	N
On 5 April, the La Belle Discotheque in the Federal Republic of Germany was bombed, resulting in the death of one U.S. serviceman and many injured. On 14 April, aircraft from the carriers Coral Sea and America, as well as USAF FB–111s from Lakenheath AFB in the U.K., struck targets in Libya.									
178	Pakistan Hijacking	Sep–86	1	A6	1	N	N	N	N
Following the hijacking of a Pakistani airline, the Forrestal CVBG was ordered to head toward the Eastern Mediterranean in case the aircraft took off for Larnica in Cyprus or Beirut. The vessels were soon released for normal operations as this did not occur.									
179	Persian Gulf Ops	Jan–87	579	A7	2	Y	Y	Y	Y
The U.S. operations in the Persian Gulf were perhaps the most involved use of USN forces since the Vietnam War. U.S. operations increased in intensity during 1987, as the U.S. agreed to reflag and escort ten Kuwaiti oil tankers. Notable points in the operations include: 17 May 1987, an Iraqi Exocet missile hit the frigate Stark, killing 37 U.S. sailors; 21 July 1987, "Earnest Will" escort operations began; 22 July, the tanker Bridgeton struck a mine; 21 September, US forces captured an Iranian vessel laying mines; 6 October, the destruction of three Iranian small boats; 19 October, the destruction of an Iranian oil drilling platform; 14 April 1988, FFG–58 Roberts struck a mine; 18 April, retaliation operations against two Iranian oil platforms led to a day-long naval battle in which many Iranian naval units were damaged or sunk, and, on 3 July 1988, in the midst of a surface engagement, CG49 Vincennes shot down an Iran Air Airbus, killing all 290 passengers and crew. On 20 August 1988, a U.N.-sponsored cease-fire went into effect, ending the nearly eight-year-long war.									
180	Hostages in Lebanon	Feb–87	29	A6	1	N	N	N	N
In response to growing tension over hostages in Lebanon, the Kennedy CVBG was ordered to a MODLOC off Lebanon for potential evacuation operations.									
181	Summer Olympics	Sep–88	31	P4	2	N	Y	Y	Y
During the Summer Olympics in Seoul, South Korea, the U.S. deployed forces to deter North Korean disruption of the Olympics. At one point, two CVBGs (Nimitz and Midway) were operating in the Sea of Japan providing Olympic presence.									
182	Burma Unrest	Sep–88	31	P6	0	Y	Y	N	N
During unrest in Burma, Amphibious Ready Group ALPHA was sent to a MODLOC off Burma for possible evacuation of U.S. citizens. The endangered U.S. citizens finally left Burma by commercial air.									
183	Maldives Coup	11/17/88	1	P6	1	N	N	N	N
The Nimitz battle group was put on alert to provide a U.S. presence near the Maldives. The movement was cancelled after Indian troops sent to the island chain quickly repelled the attempted coup by an armed group of "probable" Sri Lankan Tamil mercenaries.									
184	Lebanon Civil War	Feb–89	45	A6	?	Y	Y	N	Y
During February 1989, fighting in Beirut intensified. In mid-February, following the outbreak of fighting in close proximity to the U.S. Embassy, the Mediterranean Amphibious Ready Group was ordered to move to the Eastern Mediterranean for potential evacuation operations.									
185	China Civil Unrest	Jun–89	31	P4	1	N	N	N	N
During the demonstrations in China and through the military crackdown in Beijing, a carrier battle group steamed in the South China Sea.									
186	Panama Elections	5/11/89	52	A3	1	Y	Y	Y	Y
Following a violent election campaign and annulment of the results by Panamanian President Noriega, President Bush ordered a reinforcement of U.S. forces in Panama. A light infantry battalion from the U.S. Army's 7th Infantry Division and a company from the 2nd USMC division were flown to Howard Air Force Base outside Panama City. U.S. Navy vessels alerted in support of this contingency response included an aircraft carrier.									
187	Hostages in Leb	8/1/89	32	A6	2	Y	Y	N	N
Following the Israel capture of Sheik Obeid and claims that Lt. Col. William R. Higgins, USMC, had been killed, USN forces were ordered to steam toward Lebanon and Iran. The America CVBG was ordered from Singapore to the Arabian Sea; the Coral Sea CVBG left a port call in Alexandria, Egypt, ahead of time; and BB–61 Iowa broke off a port call in Marseilles, France, to steam east toward Lebanon. The cruiser Belknap, with the Sixth Fleet commander aboard, headed to the waters off Lebanon, canceling its participation in a port call in the Soviet Union.									

Note.—See table 1 for notes.

Sources: See Selected Bibliography for partial source list.●

ARTICLES OF IMPEACHMENT AGAINST JUDGE WALTER L. NIXON, JR.

INTRODUCTION

● Mr. JEFFORDS. Mr. President, the analysis of this matter must start with the realization that it is factually a far more complex case than the prior perjury conviction and resulting incarceration of Judge Nixon could easily lead one to believe. Mere reliance by the Senate on the determination of the jury in his criminal trial would constitute an abdication of the solemn obligations placed upon us by the Constitution. Rather, we are charged to examine the facts independently and make our own determinations as to whether the conduct of this Federal judge was such that his removal from office is required. I find that such removal is mandated by the proven facts.

THE ARTICLES

The articles of impeachment charge Judge Nixon with knowingly making false or misleading statements, first to Justice Department officials and the FBI during an interview in his chambers, and later during sworn testimony before a grand jury investigating; First, the judge's financial relationship with Wiley Fairchild; and second, the peculiar handling of the State criminal prosecution of Wiley's son Drew Fairchild for drug smuggling.

Impeachment article I charges that the judge's statement to the grand jury on July 18, 1984, that Forrest County District Attorney Paul "Bud" Holmes never discussed the Drew Fairchild case with him was materially false or misleading in that such a discussion had taken place. Judge Nixon was convicted of perjury for this statement.

Impeachment article II alleges that the judge's testimony before the grand jury on July 18, 1984 that he had nothing to do with Drew's case and that he "never handled any part of it, never had a thing to do with it at all, and never talked to anyone, State or Federal, prosecutor or judge, that in any way influenced anybody" with respect to the Drew Fairchild case was also false or misleading. Judge Nixon was also convicted for perjury based on this statement.

Impeachment article III alleges that Judge Nixon has raised substantial doubt as to his judicial integrity, violated the public trust and generally brought disrepute upon the judiciary by uttering 14 false statements during the Justice Department interview and grand jury testimony. The two false statements alleged in article I are repeated in this article as part of the judge's design to conceal his conversations with Wiley Fairchild, Carroll Ingram and Paul "Bud" Holmes regarding the Drew Fairchild drug smuggling case.

ANALYSIS

Reduced to their basics, the allegations against Judge Nixon are that, while under oath to tell the truth and against his oath of office, he lied about having conversations with several persons regarding the State court drug smuggling case against Drew Fairchild. Judge Nixon does not deny that the conversations did take place or that he was a participant. Rather, his defenses are: First, that at the times he was questioned he had no recollection or recall of these insignificant conversations and/or second, that he gave narrow, but technically truthful responses to the questions put to him on these occasions.

The House points out that the "no recollection" defense is raised for the first time before the Senate. In the prior proceedings on this matter only the "technically true" defense had been asserted. In fact, the House notes that in his prior sworn testimony Judge Nixon specifically stated that he was aware of the conversations when he was answering the grand jury's questions. Thus, they urge the discrediting of Judge Nixon on this point, if for no reason other than his inconsistency. I agree. Obviously, the adoption of an entirely new tact at this late date does nothing to enhance the judge's credibility. Further, given the known facts, any questioning, no matter how general, should have triggered his recollection of these conversations and he should have revealed them to the grand jury and the Justice Department officials. Any other conclusion is simply untenable.

A similar factor working against the judge's credibility is the inconsistency of his testimony regarding the date on which the critical conversations took place. At his criminal trial, Judge Nixon testified that he was positive that he had not been in Hattiesburg at all on May 14, 1982. Thus he argued that the conversations could not have occurred that day and must have been on March 11, 1983, as he proposed. However, records produced after the criminal trial reveal that Judge Nixon was in fact in Hattiesburg on May 14 to visit his dentist. Before the Impeachment Trial Committee the judge explained this discrepancy by stating that his criminal trial testimony had been "an honest mistake."

However, my rejection of this element of Judge Nixon's defense has at least one other basis. By his own account, the subject conversations were called to Judge Nixon's mind by Bud Holmes during a parking lot meeting with him in February 1985. At that time Judge Nixon had not yet been indicted (he would not be until the following August) and the grand jury was still sitting. Accepting for the moment that he did not connect the conversations to the topic of the grand jury investigation until that point, why did he not come forward to clear up any remaining confusion about the issue? He could have returned to the grand jury and offered exculpatory testimony. He could have held his own press conference to bring this matter to full and final light. He took neither these nor any other actions, but rather chose to sit back and allow the grand jury to proceed on the basis (from his perspective) of erroneous facts. The direct results of this choice have been his criminal conviction, incarceration and now impeachment.

For my part I cannot fathom why someone in Judge Nixon's asserted position would fail to come forward. He states that he was completely innocent, his conversations and actions having been entirely appropriate. He had supervised numerous grand juries and thus was fully aware of the broad nature of the investigations which they conduct. He was charged on a daily basis with enforcement of the primary tenet of American criminal justice, that a person is innocent until proven guilty. Did he lack faith in the system when he, rather than another, was the potential accused? Why would he choose not to supply accurate information which would aid the grand jury in reaching a correct conclusion in its investigation?

Judge Nixon has no response to these questions which is satisfactory to me. He first asserts that he would have returned and testified openly had the grand jury recalled him. However, there was no reason for the grand jury to think that he had anything to say in addition to what he had previously testified. The onus clearly was on him to change the status quo created by his prior sworn testimony. His excuse for not taking that step is that the grand jury was out to get him (he was the prize) and any additional testimony only would have been used against him. However, the basis for his perjury convictions was already in place based on his earlier testimony. He could only have made his situation better, not worse, by clearing up the confusion regarding whether the conversations took place and whether there was anything improper about them. Given these facts, I can reach no other conclusion than that Judge Nixon was attempting to coverup something by his silence.

What did Judge Nixon have to hide? This question leads us back to the oil and gas deal with Wiley Fairchild. Judge Nixon was not convicted in connection with this deal, nor do the articles of impeachment include a charge based upon it. However, I agree with the House that the existence and nature of the deal forms the necessary background for understanding Judge Nixon's motivations.

From start to finish this was a sweetheart deal inherently unavailable to the public. Judge Nixon purchased from Wiley Fairchild interests in three oil wells, but he first, laid out none of his own money, second, received a loan from Fairchild at below market rate interest for the amount of the required down payment, third, paid off the loan only after receiving proceeds from the wells in amounts far exceeding his loan indebtedness, and fourth, offered to be of help to Fairchild if he ever could. Further, the deal was also inherently suspect on the issue of its timing. Even viewed most favorably to Judge Nixon, the facts establish that the deal was first discussed before the drug bust but not consummated until afterwards; and that when supporting documents were executed they were backdated. I am not aware, nor do I accept that backdating documents is appropriate legal procedure. All of these facts combined to create an overwhelming body of in-

criminating circumstantial background evidence.

The evidence does not conclusively establish that Judge Nixon believed there was anything improper about his deal with Fairchild or that he otherwise tried to hide its existence. However, Fairchild was charged with and plead guilty to making an unlawful gratuity for the deal. He obviously thought that something more than an arms-length transaction had taken place. I cannot believe Judge Nixon was so naive that he did not recognize that there were strings attached to the deal, or at the very least that its terms were extremely suspect. Rather, I conclude that he was fully aware of the unusual nature of his investment and that it would readily lead any investigator looking into the situation to suspect that some impropriety had occurred. Revelation of the fact that the Judge, Holmes and Fairchild had discussed the drug case, no matter how innocent the discussions may have been, would only serve to confirm such suspicions. Thus, fear that his professional standing and reputation would be damaged, coupled with a desire to maintain and perhaps expand upon this very favorable relationship with Wiley Fairchild, were the predominant factors motivating Judge Nixon to conceal the conversations.

This conclusion brings me foresquare to Judge Nixon's second line of defense, that is, that his answers to the questions of the grand jury and the Justice Department officials were technically true. Unfortunately for the judge, I find this argument to be nothing more than a semantic shell game, which is totally dependent upon an overly minute parsing of the term "discussion" and which ignores the commonsense interpretation of the known facts. Judge Nixon would have us believe that although he knew of his business relationship with Wiley Fairchild, his close personal relationship with Bud Holmes and the conversations which he had with the two of them about Drew Fairchild's care (or at least about matters closely associated with Holmes' handling of that case), his response that he had never "discussed the case" with anyone was technically true.

By no stretch of the imagination can I accept this position. Rather, I must conclude that these responses were clearly false and misleading as charged by the House. Further, as discussed above, I reject Judge Nixon's argument that he simply did not recall the conversations at the time he was being questioned. Thus, my guilty votes on articles I and III are based on the conclusions that Judge Nixon did have discussions regarding the Drew Fairchild drug case, that he was aware of them when questioned by the grand jury and Justice Department investigator and that, by his denials and statements in response to these questions, he intended to conceal their existence.

As to article II, my vote of not guilty reflects the conclusions that Judge Nixon really did not intend to influence the handling of the Drew Fairchild case and that he in fact did not influence it. Applying the "clear and convincing" standard of proof, there simply was not sufficient evidence to establish either proposition. Thus, the midtrial modification of the article, which shifted the focus from whether Judge Nixon intended to influence Bud Holmes' handling of the case to whether he had any actual influence on the case, was immaterial to my determination.

This is undoubtedly a sad case. The oil and gas deals, which prompted the Justice Department investigation, while they were suspect and ill advised, were not proven to be unlawful. Further, the conversations or discussions which Judge Nixon had with Holmes and Fairchild were relatively innocent and not connected in any meaningful way to the business deals. This matter would not be before us but for Judge Nixon's choice to obstruct the ability of the investigators to look for connections between these two events by lying about whether the conversations took place. It is only the lies which have caused his demise. While sad, I submit that there was no other possible outcome, for a judge who has demonstrated complete disregard for the sanctity of his oath is no longer fit to administer and enforce the oaths of others.●

EAST GERMANY

● Mr. ROTH. Mr. President, yesterday Fidel Castro made a speech lamenting "very sad things" happening in the Soviet Union and Eastern Europe.

Evidently, free speech, free elections, and free travel do not win the approval of the great dictator. Well, Mr. President, if Castro was sad yesterday, he must be weeping tears of deep sorrow today, because we have now received word that the icon of the cold war, the Berlin Wall, has been transformed into a useless monument to the foolishness of communism.

The East German politburo has announced that East Germany's heavily armed, bristling frontier with the West will be opened prior to passage of a law enabling all East Germans to travel to the West.

No longer will the East German Communist Party be able to boast to its own people of the so-called achievements of socialism, for East Germans will be free to cross the border with West Germany and to compare and contrast the achievements of democracy and of communism.

However, as we applaud the opening of the Berlin Wall and as we look forward to the hopeful demolition of this symbol of national imprisonment, it is only proper that we remember the many men and women who died on the Berlin Wall.

We now see thousands exiting East Germany with their possessions, but let us not forget an earlier generation of East Germans who faced a much more daunting task in seeking entry into the West, men and women who tunnelled under, climbed over and flew over the Berlin Wall. Sadly, many died on the barbed wire, killed by border guards, mines, and cowardly booby traps.

If the Berlin Wall is ever truly demolished, I would hope a small piece would be allowed to remain as a monument to these brave men and women.

However, Mr. President, I do not mean to cast a somber note on today's news. To the contrary, I wish to applaud our accelerated progress toward a major goal of United States and NATO policy—the end of the arbitrary division of Europe.

Each day brings us fascinating new developments in the Soviet Union, Poland, Hungary, and now East Germany. The attempt to bind the freedom of mankind in the shackles of a sterile ideology is a clear and apparent failure. Let us now evince the vision and the maturity to capitalize on these dramatic developments.●

OBSERVANCE OF VETERANS DAY, NOVEMBER 11, 1989

● Mr. McCAIN. Mr. President, this Saturday, November 11, our Nation will observe Veterans Day. This is the occasion when Americans show their deep gratitude to the men and women who have served as members of our country's Armed Forces. It is the occasion to honor all those whose devotion to their country has ensured the success of liberty in our country and throughout the free world.

The dedication to our national ideals that these faithful Americans have demonstrated and the sacrifices they have endured in service to their country have secured for America a proud and special place in history. We commend all Americans who served in our Armed Forces. But today, I also want to pay a special tribute to those veterans who fought for their country in that divisive conflict, the Vietnam war. Although honorable men and women can debate the merits of our involvement in Vietnam, the valor and devotion of those who fought there should never be dismissed.

In addition, special attention must continue to be focused on those Americans who did not return from Vietnam and whose fate remains uncertain. Let there be no doubt, our na-

tional determination to understand what has become of our missing in action will not waver. This Nation continues to vigorously pursue this issue, and we will have our answers. It is the least we owe to these brave Americans, and to their families who have waited so long to learn what has become of their fathers, sons, and brothers.

Mr. President, our deep concern for missing Americans pervades all strata of our society. We have not forgotten those who served this Nation. The individuals who are still listed as missing in action are very much in our hearts and prayers. Mr. President, I ask that two letters given to me which demonstrate the spirit and depth of this emotion be printed in the RECORD.

Mr. President, our country has not forgotten and will never forget the sacrifices made by our veterans so that all Americans can live free and self-determined lives. On this Veterans Day, let us show our respect to veterans by redoubling our efforts to ensure full accountability for Americans still missing in action. And finally, Mr. President, let us recall on Saturday our sincere gratitude to the men and women of the American Armed Forces who have done so much to preserve the ideals that America stands for.

The letters follow:

DEAR MRS. HUDDLESTON: I am writing to you somewhat reluctantly but in the hopes that you will understand my motivation.

I don't even know where or how to begin. I am writing to you on behalf of your former husband-Maj. H.W. Smith.

My name is Darrah McCann. I'm 27 years old and live in Washington D.C. I've been wearing your husbands bracelet since I was in the sixth grade. At first I guess I didn't realize what I was wearing on my wrist, all I knew is my dad went out and bought this bracelet, one for me—"Bud Smith" and one for my sister. Years after I always talked about "finding out who this bracelet really belongs to." I went down to the Vietnam Memorial wall and I looked in the book-no luck—My bracelet says, Capt. Bud Smith, 1-8-68.

As I was leaving a Vietnam vet. was protesting and camping out by the wall. I stopped and he looked up the year and found out that he was William Hallie, a pilot, same missing date 1-8-68. I went back to the wall (the book) and found the name. I guess by then I felt at peace with it until now.

I work in a restaurant. Our clientele is pretty much military. Well I started talking about it again and a customer Mary Jean went a step further and helped me with all the information.

It's not that I was to stop wearing it or that I don't want it anymore, as a matter of fact it will be hard to give this bracelet up. I don't think of this silver band as a bracelet. Its really just a part of me. I never met Capt. Bud Smith, but I think I fell in love with his spirit, and yet I know nothing about him. I know that probably sounds wierd, and honestly I'm not that deep. All I want to say is the bracelet is yours. It's my gift to your past husband.

If you ever have the time and don't feel that it's too personal, I'd really love to hear a little about him.

Until then,

DARRAH MCCANN.

SEPTEMBER 19, 1989.

DEAR DARRAH: Your letter arrived today having been forwarded to me by the Air Force. I am pleasantly surprised to know there are folks like you in America—still caring about an unknown person. My favorite topic is still my late husband. Even though he was only 26 years old when he was shot down, he did a lot of good things in his short life.

His real name was Hauie William Smith. We met in college and I thought he was the most handsome man in my freshman class. He didn't know how handsome he was which made him seem even nicer. He adored sports, especially baseball and basketball and he played both of those sports in college. He majored in Business and Accounting but his first love was flying! He always wanted to be a pilot. Because he had asthma as a child, passing the rigid AF physical was difficult—but he managed and became a candidate for pilot training. We married and he headed for a year of pilot training at Reese AFB, TX. I taught 6th grade and Bud learned to fly T-37's and T-38's—AF training planes. Bud spent spare time volunteering in a nearby orphange working with small groups of boys and teaching them baseball skills. From Reese AFB we headed south and east to Shaw AFB, So. Carolina and then on to England for a fantastic tour of duty! Once again Bud found homeless youngsters to be with. He planned outings for a small group of teenagers once a month. Sometimes we went to the movies or a concert in London and other times we came to our small rented English cottage and had popcorn. Bud received orders for Vietnam in 1967 and was sent to South Vietnam in Nov. of 1967. He was 25 years old (soon to be 26). His goal was to be an airline pilot and had already interviewed with PanAm. They liked him and agreed to a second interview when he got home—Oct. 1968. As you know, he never made that second interview. His RF4-C plane was shot down Jan. 8, 1968. Parts of his plane were found but he was never found. It is assumed he may have been captured because the area in which his plane went down was heavily infiltrated with VietCong soldiers.

Even though he's been gone nearly 22 years, there isn't a day that doesn't go by that I don't think of him. I am enclosing a photo of Bud taken at his graduation from pilot training. I only have 2 of the pictures left but felt you might like to see the man whose memory we both share.●

THE AMERICAN FARM SCHOOL IN THESSALONIKI, GREECE AND DIRECTOR BRUCE LANSDALE

● Mr. DIXON. Mr. President, I rise before you today to commemorate the American Farm School in Thessaloniki (Salonica), Greece, on the occasion of the retirement of its director of 35 years, Mr. Bruce Lansdale.

Founded in 1904, the school's mission is to train small-scale farmers to be agriculturally self-sufficient. Mr. Lansdale, who is honored throughout Greece, guided the school's growth from an isolated, rural vocational school to an internationally recognized institution for the teaching of vocational agriculture and modern farming. Indeed, the school's grassroots approach has contributed greatly to the positive transformation of Greece's rural sector and set a much-followed example for rural development procedure all over the world.

Mr. President, Bruce Lansdale and the American Farm School in Thessaloniki are to be commended for their "bottom up" approach to rural development training and for their underlying commitment to world peace and understanding through development.●

● Mr. BRADLEY. Mr. President, with the death of Arthur Holland, New Jersey has lost a great friend and a devoted public servant.

Arthur Holland was mayor of New Jersey's capitol city for over a quarter of a century. He was truly the dean of our mayors. His life and work has left an indelible mark on the city. Under Mayor Holland's leadership, Trenton has been in the forefront of confronting major urban problems such as drugs and homelessness. Trenton is on the upswing—due in large part to Arthur Holland's hard work and devotion.

Mayor Holland genuinely cared about our urban areas, not just in New Jersey but throughout the United States. As the president of the U.S. Conference of Mayors, he reminded the country of the needs and strengths of our cities. He was a forceful spokesman for their interests.

With the passing of Mayor Holland, we have lost a public servant whose dedication, hard work, and unbending pride in Trenton and in New Jersey has made our State a better place to live. I have also lost a friend. He will be deeply missed.●

WHO SPEAKS FOR THE DEPARTMENT OF ENERGY?

● Mr. PRYOR. Mr. President, Monday I held a hearing on the Department of Energy's [DOE] use of consultants. For the first time in the 10 years I have spent examining this issue, a high-ranking agency official admitted that DOE has turned over to an invisible private work force much of its basic work, and as a result, the agency faces "a very real danger of slippage in its knowledge, institutional memory and decisionmaking."

Ms. Donna Fitzpatrick, Assistant Secretary for Management and Administration, agreed that consultants are increasingly performing work that she would be more comfortable with Federal workers doing.

What are consultants doing that makes the Assistant Secretary uncomfortable? They wrote Secretary Watkins' testimony without his knowl-

edge, they conduct administrative hearings on security clearances for DOE employees and other contractors, they determine if DOE is in compliance with its own orders, and they perform the Government's work on international treaties while at the same time they work for other countries with an interest in those treaties.

Furthermore, Mr. President, Ms. Fitzpatrick stated that not only are we turning over the basic work of Government to consultants and contractors, but we are doing so at a higher cost to the Government. Ms. Fitzpatrick revealed that, according to a DOE study, DOE is paying consultants and contractors doing these jobs 20 percent more then they would pay a Federal employee to do comparable work.

The Assistant Secretary was very candid about these matters and I felt that DOE might begin to address this overreliance on consultants.

Mr. President, imagine my disappointment when I learned of the comments made by the second highest DOE official, Deputy Secretary of Energy, W. Henson Moore, shortly after the hearing ended. Mr. Moore stated that, since the days of David Stockman, the decision has been to use private consultants, and not Federal officials, to do the basic work of Government. He declared that the purpose of this policy was to save money.

Mr. President, within a few hours of Ms. Fitzpatrick testifying that consultants and contractors cost the Government 20 percent more, Mr. Moore said that according to David Stockman, it is cheaper to use consultants.

Just hours after Ms. Fitzpatrick admitted that prior to the congressional investigation, management officials were unaware that consultants prepare testimony and perform other inherently governmental tasks, Mr. Moore claimed that consultants do not make policy at DOE.

Mr. President, it was Secretary Watkin's decision to send Ms. Fitzpatrick to the hearing Monday. I assume that her testimony on DOE's use of consultants represents DOE's position.

Frankly, Mr. President, I am not interested in David Stockman's views on consultants and contractors. I prefer the candor of Secretary Watkins on the problems within DOE. I ask to have printed in the RECORD a New York Times article of June 28, 1989, that bears the headline, "Energy Chief Says Top Aides Lack Skills to Run U.S. Bomb Complex." I commend it to my colleagues and to Mr. Moore.

Despite the Secretary's candor and the admissions of his designated spokesperson at Monday's hearing, Mr. Moore's comments cause me to question whether all senior DOE officials are aware of the extent of the involvement of consultants and contractors in the basic work of that agency, and further, that by DOE's own admission, it costs more to use consultants and contractors.

The article follows:

[From the New York Times, June 28, 1989]

ENERGY CHIEF SAYS TOP AIDES LACK SKILLS TO RUN U.S. BOMB COMPLEX

(By Matthew L. Wald)

WASHINGTON, June 27.—Energy Secretary James D. Watkins said today that managers and supervisors in his department lacked technical skills needed to run the bomb production system and were presenting him with unreliable information on problems at the plants. Some, he said, lacked the discipline needed for safe operation of nuclear reactors.

Announcing a 10-point plan to improve operations in the department, Mr. Watkins said special "tiger teams" of auditors would look at two other bomb production plants for violations of environmental law like those alleged at the Rocky Flats plant near Denver. Scores of Federal agents are investigating whether the workers in Colorado secretly dumped and burned radioactive and chemical wastes.

He also said that awards to the contractors who run the plants would be based primarily on environmental performance, not production quotas. The plan will include a hot line for citizens to alert the department to problems.

UNUSUALLY BLUNT LANGUAGE

In his most comprehensive comments yet on the nation's nuclear weapons industry, Mr. Watkins acknowledged, as his predecessor had, that that plants were in disrepair. But he dwelled heavily on the disarray within his department, in language that was unusually blunt for a Cabinet secretary.

Alternating frustration with contribution, Mr. Watkins said, "I am certainly not proud or pleased with what I have seen over my first few months in office." Referring to a production system whose major parts are all at least 25 years old, some dating from the development of the atom bomb, Mr. Watkins said. "The chickens have finally come home to roost and years of inattention to changing standards and demands regarding to the environment, safety and health are vividly exposed to public examination, in fact, almost daily."

Mr. Watkins, a retired admiral, said he would like to bring credibility to the department so that when it sought to open a new plant or operate an old one, the public would not feel the department was "jamming something down somebody's throat out there."

But he said his efforts had been slowed because of an insufficient number of technically qualified people on the department's staff. And he said he was involving himself in every major decision because of unreliably optimistic information he was receiving.

"When I get the briefing, I only get one side, so I have to dig in myself, Mr. Watkins said. "I don't have the database coming to me that I need. I have omissions in the database. So I am making decisions today on a crisis basis, and I don't like that. That's not my way of doing business."

As he spoke, an influential environmental group, the Natural Resources Defense Council, released a study showing an even grimmer picture of environmental problems in the bomb plants, with 14 of the 17 major plants found to be in violation of hazardous waste laws. The council and 20 other environmental groups filed suit today against the Department of Energy, seeking to foster a public debate about the cleanup and rebuilding of the bomb production system, by compelling the Government to prepare an environmental impact statement.

'WE ARE NOT IN COMPLIANCE'

A spokesman for the department, Christina Sankey, said she could not confirm the number of plants with serious pollution problems but agreed, "we are not in compliance."

Mr. Watkins said he was ordering a review to see whether the department was complying with the National Environmental Policy Act, the law that calls for environmental impact statements, and that he was personally reviewing each decision on whether to order such a statement, which can entail substantial delay in a project.

But he refused to say whether he would order an environmental statement for the overhaul of the whole system of bomb production, a project that would take decades and may cost more than $100 billion.

He also said his department would get an additional $300 million in the fiscal year that begins Oct. 1 for cleanup. The Reagan administration's budget called for $1.8 billion, which was increased by President Bush $2.1 billion and now to $2.4 billion.

Mr. Watkins said he was surprised to learn last week that his department had ignored recommendations made by the National Academy of Sciences from 1983 to 1987 on the Waste Isolation Pilot Plant near Carlsbad, N.M. The opening of the plant, which is meant for disposal of plutonium-contaminated wastes, has been delayed for months because of questions about its quality. Now, he said, the department will ask the academy for its endorsement of a plan to open the repository, "They're going to tell us, I'm sure, you didn't listen to us from 83 to 87." Mr. Watkins said.

He said the plant would not open until next year, a delay that creates a crisis as wastes continue a pile up at temporary storage sites in Rocky Flats.

'A NIGHTMARE FOR ME'

Mr. Watkins said another waste disposal project, the plan to store highly radioactive wastes from military reactors and civilian ones at Yucca Mountain near Las Vegas, Nev., had been hamstrung by shortcomings of the Energy Department staff. "It has been a nightmare for me to try to unravel the background sufficient to make some decision," Mr. Watkins said. "It's been very confusing, and each day is revealed some new technical data."

He said he had found "serious flaws" in the procedures needed to assure that the department's reactors were safe to operate.

The department will have an entirely new management team, he said, under Victor Stello Jr., now executive director for operations at the Nuclear Regulatory Commission.

"Mr. Stello will assure that conformance to environmental laws and attention to these requirements are developed through a safety-conscious culture that will assure production objectives are met without violation of environmental safety or health standards," he said.

The White House has announced that it plans to nominate Mr. Stello as Assistant Secretary for defense programs, but opposition is expected in the Senate because of unorthodox procedures he used at the Nuclear Regulatory Commission in approving cash payments to obtain information. The money was paid to a former utility employee who

said he had information implicating a commission official in connection with allegations that have not been disclosed.

Mr. Watkins also said he had asked the academy to establish a committee on epidemiologic research to advise the department on ways to study worker health issues. The department plans to create a database on the health histories of its workers who have been exposed to radiation for use by outside researchers.●

TARGETED JOBS TAX CREDIT

● Mr. BOREN. Mr. President, as each day passes, I grow more and more apprehensive that we will run out of time before Congress reauthorizes the targeted jobs tax credit. TJTC provides employers with an incentive to hire the structurally unemployed. It would truly be a shame if while we wrangle over macrodeficit issues, Congress were to allow one of the only true effective job programs for the unemployed to expire on December 31.

Many of my colleagues may believe that if TJTC laspes, it is a simple matter to retroactively reauthorize the program next year. This just is not so. Past experience has demonstrated that if TJTC expires, employers lose the tax incentive for those they hire during the expiration period. Retroactivity does not and cannot work in the case of TJTC.

As recently as 1986, Congress allowed TJTC to expire for 10 months. While it was retroactively reenacted as part of tax reform, program participation was dramatically reduced that year. This is primarily because the job services, which administers TJTC, would not, because of their financial constraints, accept requests for certification of TJTC workers from employers while the program was not reauthorized. In 1990, the financial constraints on the job services will be even more severe than the ones in 1986. In addition, the law requires that requests for TJTC-eligible workers be filed on or before the first day of work. Thus, a retroactive reauthorization does not work for TJTC. This is borne out by the fact that in 1985, approximately 625,000 structurally unemployed Americans obtained jobs through TJTC, but despite retroactive reauthorization in 1986, only 87,102 certifications were issued.

Furthermore, the 10-month program hiatus and the inability to certify the TJTC hires during that period resulted in significant disillusionment among many employers which used TJTC to offset the extra costs of hiring, training and supervising structurally unemployed workers. Employers increasingly believe that TJTC is too volatile a Government program to justify incorporating into their annual business plans.

Employers' disappointment with 1-year extension adopted in 1988, combined with uncertainty about reauthorization beyond 1989, resulted in further decline in participation: in 1988 there were only 497,000 certifications a decrease of 101,000 from 1987.

Despite continued high unemployment among targeted groups—inner city youth, welfare recipients, workers with disabilities, ex-offenders—the number of certifications for 1989—annualized, is estimated to be only 400,000—a decline of nearly 225,000 from its high in 1985.

If TJTC is to remain a viable program, it is critical that a multiyear extension be adopted this year. The House reconciliation bill includes a 2-year extension of TJTC, as did the reconciliation bill reported by the Senate Finance Committee. Therefore, because of the time sensitivity surrounding a TJTC extension, I believe a multiyear extension should and would appropriately be included in the final budget reconciliation package.●

POSITION ON VOTE

● Mr. SIMON. Mr. President, on October 31 the Senate voted on Senate Concurrent Resolution 79, a resolution deploring the Nicaraguan Government's unilateral abrogation of the 18-month-old Nicaraguan cease-fire. I was unavoidably absent for the vote, but if I had been present, I would have voted in favor of the resolution.●

EXECUTIVE CALENDAR

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 376, Dennis B. Underwood, to be Commissioner of Reclamation;

Calendar 390, Jane A. Kenny, to be Director of the ACTION Agency;

Calendar 476, Melva G. Wray, to be Director of the Office of Minority Economic Impact; and

Calendar 477, William H. Young, to be an Assistant Secretary of Energy (Nuclear Energy).

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notifed of the Senate's action, and that 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 INTERIOR

Dennis B. Underwood, of California, to be Commissioner of Reclamation.

ACTION AGENCY

Jane A. Kenny, of Virginia, to be Director of the ACTION Agency.

DEPARTMENT OF ENERGY

Melva G. Wray, of Connecticut, to be Director of the Office of Minority Economic Impact.

William H. Young, of New Jersey, to be an Assistant Secretary of Energy (Nuclear Energy).

STATEMENT ON THE NOMINATION OF DENNIS B. UNDERWOOD TO BE COMMISSIONER OF RECLAMATION

Mr. McCLURE. Mr. President, on October 4, 1989, the Committee on Energy and Natural Resources favorably reported the nomination of Dennis B. Underwood to be Commissioner of Reclamation by a unanimous vote.

Mr. Underwood's extensive background in water resource management will serve him well in the position of Commissioner of Reclamation. He has worked for more than 10 years for the Colorado River Board of California and currently serves as its executive director and executive secretary. From 1969-78, Mr. Underwood was with the California Department of Water Resources; and in 1975 served as a consultant to the United Nations, conducting water resources quantity and quality management training for a team of engineers from Spain. From 1966 to 1969, he served with the United States Army Corps of Engineers in Thailand and in New England.

Mr. President, I urge my colleagues to join me in supporting Mr. Underwood's confirmation as Commissioner of Reclamation.

STATEMENT ON THE NOMINATION OF JANE KENNY TO BE THE DEPUTY DIRECTOR OF THE ACTION AGENCY

Mr. HATCH. Mr. President, I urge my colleagues to confirm the nomination of Jane Kenny to be the Director of the ACTION Agency. She is eminently qualified to carry out the administrative responsibilities of this agency and to move it forward toward its goals of providing volunteer opportunities for Americans and of helping those in our society with special needs.

Her past position as the Director of VISTA and ACTION's Deputy Director has given her good insight and understanding into this agency's functions.

As I have worked with her on the reauthorization of ACTION, I have found her to be very knowledgeable about these programs, and she has the management skills to carry them out.

Ms. Kenny is a person that has constantly demonstrated her commitment to voluntarism and is committed to the promotion of the ACTION agency. Her previous work in Government has helped her to realize the benefits that many can realize through programs such as ACTION.

I applaud President Bush's nomination of Jane Kenny for their key position, and I am looking forward to working with Ms. Kenny as she as-

29-059 O-90-11 (Pt. 20)

sumes the head of this important agency.

STATEMENT ON THE NOMINATION OF MELVA G. WRAY

Mr. McCLURE. Mr. President, on November 8, 1989, the Committee on Energy and Natural Resources favorably reported the nomination of Melva G. Wray to be Director of the Office of Minority Economic Impact at the Department of Energy by a vote of 18 to 0.

Ms. Wray has an educational background in economics and good experience in business. For the past 8 years, she has worked for IBM in various capacities, to include marketing representative, office systems manager, and systems engineer. Ms. Wray also has experience with the Federal Government, having worked as an economist for the Bureau of Labor Statistics at the Department of Labor. Her qualifications are appropriate for the position of Director of Minority Economic Impact.

Mr. President, I urge my colleagues to join me in supporting Ms. Wray's confirmation as Director of the Office of Minority Economic Impact.

STATEMENT ON THE NOMINATION OF WILLIAM H. YOUNG

Mr. McCLURE. Mr. President, on November 8, 1989, the Committee on Energy and Natural Resources favorably reported the nomination of William H. Young to be an Assistant Secretary of Energy for Nuclear Energy by a vote of 18 to 0.

Mr. Young has a great deal of background and experience in the field of nuclear energy. He holds an M.S. in engineering, a B.S. in naval architecture and marine engineering, and is certified as a reactor engineer. From 1985 to 1989, as president of his own company, he was involved in management consulting for electric utilities. From 1971 to 1985, he was employed by Burns and Roe, Inc. and served as its vice president for nuclear and fossil projects. From 1962 to 1971, he served in the Division of Naval Reactors for the U.S. Atomic Energy Commission, and prior to that was with the Nuclear Propulsion Division of the Department of the Navy. These qualifications make him well suited for the position of Assistant Secretary for Nuclear Energy.

Mr. President, I urge my colleagues to join me in supporting Mr. Young's confirmation as Assistant Secretary for Nuclear Energy.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

APPROVING THE SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 2642, a bill granting approval to the Southeast Interstate Low-Level Radioactive Waste Management Compact, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2642) granting the consent of the Congress to amendments to the Southeast Interstate Low-Level Radioactive Waste Management Compact.

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. BIDEN. Mr. President, late last week, the Senate Judiciary Committee approved a bill to grant congressional consent to two changes in the southeast interstate low-level radioactive waste compact. That bill, S. 1563, introduced by our colleague from North Carolina [Mr. SANFORD] passed the Senate on November 3.

The purposes of that bill, as with the one before us, are to change the terms of the southeast compact so North Carolina, and all future hosts of the compact's disposal site, will have greater assurances regarding how long it will be the host and how much waste it will have to manage, and that other member States will not drop out of the compact if they are selected as the host in the future.

The changes are noncontroversial. Each of the eight member State of the compact has passed legislation substantially similar to that passed by North Carolina. All that remains to bring the changes into effect is congressional consent, which is required because North Carolina made it a condition of its legislation, and also because changes to the compact itself must be approved by Congress.

The Nuclear Regulatory Commission has no objection to the changes. The Congressional Budget Office projects that the changes will result in no significant cost to Federal, State, or local governments.

The bill passed by the House differs only in the most minor, technical aspects. The House amendments conform the bill to the drafting style used in the southeast compact. No substantive changes were made in the bill.

In order to expedite enactment, and because the Senate has already expresed its position on the matter, the Judiciary Committee decided that passage of the House bill is the best course of action. I commend my colleagues on the Judiciary Committee, the ranking member, Senator THURMOND, as well as the Senator from Alabama [Mr. HEFLIN] for their assistance in facilitating passage of this bill. I also commend Senator SANFORD for his effort to move this bill quickly through Congress and to the President's desk.

Mr. SANFORD. Mr. President, I rise in strong support of H.R. 2642. This legislation would accomplish the same purposes as S. 1563, which I was pleased to introduce on behalf of a number of my colleagues from the southeastern States. The Senate has already conferred its blessing upon S. 1563, and I think my colleagues for their support in passing that legislation on Friday. However, since there are a few minor differences in the wording of the two bills, we can now send the measure on to the President most quickly simply by passing H.R. 2642. I'm pleased that we have the opportunity to do so at this time.

Like S. 1563, this bill will simply confer congressional approval on amendments to the articles of the southeast low-level radioactive waste management compact. The compact's member States—Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia—have already acted to ratify these amendments, and the entire Senate delegation representing these States has joined me in supporting congressional approval.

The amendments provide that:

First, no host facility shall be required to operate for more than 20 years, or to accept more than 32,000,000 cubic feet of waste during its operating life; and

Second, no member State shall be allowed to withdraw from the compact, beginning 30 days after the first new host State facility has opened, unless all other member States and the Congress consent to that withdrawal.

These amendments will make certain that no host State will bear a disproportionate responsibility for disposal of the region's low-level waste, and that each State will meet its obligations under the articles of the compact in turn. By passing H.R. 2642, we can ensure that these responsible and noncontroversial amendments are allowed to enter into force.

I would like to thank my good friend, the majority leader, and the distinguished Republican leader, for their assistance in bringing this measure to the floor in an expeditious manner. I also greatly appreciate the assistance of my distinguished colleague from Delaware [Mr. BIDEN] and my friend from South Carolina [Mr. THURMOND], together with their staffs, in steering this measure through the Judiciary Committee.

I would note that this legislation, which was introduced by Congressman ALEX MCMILLAN in the House, was passed without controversy by the other body. The bill is also strongly supported by North Carolina Gov. Jim Martin and the Governors of the other compact member States.

Again, I thank my colleagues for supporting H.R. 2642, which will help ensure equitable treatment for all the southeast compact member States.

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. 2642) 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.

REMOVAL OF INJUNCTION OF SECRECY

Mr. MITCHELL. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from Annex III to the 1973 Convention for the Prevention of Pollution From Ships (Treaty Document No. 101-7), transmitted to the Senate today by the President.

I also ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate, Annex III (Regulations for the Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Forms or in Freight Containers, Portable Tanks or Road and Rail Tank Wagons), an optional annex to the 1973 International Convention for the Prevention of Pollution from Ships, as modified and incorporated by the 1978 protocol relating thereto (MARPOL 73/78). I also transmit, for the information of the Senate, the report of the Department of State with its attached analysis of Annex III.

MARPOL 73/78 is the global agreement to control pollution from ships. Annex III establishes uniform regulations for the transport of packaged harmful substances, including packaging, marking/labelling, documentation, and stowage requirements and, if necessary, quantity limitations. It complements the other annexes to MARPOL 73/78, which relate to the transport of oil (Annex I) and harmful substances carried in bulk (Annex II), and to ship-generated sewage (Annex IV) and garbage (Annex V).

The United States ratified MARPOL 73/78 on August 12, 1980, along with Annexes I and II, and it entered into force for the United States on October 2, 1983. U.S. ratification of Annex III at this time would bring the annex into force. Moreover, agreement has been reached that, once in force, the Parties will adopt U.S.-sponsored amendments to the annex that will strengthen its provisions and make it a more effective environmental instrument.

U.S. ratification of MARPOL Annex III will be an important step in minimizing pollution of the world's oceans from discharges of packaged harmful substances. I recommend the Senate give early consideration to Annex III of MARPOL 73/78 and give its advice and consent to ratification.

GEORGE BUSH.

THE WHITE HOUSE, *November 9, 1989.*

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar Nos. 249 and 314 en bloc; that the substitute amendment, where appropriate, be agreed to; that the bills be deemed read a third time and passed; and motions to reconsider the passage of the bills be laid upon the table.

I further ask unanimous consent that any statements in reference to these calendar items appear at the appropriate place in the RECORD, as if read.

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

FEDERAL TRADE COMMISSION ACT AMENDMENTS

The Senate proceeded to consider the bill (S. 1249) to amend the Federal Trade Commission Act to provide authorization of appropriations, and for other purposes.

Mr. HOLLINGS. Mr. President, I am glad that the Senate, once again, is taking up the reauthorization of the Federal Trade Commission. I am pleased to be a cosponsor of this legislation, which was reported without objection by the Commerce Committee.

Unfortunately, the last formal authorization of the Federal Trade Commission was through legislation passed in 1980, which expired in 1982. The Senate has passed legislation since that time, but the measures have failed in conference. I am hopeful that we will remedy this situation in the 101st Congress, beginning with expedited passage of S. 1249.

Needless to say, the FTC has an extremely important mission, including prevention of anticompetitive conduct in the marketplace, and protection of consumers from unfair or deceptive acts or practices. We in Congress must reemphasize the importance of that mission by passage of authorization legislation.

S. 1249 would provide a 3-year authorization for the Agency. It also would make changes in the FTC's authority and procedures based on bills adopted by the Commerce Committee and reported in the 97th through 100th Congresses. In addition, in preparing this bill, the Committee was assisted in its review of the Agency by the report of the American Bar Association's special committee to study the role of the Federal Trade Commission, commonly referred to as the Kirkpatrick Committee, and thus I believe the bill contains thoughtful and necessary measures to insure the effectiveness of the FTC's operations.

For example, the bill would codify a statutory definition of unfairness to be used by the FTC in carrying out its authority to prohibit unfair acts or practices. The definition is the one currently used as a matter of FTC policy, and the bill would insure that the definition is adhered to in the future.

Additionally, the bill reflects the committee's concern with the potential for unbounded regulation of nondeceptive commercial advertising on the basis of unfairness. In order to prevent abuse in this area, the bill would prohibit rulemakings to regulate advertising on the basis of unfairness. The FTC, however, would retain the authority to address individual cases of unfairness advertising. The bill also permits the Congress to monitor the FTC's role in preventing anticompetitive practices, by requiring reporting on predatory pricing and resale price maintenance.

Mr. President, this legislation reflects years of work by the Commerce Committee. It authorizes an agency with an extremely important mission. I encourage my colleagues to vote favorably for this important legislation.

Mr. BRYAN. Mr. President, I am pleased that the Senate is today considering S. 1249, legislation to provide authorization of appropriations for the Federal Trade Commission.

On June 7 and 8, I chaired hearings on the consumer subcommittee into the effectiveness of the FTC in fulfilling its statutory mandate. Witness after witness reaffirmed the importance of the FTC. The increasing number of mergers and filing under the Hart-Scott-Rodino Act, the burgeoning problem of consumer fraud, including telemarketing fraud, and the

growing need for heightened consumer protection activities were topics consistently cited by witnesses as appropriate functions for the FTC.

Now some would question why I have continued to press for an authorization bill for the FTC, especially in view of the fact that things go on at the agency without an authorization bill. I can answer, as did some witnesses, that Congress through the authoriation process has the opportunity to redirect and instruct the FTC regarding its efforts and the manner in which its mandate should be interpreted. For this reason, the full Commerce Committee approved S. 1249, without amendment, on July 25.

Recently, an analysis of the FTC was undertaken by the antitrust division of the American Bar Association. The so-called Kirkpatrick Committee submitted its report in April of this year. The Kirkpatrick Committee looked into issues of leadership, antitrust activities, consumer protection, guidance to business, competition and consumer advocacy, economic theory, resources, organization and structure, and relationships with Congress and the States. This thoughtful examination suggested no dramatic restructuring or reorienting of the FTC. Rather, it found that the FTC has existing statutory authority for a satisfactory role in antitrust and consumer protection areas, but it needs more clarity in certain areas and greater dedication to its mission. In addition, the committee pointed to the continuing resource drain on the FTC, which is being asked to act more and more aggressively with fewer and fewer employees.

The legislation we consider today is similar to bills previously approved by the Senate. Included in the bill are provisions to define the statutory parameters of the FTC act a bit more precisely; to require that the FTC act in rulemaking matters only where actions have been prevalent in an industry—so as to utilize the FTC's resources in those areas that are especially active—and to require the FTC to provide information on its activities regarding certain competitive practices, so that Congress can evaluate the FTC's performance in these areas.

In addition, the bill contains a provision which will help to prevent the FTC from using its limited resources in pursuit of areas that can be effectively dealt with on the State or local level, or are assigned to other departments or agencies at the Federal level.

The FTC is an important agency, with an important mission. Reauthorizing the agency will indicate Congress' concern that the FTC have sufficient resources and direction to accomplish its objectives. I urge my colleagues to support the bill.

Mr. DANFORTH. Mr. President, today the Senate will consider S. 1249, legislation to reauthorize the Federal Trade Commission [FTC]. I congratulate the Consumer Subcommittee Chairman, Senator BRYAN, and Senator GORTON, the ranking Republican member of the subcommittee, for their fine work in crafting this legislation.

Congress has not passed FTC authorizing legislation since 1980. That bill, the FTC Improvements Act of 1980, expired in 1982. Since that time, efforts to resolve the differences between House and Senate FTC bills have failed in conference. As a result, some of the most important issues regarding the FTC's mission have been addressed during the appropriations process.

The principal issue facing the Commission is how best to focus its resources. During the 1970's, the FTC entered new and innovative areas, mainly through the promulgation of trade regulations. This new emphasis was controversial, and the Congress responded by prohibiting rulemakings on advertising and investigations of Agricultural cooperatives and marketing orders. Congress redirected what it considered to be an improperly focused Commission.

In recent years, the FTC has concentrated more of its resources on individual transactions and practices. Much of this effort has been in the form of challenges to mergers and consumer fraud, and the imposition of civil penalties for violations of rules. At the same time, some have criticized the Commission for failing to recognize the appropriate role for State law enforcement officials in the consumer protection area.

These issues require substantive resolution in authorization legislation. By relying solely on the appropriations process for congressional direction, the Commission lacks a clearly defined mission. It is essential that an independent agency reflect the will of the Congress. S. 1249 contains provisions that will enhance enforcement capabilities, allocate resources efficiently, and, most importantly, provide new direction.

The Federal Trade Commission has two new members, including a new chairman. This is the time for the Congress to renew its commitment to guiding the Commission. The FTC must be a law enforcement agency for the marketplace. I am pleased that it will have the resources to carry out its mission with the establishment of a filing fee for firms that seek review of proposed mergers under the Hart-Scott-Rodino Act. With direction from this authorizing legislation, the Commission will fulfill its mandate.

Mr. President, I urge my colleagues to support S. 1249.

Mr. GORTON. Mr. President, I am pleased to support S. 1249, legislation to reauthorize the Federal Trade Commission [FTC]. I wish to commend the distinguished chairman of the Consumer Subcommittee, Senator BRYAN, for his fine work in drafting this important legislation.

The FTC has a wide array of responsibilities ranging from antitrust to consumer protection. In the 1970's, the FTC devoted a great deal of its resources to the promulgation or rules on trade regulation. More recently, the Commission has focused its attention on challenging mergers and consumer fraud and seeking civil penalties for violations of rules and statutes.

I am particularly interested in the forcus and scope of the Commission's activities. The Consumer Subcommittee received testimony from the American Bar Association and others indicating that the FTC has insufficient personnel in investigative line positions. According to this testimony, there are too many people in supervisory positions. This legislation directs the FTC to study how its resources are allocated and report its findings to the Congress. This information will be invaluable in assisting the Congress to make future determinations about the structure of the Commission's mandate.

There has been considerable controversy in recent years over the enforcement of Baby FTC Acts by individual States. Some State attorneys-general have been very active in this area. In testimony to the Consumer subcommittee, the National Association of Attorneys-General stated that the FTC has not enforced its consumer protection laws with sufficient vigor, and that the States are merely filling the void. The FTC maintains that interstate commerce should be regulated by the Federal Government. They argue that fragmented regulation will result in uneven applications of the consumer protection laws, and this situation may pose problems to those whose businesses are operating nationwide. This legislation requires the FTC to identify those areas within its jurisdiction that are most appropriately enforced by States and localities, rather than the FTC. This recognizes that the State attorneys-general have a very important role to play in the national effort to protect consumers. This study will encourage a healthy working relationship between State and Federal officials. The findings in this study will assist the Congress in future decisions regarding possible changes to the FTC's statutory mandate.

The bill also contains two important provisions that will assist the Commission in combating consumer fraud. Perpetrators victimize innocent consumers for billions of dollars each year. S. 1249 establishes a new venue provision which would permit the FTC to bring defendants from different districts into a single Federal district

court. Another provision will allow the FTC to issue civil investigative demands for physical evidence. The Commission is limited now to securing documents as evidence in enforcement efforts. The FTC has requested these enhanced enforcement tools. I wish to point out also that our colleague from Arizona [Mr. MCCAIN] my predecessor as ranking member of the Consumer Subcommittee, has supported these provisions in the past, and he has been a forceful advocate for legislation to combat consumer fraud.

Mr. President, this legislation is important to re-establishing the direction of the FTC. I urge my colleagues to support S. 1249.

The bill was ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Trade Commission Act Amendments of 1989".

UNFAIR METHODS OF COMPETITION

SEC. 2. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end the following:

"(n) The Commission shall not have any authority to find a method of competition to be an unfair method of competition under subsection (a)(1) if, in any action under the Sherman Act, such method of competition would be held to constitute State action.".

AGRICULTURAL COOPERATIVES

SEC. 3. The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by redesignating section 24 and section 25 as sections 25 and 26, respectively, and by inserting immediately after section 23 the following new section:

"SEC. 24. (a) The Commission shall not have any authority to conduct any study, investigation, or prosecution of any agricultural cooperative for any conduct which, because of the provisions of the Act entitled 'An Act to authorize association of producers of agricultural products', approved February 18, 1922 (7 U.S.C. 291 et seq., commonly known as the Capper-Volstead Act), is not a violation of any of the antitrust Acts or this Act.

"(b) The Commission shall not have any authority to conduct any study or investigation of any agricultural marketing orders.".

COMPENSATION IN PROCEEDINGS

SEC. 4. (a) Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)) is repealed, and subsections (i), (j), and (k) of section 18 are redesignated as subsections (h), (i), and (j), respectively.

(b) Section 18(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)) is amended by striking "subsection (i)" and inserting in lieu thereof "subsection (h)".

KNOWING VIOLATIONS OF ORDERS

SEC. 5. (a) Section 5(m)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)(B)) is amended by inserting ", other than a consent order," immediately after "order" the first time it appears.

(b) Section 5(m)(2) of the Federal Trade Commission Act (15 U.S.C. 45(m)(2)) is amended by adding at the end the following: "Upon request of any party to such an action against such defendant, the court shall also review the determination of law made by the Commission in the proceeding under subsection (b) that the act or practice which was the subject of such proceeding constituted an unfair or deceptive act or practice in violation of subsection (a).".

PREVALENCE OF UNLAWFUL ACTS OR PRACTICES

SEC. 6. Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57a(b)) is amended by adding at the end the following new paragraph:

"(3) The Commission shall issue a notice of proposed rulemaking pursuant to paragraph (1)(A) only where it has reason to believe that the unfair or deceptive acts or practices which are the subject of the proposed rulemaking are prevalent. The Commission shall make a determination that unfair or deceptive acts or practices are prevalent under this paragraph only if it has issued cease and desist orders regarding such acts or practices, or any other information available to the Commission indicates a pattern of unfair or deceptive acts or practices.".

EFFECTIVE DATE OF ORDERS

SEC. 7. (a) Paragraph (2) of section 5(g) of the Federal Trade Commission Act (15 U.S.C. 45(g)) is amended to read as follows:

"(2) Upon the sixtieth day after such order is served, if a petition for review has been duly filed, except that any such order may be stayed, in whole or in part and subject to such conditions as may be appropriate, by—

"(A) the Commission;

"(B) an appropriate court of appeals of the United States, if (i) a petition for review of such order is pending in such court, and (ii) an application for such a stay was previously submitted to the Commission and the Commission, within the thirty-day period beginning on the date the application was received by the Commission, either denied the application or did not grant or deny the application; or

"(C) the Supreme Court, if an applicable petition for certiorari is pending; or".

(b) Section 5(g)(3) of the Federal Trade Commission Act (15 U.S.C. 45(g)(3)) is amended to read as follows:

"(3) For purposes of section 19(a)(2) and section 5(m)(1)(B), if a petition for review of the order of the Commission has been filed—

"(A) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals and no petition for certiorari has been duly filed;

"(B) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals; or

"(C) upon the expiration of thirty days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review be dismissed; or".

(c) Section 5(g)(4) of the Federal Trade Commission Act (15 U.S.C. 45(g)(4)) is amended to read as follows:

"(4) In the case of an order requiring a person, partnership, or corporation to divest itself of stock, other share capital, or assets, if a petition for review of such order of the Commission has been filed—

"(A) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals and no petition for certiorari has been duly filed;

"(B) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals; or

"(C) upon the expiration of thirty days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review be dismissed.".

CIVIL INVESTIGATIVE DEMANDS

SEC. 8. (a) Section 20(a) of the Federal Trade Commission Act (15 U.S.C. 57b-1(a)) is amended—

(1) in paragraph (2), by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "act or practice or method of competition declared unlawful by a law administered by the Commission";

(2) in paragraph (3), by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "acts or practices or methods of competition declared unlawful by a law administered by the Commission"; and

(3) in paragraph (7), by striking "unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "act or practice or method of competition declared unlawful by a law administered by the Commission".

(b) Section 20(b) of the Federal Trade Commission Act (15 U.S.C. 57b-1(b)) is amended by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by a law administered by the Commission".

(c) Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(1)) is amended by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by a law administered by the Commission".

(d) Section 20(j) of the Federal Trade Commission Act (15 U.S.C. 57b-1(j)) is amended by inserting immediately before the semicolon the following: ", any proceeding under section 11(b) of the Clayton Act, or any adjudicative proceeding under any other provision of law".

DEFINITION OF UNFAIR ACTS OR PRACTICES

SEC. 9. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45), as amended by section 2 of this Act, is further amended by adding at the end the following:

"(o) The Commission shall have no authority under this section or section 18 to declare unlawful an act or practice on the grounds that such act or practice is unfair unless the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.".

COMMERCIAL ADVERTISING

SEC. 10. Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)), as so redesignated in section 4(a) of this Act, is amended by adding at the end the following: "The Commission shall have no authority under this section to initiate any new rulemaking proceeding which is intended to

or may result in the promulgation of any rule by the Commission which prohibits or otherwise regulates any commercial advertising on the basis of a determination by the Commission that such commercial advertising constitutes an unfair act or practice in or affecting commerce.".

VENUE; SERVICE OF PROCESS

SEC. 11. (a) Subsections (a) and (b) of section 13 of the Federal Trade Commission Act (15 U.S.C. 53) are each amended by adding at the end thereof the following: "Whenever it appears to the court that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, the court may cause such person, partnership, or corporation to be summoned without regard to whether they reside or transact business in the district in which the suit is brought, and to that end process may be served in any district.".

(b) Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting immediately after subsection (b) the following:

"(c) Any process of the Commission under this section may be served by any person duly authorized by the Commission—

"(1) by delivering a copy of such process to the person to be served, to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served;

"(2) by leaving a copy of such process at the residence or the principal office or place of business of such person, partnership, or corporation; or

"(3) by mailing a copy of such process by registered mail or certified mail addressed to such person, partnership, or corporation at his, her, or its residence, principal office, or principal place of business.

The verified return by the person serving such process setting forth the manner of such service shall be proof of the same, and the return post office receipt for such process mailed by registered mail or certified mail as provided in this subsection shall be proof of the service of such process.".

PHYSICAL EVIDENCE AND CIVIL INVESTIGATIVE DEMANDS

SEC. 12. (a) Section 20(a) of the Federal Trade Commission Act (15 U.S.C. 57b-1(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting immediately after paragraph (6) the following:

"(7) The term 'physical evidence' means any object or device, including any medical device, food product, drug, nutritional product, cosmetic product, or audio or video recording.".

(b) Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(1)) is amended—

(1) by inserting "physical evidence or" immediately after "any" the second time it appears;

(2) by inserting "to produce such physical evidence for inspection," immediately before "to produce";

(3) by inserting "physical evidence," immediately after "concerning"; and

(4) by inserting "evidence," immediately before "material, answers,".

(c) Section 20(c)(3) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(3)) is amended—

(1) by inserting "physical evidence or" immediately before "documentary material";

(2) in subparagraph (A)—

(A) by inserting "physical evidence or" immediately before "documentary"; and

(B) by inserting "evidence or" immediately after "permit such";

(3) in subparagraph (B), by inserting "evidence or" immediately before "material"; and

(4) in subparagraph (C), by inserting "evidence or" immediately before "material".

(d) Section 20(c)(10) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(10)) is amended by inserting "physical evidence or" immediately before "documentary material" each place it appears.

REPORT ON RESALE PRICE MAINTENANCE

SEC. 13. (a) The Federal Trade Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives the information specified in subsection (b) of this section every six months during each of the fiscal years 1990, 1991, and 1992. Each such report shall contain such information for the period since the last submission under this section.

(b) Each such report shall list and describe, with respect to instances in which resale price maintenance has been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission;

(2) each preliminary investigation opened or closed at the Commission;

(3) each formal investigation opened or closed at the Commission;

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission;

(5) each complaint issued by the Commission pursuant to section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(6) each opinion and order entered by the Commission;

(7) each consent agreement accepted provisionally or finally by the Commission;

(8) each request for modification of an outstanding Commission order filed with the Commission;

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order; and

(10) each disposition by the Commission of a request for modification of an outstanding Commission order.

Such report shall include the sum total of matters in each category specified in paragraphs (1) through (10) of this subsection, and copies of all such consent agreements and complaints executed by the Commission. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The description required under this subsection shall be as complete as possible but shall not reveal the identity of persons or companies making the complaint or those complained about or those subject to investigation that have not otherwise been made public.

REPORT ON PREDATORY PRICING PRACTICES

SEC. 14. (a) The Federal Trade Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives the information specified in subsection (b) of this section every six months during each of the fiscal years 1990, 1991, and 1992. Each such report shall contain such information for the period since the last submission under this section.

(b) Each such report shall list and describe, with respect to instances in which predatory pricing practices have been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission;

(2) each preliminary investigation opened or closed at the Commission;

(3) each formal investigation opened or closed at the Commission;

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission;

(5) each complaint issued by the Commission;

(6) each opinion and order entered by the Commission;

(7) each consent agreement accepted provisionally or finally by the Commission;

(8) each request for modification of an outstanding Commission order filed with the Commission;

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order; and

(10) each disposition by the Commission of a request for modification of an outstanding Commission order.

Such report shall include copies of all such consent agreements and complaints executed by the Commission referred to in such report. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The descriptions required under this subsection shall be as complete as possible but shall not reveal the identity of persons or companies making the complaint or those complained about or those subject to investigation that have not otherwise been made public. The report shall include any evaluation by the Commission of the potential impacts of predatory pricing upon businesses (including small businesses).

INTERVENTION BY COMMISSION IN CERTAIN PROCEEDINGS

SEC. 15. (a) The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal years 1990, 1991, and 1992, for the purpose of submitting statements to, appearing before, or intervening in the proceedings of, any Federal or State agency unless the Commission advises the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives, at least sixty days before any such proposed action, or, if such advance notice is not practicable, as far in advance of such proposed action as is practicable.

(b) The notice required in subsection (a) of this section shall include the name of the agency involved, the date upon which the Federal Trade Commission will first appear, intervene, or submit comments, a concise statement regarding the nature and purpose of the proposed action of the Commission, and, in any case in which advance notice of sixty days is not practicable, a concise statement of the reasons such notice is not practicable.

RESOURCE ALLOCATION STUDY

SEC. 16. The Federal Trade Commission shall conduct an evaluation of the level of its personnel resources and the manner in which such resources are allocated. The Commission shall study—

(1) whether overall resources at the Commission are adequate to fulfill the Commission's responsibilities in the areas of competition and consumer protection;

(2) the distribution of personnel to individual offices of commissioners, departments, bureaus, and other units within the Commission, and whether the current allocation of personnel most efficiently enables the Commission to fulfill its statutory mandate;

(3) the number of personnel in supervisory positions, contrasted with those personnel in nonsupervisory positions; and

(4) whether the amount of workyears devoted to research activities should be increased, and what results (if any) such an increase would produce.

The Commission shall transmit the results of such study, together with any recommendations that the Commission determines appropriate, 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.

FEDERAL-STATE COOPERATION

SEC. 17. The Federal Trade Commission shall review its statutory responsibilities to identify those matters within its jurisdiction where Federal enforcement is particularly necessary or desirable, and those areas that might more effectively be enforced at the State or local level. In identifying such areas, the Commission shall—

(1) consider the resources available to the Commission and the States, as well as particular rules that have been promulgated by the Commission;

(2) consult with the attorneys general of the States, representatives of consumers and industry, and other interested parties; and

(3) consider such other issues as will result in more efficient implementation of the statutory responsibilities of the Commission.

Not later than six months after the date of enactment of this Act, the Federal Trade Commission shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the information identified in paragraphs (1) through (3) of this section, together with specific recommendations for methods of achieving greater cooperation between the Commission and the States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 18. Section 25 of the Federal Trade Commission Act, as so redesignated by section 3 of this Act, is amended—

(1) by striking "and" after "1981;"; and

(2) by inserting immediately before the period at the end the following: "; not to exceed $69,580,000 for the fiscal year ending September 30, 1990; not to exceed $72,780,000 for the fiscal year ending September 30, 1991; and not to exceed $76,128,000 for the fiscal year ending September 30, 1992, and such additional sums for the fiscal years ending September 30, 1990, and September 30, 1991, as may be necessary for increases in salary, pay, and other employee benefits as authorized by law".

EFFECTIVE DATE

SEC. 19. (a) Except as provided in subsections (b), (c), (d), and (e) of this section, the provisions of this Act shall take effect on the date of enactment of this Act.

(b) The amendment made by section 2 of this Act shall apply only with respect to proceedings under section 5 of the Federal Trade Commission Act after the date of enactment of this Act. This amendment shall not be construed to affect in any manner a cease and desist order which was issued, or a rule which was promulgated, before the date of enactment of this Act. This amendment shall not be construed to affect in any manner a cease and desist order issued after the date of enactment of this Act, if such order was issued pursuant to remand from a court of appeals or the Supreme Court of an order issued by the Federal Trade Commission before the date of enactment of this Act.

(c) The amendments made by section 7 and 9 of this Act shall apply only with respect to cease and desist orders issued under section 5 of the Federal Trade Commission Act (15 U.S.C. 45), or to rules promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a), after the date of enactment of this Act. These amendments shall not be construed to affect in any manner a cease and desist order which was issued, or a rule which was promulgated, before the date of enactment of this Act. These amendments shall not be construed to affect in any manner a cease and desist order issued after the date of enactment of this Act, if such order was issued pursuant to remand from a court of appeals or the Supreme Court of an order issued by the Federal Trade Commission before the date of enactment of this Act.

(d) The amendments made by sections 6 and 10 of this Act shall apply only to rulemaking proceedings initiated after the date of enactment of this Act. These amendments shall not be construed to affect in any manner a rulemaking proceeding which was initiated before the date of enactment of this Act.

(e) The amendments made by section 8 of this Act shall apply only with respect to compulsory process issued after the date of enactment of this Act.

TRANSPORTATION EMPLOYEE TESTING ACT

The Senate proceeded to consider the bill (S. 561) to provide for testing for the use, without lawful authorization, of alcohol or controlled substances by the operators of aircraft, railroads, and commercial motor vehicles, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Transportation Employee Testing Act of 1989".

FINDINGS

SEC. 2. The Congress finds that—

(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, railroads, trucks, and buses to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, railroads, trucks, and buses;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

TESTING TO ENHANCE AVIATION SAFETY

SEC. 3. (a) Title VI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421 et seq.) is amended by adding at the end thereof the following:

"ALCOHOL AND CONTROLLED SUBSTANCES TESTING

"TESTING PROGRAM

"SEC. 613. (a)(1) The Administrator shall, in the interest of aviation safety, prescribe regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and postaccident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(2) The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for preemployment, reasonable suspicion, random, and postaccident testing for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(3) In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, in violation of law or Federal regulation, alcohol or a controlled substance.

"PROHIBITION ON SERVICE

"(b)(1) No person may use, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(2) No individual who is determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"(3) Any such individual determined by the Administrator to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section who—

"(A) engaged in such use while on duty;

"(B) prior to such use had undertaken or completed a rehabilitation program described in subsection (c) of this section;

"(C) following such determination refuses to undertake such a rehabilitation program; or

"(D) following such determination fails to complete such a rehabilitation program,

shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"PROGRAM FOR REHABILITATION

"(c)(1) The Administrator shall prescribe regulations setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of employees referred to in subsection (a)(1) of this section in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such a program available to all of its employees in addition to those employees referred to in subsection (a)(1) of this section. The Administrator shall determine the circumstances under which such employees shall be required to participate in such a program. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in cooperation with any other air carrier or foreign air carrier.

"(2) The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"PROCEDURES

"(d) In establishing the program required under subsection (a) of this section, the Administrator shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labeled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within three days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"EFFECT ON OTHER LAWS AND REGULATIONS

"(e)(1) No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"(2) Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before the date of enactment of this section that govern the use of alcohol and controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees, of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(3) In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, in violation of law or Federal regulation, of alcohol or a controlled substance by crew members in international civil aviation.

"DEFINITION

"(f) For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Administrator.".

(b) That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end thereof the following:

"Sec. 613. Alcohol and controlled substances testing.
"(a) Testing program.
"(b) Prohibition on service.
"(c) Program for rehabilitation.
"(d) Procedures.
"(e) Effect on other laws and regulations.
"(f) Definition.".

TESTING TO ENHANCE RAILROAD SAFETY

SEC. 4. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following:

"(r)(1) In the interest of safety, the Secretary shall, within twelve months after the date of enactment of this subsection, issue rules, regulations, standards, and orders relating to alcohol and drug use in railroad operations. Such regulations shall establish a program which—

"(A) requires railroads to conduct preemployment, reasonable suspicion, random, and postaccident testing of all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance;

"(B) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"(C) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards, or orders issued under this Act.

The Secretary may also issue rules, regulations, standards, and orders, as the Secretary considers appropriate in the interest of safety, requiring railroads to conduct periodic recurring testing of railroad employees responsible for such safety sensitive functions, for use of alcohol or a controlled substance in violation of law or Federal regulation. Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards, and orders governing the use of alcohol and controlled substances in railroad operations issued before the date of enactment of this subsection.

"(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(B) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(i) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this Act, including standards which required the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(ii) establisah the minimum list of controlled substances for which individuals may be tested; and

"(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this subsection;

"(C) require that all laboratories involved in the controlled substances testing of any employee under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(D) provide that all tests which indicate the use, in violation of law or federal regulation, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(E) provide that each specimen sample be subdivided, secured, and labeled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within three days after being advised of the results of the confirmation test;

"(F) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(G) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection; and

"(H) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(3) The Secretary shall issue rules, regulations, standards, or orders setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as determined by the Secretary) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or a controlled substance. Each railroad is encouraged to make such a program available to all of its employees in addition to those employees responsible for safety sensitive functions. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this paragraph shall preclude a railroad from establishing a program under this paragraph in cooperation with any other railroad.

"(4) In carrying out the provisions of this subsection, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(5) For the purposes of this subsection, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

TESTING TO ENHANCE MOTOR CARRIER SAFETY

SEC. 5. (a) The Commercial Motor Vehicle Safety Act of 1986 (App. U.S.C. 2701 et seq.) is amended by adding at the end the following:

"SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) REGULATIONS.—The Secretary shall, in the interest of commercial motor vehicle safety, issue regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct preemployment, reasonable suspicion, random, and postaccident testing of the operators of commercial motor vehicles for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such operators for such use in violation of law or Federal regulation.

"(b) TESTING.—

"(1) POSTACCIDENT TESTING.—In issuing such regulations, the Secretary shall require that postaccident testing of the operator of a commercial motor vehicle be conducted in the case of any accident involving a commercial motor vehicle in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

"(2) TESTING AS PART OF MEDICAL EXAMINATION.—Nothing in subsection (a) of this section shall preclude the Secretary from providing in such regulations that such testing be conducted as part of the medical examination required by subpart E of part 391 of title 49, Code of Federal Regulations, with respect to those operators of commercial motor vehicles to whom such part is applicable.

"(c) PROGRAM FOR REHABILITATION.—The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such operators shall be required to participate in such program. Nothing in this subsection shall preclude a motor carrier from establishing a program under this subsection in cooperation with any other motor carrier.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labeled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within three days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in con-

sultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to commercial motor vehicle employees, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY SECRETARY.—Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by commercial motor vehicle employees issued before the date of enactment of this section.

"(3) INTERNATIONAL OBLIGATIONS.—In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(f) APPLICATION OF PENALTIES.—

"(1) EFFECT ON OTHER PENALTIES.—Nothing in this section shall be construed to supersede any penalty applicable to the operator of a commercial motor vehicle under this title or any other provision of law.

"(2) DETERMINATION OF SANCTIONS.—The Secretary shall determine appropriate sanctions for commercial motor vehicle operators who are determined, as a result of tests conducted and confirmed under this section, to have used, in violation of law or Federal regulation, alcohol or a controlled substance but are not under the influence of alcohol or a controlled substance, as provided in this title.

"(g) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

(b) The table of contents of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end thereof the following:

"Sec. 12020. Alcohol and controlled substances testing.".

PILOT PROGRAM FOR TESTING OF COMMERCIAL MOTOR VEHICLE OPERATORS

SEC. 6. (a) The Secretary of Transportation shall design, within nine months after the date of enactment of this section and implement, within fifteen months after the date of enactment of this Act, a pilot test program for the purpose of testing the operators of commercial motor vehicles on a random basis to determine whether an operator has used, in violation of law or Federal regulation, alcohol or a controlled substance. The pilot test program shall be administered as part of the Motor Carrier Safety Assistance Program.

(b) The Secretary shall solicit the participation of States which are interested in participating in such program and shall select four States to participate in the program.

(c) The Secretary shall ensure that the States selected pursuant to this section are representative of varying geographical and population characteristics of the Nation and that the selection takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

(d) The pilot program authorized by this section shall continue for a period of one year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

(e) Not later than thirty months after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this section. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

(f) For purposes of carrying out this paragraph, there shall be available to the Secretary $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) for fiscal year 1990.

(g) For purposes of this paragraph, the term "commercial motor vehicle" shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2716(6)).

Mr. HOLLINGS. As I rise yet again in support of a bill that would require drug and alcohol testing in the commercial aviation, railroad, bus and trucking industries, I am reminded of Sisyphus, the character in Greek mythology whose fate it was to push a boulder up a steep mountain in perpetuity.

Mr. President, over 2 years ago Senator DANFORTH and I introduced a virtually identical testing bill. It was debated, reported favorably out of the Commerce Committee and passed on the Senate floor by a vote of 83 to 7. Last year, our bill was included in the Senate omnibus drug bill, at which time it passed without objection. I stayed up to the wee hours of the morning in an attempt to persuade my House colleagues to accept this measure, yet we still failed to gain final approval of this legislation.

Undaunted, Mr. President, Senator DANFORTH and I reintroduced testing legislation, S. 561, in this Congress. The measure was again favorably reported by the Commerce Committee and approved by the Senate by unanimous consent last month as part of the Senate transportation appropriations bill. However, when it was apparent that the House conferees would not support these provisions, the Senate's testing and other drug provisions were stripped out of the transportation appropriations bill and introduced as a separate drug bill, S. 1735, which was then approved without objection by the Senate. However, the House has given no indication of any intent to move on the testing provisions included in S. 1735. These provisions once again sit there languishing in a legislative morass.

While the House fails to act, the carnage continues. Last week, Federal officials announced that traces of cocaine were found in the blood stream of the engineer of a CSX freight train that collided head on with another freight train in Albermarle County, VA. Nine people were injured in that crash.

In September, a USAir jet skidded off the runway at La Guardia Airport. One person died and several others were injured. The pilot and copilot mysteriously disappeared for 42 hours, yet no regulation specifically required that the pilots be subjected to drug and alcohol testing.

Last year, every 12½ days the railroad industry had an accident in which either drugs or alcohol were involved. In the aviation industry, the inspector general of the Depatment of Transportation [DOT] has reported that between 1980 and 1987, 10,300 certified airmen have had their driver's licenses suspended or revoked for driving while intoxicated. In the motor carrier industry, a 1984 test conducted by the Insurance Institute for Highway Safety found that 30 percent of a random sample of truckdrivers tested positive for drugs and alcohol.

And, we cannot forget the tragic Chase, MD, crash in 1987 where an Amtrak train collided with three Conrail locomotives, leaving 16 dead and 174 injured. In this unfortunate situation both the Conrail engineer and brakeman tested positive for marijuana use.

Mr. President, our efforts have borne some fruit, however. Last year DOT issued final rules mandating testing of safety sensitive employees for illegal drug use in the rail, motor carrier, aviation, maritime, pipeline and mass transit industries.

While I welcome these DOT rules, they do not go far enough, however. Right to the point, they totally exclude alcohol in industry testing programs. Accident statistics show that alcohol abuse is a big threat to public safety as illegal drugs, if not a bigger threat. You do not need statistics to prove this point. Just ask the residents of the coastal towns in Alaska, where the shoreline has been soiled by the *Exxon Valdez* oilspill.

Furthermore, Mr. President, we cannot leave the fate of these important regulations to the whim of some DOT official. The only way to ensure the safety of the traveling public is to mandate legislatively the random drug

and alcohol testing of those employees engaged in safety sensitive positions.

Our bill does just that. It mandates four types of drug and alcohol testing, including random, preemployment, post accident, and reasonable suspicion testing of employees such as airline pilots, air traffic controllers, railroad engineers, brakemen, and commercial bus and truckdrivers, as well as others. It also authorizes DOT to require periodic recurring testing, such as in connection with annual physicals.

In order to ensure the protection of individual rights, the bill specifically incorporates the Department of Health and Human Services guidelines that established laboratory accuracy, as well as protections for the individual privacy of innocent employees. Finally, the bill requires carriers to establish rehabilitation programs for employees who voluntarily step forward to seek help.

The key component of our legislation is random testing. Random testing is the only method I know of that will serve as an adequate deterrent to drug and alcohol abuse by those transportation employees who hold in their hands the lives of the traveling public. Experience bears this out—random testing in the military, in the Coast Guard and in the private sector has resulted in a substantial decrease in the use of drugs and alcohol.

Some have questioned the constitutionality of testing. I am heartened by recent Supreme Court decisions which have upheld the constitutionality of postaccident testing without the need for a showing of individualized suspicion. I have long been convinced that given the compelling need to protect public safety, a carefully crafted testing program, including the use of random testing, would be found to be constitutional.

Mr. President, if we are serious about winning the war on drugs and alcohol abuse, then it is time that we bring up the heavy artillery to this battle front. I urge my colleagues to join us in supporting once again this essential safety legislation. I further urge my House counterparts to resolve to act in a comprehensive fashion to approve this multimodel testing program for the rail, aviation, and motor carrier industries.

Mr. DANFORTH. Mr. President, today we are asking the Senate to send the Hollings-Danforth drug and alcohol testing legislation to the House for the fifth time—this time in the form of S. 561.

S. 561 provides for five types of drug and alcohol testing for airline and railroad crews and commercial drivers of trucks and buses; preemployment, periodic, postaccident, reasonable cause and random testing.

The bill also provides that testing follow HHS guidelines to protect employee rights and ensure the accuracy of test procedures and analysis. Initial screening tests must be followed up by highly reliable confirmatory tests by laboratories that meet rigorous certification standards.

Similar testing provisions were approved twice by the Senate during the 100th Congress—once by voice vote, and once by a rollcall vote of 83 to 7. The House refused to accept them.

Identical legislation has been approved by the Senate twice during this Congress. First, our drug and alcohol testing provisions were included as an amendment to H.R. 3015, the Department of Transportation appropriations bill. Later they were approved as part of S. 1735, which was introduced and passed by the Senate after the House refused to conference on H.R. 3015 unless the Senate agreed to consider such provisions in a separate bill.

While action has been delayed, evidence of the deadly consequences of substance abuse in transportation continues to mount.

TRUCKDRIVERS

Last October, near Fort Hancock, TX, a truckdriver forced several motorists off the road, killing a woman. After shooting a police officer, the driver tried to run him over with his truck. Police said the driver was on drugs.

Last December, a tractor-trailer driver went on an 80-mile rampage down Interstate 10 in San Antonio. He crashed into more than 20 vehicles and seriously injured two people. The driver was disoriented and the police filed drug charges after finding cocaine in his cab.

RAILROAD WORKERS

The Federal Railroad Administration reports that one or more railroad employees have tested positive for alcohol or drug use after 13 accidents so far this year.

AVIATION PERSONNEL

On February 1, 1989, the National Transportation Safety Board ruled that one cause of the January 1988 crash of a commuter plane near Durango, CO, was the pilot's cocaine use. Nine people died in that crash.

Since the Department of Transportation [DOT] started its own employee testing program in September 1987, 114 air traffic controllers have been removed from their safety sensitive positions after testing positive for drug use.

Last month, USAir flight 5050 flew into the East River. The pilot and copilot avoided any effective drug or alcohol testing by disappearing for 36 hours.

DRUG AND ALCOHOL TESTING OF TRANSPORTATION WORKERS NEEDS TO BE THE LAW

Last year, DOT published rules to require testing for drugs, but not alcohol, starting in December. This week DOT is publishing an Advance Notice of Proposed Rulemaking to determine whether alcohol testing is necessary.

DOT should not need a 6-month prerule process to answer that question. Alcohol is the drug of choice for many transportation professionals. During Commerce Committee hearings last year, the engineer and brakeman of the Conrail train that caused the Chase, MD, tragedy testified that railroad workers often drink beer on the locomotive, as much as a case per person per day.

The Airline Pilots Association has admitted that 800 of its pilots have entered alcohol rehabilitation. DOT's inspector general found that 10,300 airmen, including 500 commercial pilots, had their drivers' licenses suspended for drunk driving convictions.

This week, DOT also will publish a Federal Register notice deferring indefinitely the implementation of its rule requiring random and postaccident drug testing in the motor carrier industry. This action arises from the extension in October of a temporary stay against such testing issued by the Ninth Circuit Court in San Francisco.

Enactment of S. 561 will put the court on notice that we will not tolerate further delays in the implementation of drug and alcohol testing in the transportation industry. We need postaccident testing to ensure that drugged or drunk transportation workers are removed from safety sensitive positions before they cause further destruction or death.

We need random testing because it works. Since the Coast Guard started random testing in 1983, it has seen a drop in the numbers of individuals testing positive from 10.3 to 2.8 percent in 1988. After the Department of Defense instituted testing, positive test results for military personnel dropped from 27 percent in 1980 to 4.8 percent in 1988.

What we do not need is more evidence, more tragedies. Drug and alcohol testing for transportation workers needs to become law. American lives depend on it. I urge my colleagues to support S. 561.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

BILL PLACED ON CALENDAR—H.R. 2144

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 2144, the Urban and Community Forestry

Act of 1989, just received from the House, be placed on the calendar.

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

NIOBRARA RIVER SCENIC RIVER DESIGNATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar Item No. 332, S. 280, a bill to amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 280) to amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System.

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

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Niobrara River Scenic River Designation Act of 1989".

SEC. 2. DESIGNATION OF RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)), as amended, is further amended by adding at the end thereof the following:

"(111) NIOBRARA, NEBRASKA.—(A) The 40-mile segment from Borman Bridge southeast of Valentine to its confluence with Chimney Creek and the 30-mile segment from the river's confluence with Rock Creek to the bridge crossing the Niobrara on State Highway 137; both segments to be administered by the Secretary of the Interior, in consultation with the Niobrara Scenic River Advisory Council established pursuant to subparagraph (F), as scenic rivers.

"(B) After consultation with the Niobrara Scenic River Advisory Council, State and local governments, and with the interested public, and within two years after the date of enactment of this Act, the Secretary shall prepare a comprehenisive management plan for the designated river segments pursuant to subsection (d) of this Act. In addition to those values specified in subsection (d), the plan shall provide for the protection of the pastoral landscape, and the established farming and ranching lifestyles.

"(C)(i) The authority of the Secretary to acquire lands in fee for purposes of this paragraph shall be limited to acquisition by donation or purchase with the consent of the owner. The Secretary may acquire easements for purposes of this paragraph in accordance with section 6 of this Act except that easements acquired by condemnation shall not affect more than 5 percent of the privately owned land within the designated river corridors and easements may be acquired by condemnation only if—

"(1) activities are occurring or threatening to occur which pose a significant threat to the values for which the river was protected, or

"(2) the easements to be acquired are reasonably necessary to give the public access to the river and to permit its members to traverse the length of the area or selected segments thereof.

"(ii) Notwithstanding any provision of this paragraph, easements acquired for providing river access to the public may only be acquired with the consent of the owner when the interest in land to be acquired is—

"(1) within one-quarter mile of a residence and adjacent to the Berry Bridge, Allen Bridge, Brewer Bridge, Rockford Bridge, Norden Bridge, Highway 183 Bridge, Riverview Bridge, Carns Bridge, or Highway 137 Bridge; or

"(2) located between the Borman Bridge and the Cornell Dam.

Any such easement shall provide for day use only.

"(iii) With the river corridors designated by this paragraph, the Secretary shall not acquire subsurface rights, including but not limited to oil and gas rights, without the consent of the owner. Exploration for the development of oil and gas shall be permitted pursuant to section 9 of this Act and applicable law.

"(D) The Secretary is authorized to enter into cooperative agreements with local units of government for maintenance of existing access and other roads within the designated river corridors.

"(E) The Secretary is further authorized to contribute to the costs of instituting conservation and streambank erosion control practices on private land within the river corridors which will enhance the scenic or natural values of the river segments or contribute to the protection of established bridges, and resources which are of historical or archaeological significance within the river corridors.

"(F)(i) In order to carry out the provisions of this paragraph, the Secretary shall establish the Niobrara Scenic River Advisory Council (Advisory Council) to consist of eleven members appointed by the Secretary—

"(1) three of whom shall be owners of farm or ranch property within the upper portion of the designated river corridor between the Borman Bridge and the Meadville Bridge;

"(2) three of whom shall be owners of farm or ranch property within the lower portion of the designated river corridor between the Meadville Bridge and the bridge on Highway 137;

"(3) one of whom shall be a canoe outfitter who operates within the river corridors;

"(4) one of whom shall be chosen from a list submitted by the Governor of Nebraska;

"(5) two of whom shall be representatives of the affected county governments or natural resources districts; and

"(6) one of whom shall be a representative of a conservation organization who shall have knowledge and experience in river conservation.

At least five of the six landowners appointed to the Advisory Council pursuant to phrases (1) and (2) shall be residents of Brown, Cherry, Keya Paha, or Rock Counties.

"(ii) The term of appointment to the Advisory Council shall be five years and no individual shall serve more than two terms.

"(iii) The Secretary shall consult with the Advisory Council in the development and review of the management plan prepared pursuant to subparagraph (B) and in the formulation and review of subsequent plans including annual operation and maintenance plans.

"(iv) The Secretary shall designate one of the members of the Advisory Council, who is a permanent resident of Brown, Cherry, Keya Paha, or Rock Counties, to serve as Chairperson. Vacancies on the Advisory Council shall be filled in the same manner in which the original appointment was made. Members of the Advisory Council shall serve without compensation, but the Secretary is authorized to pay expenses reasonably incurred by the Advisory Council in carrying out its responsibilities under this Act on vouchers signed by the Chairperson.

"(G)(i) Except as provided by subparagraph (C), nothing in this Act shall prohibit current or future uses of privately owned land within the river corridors, including agricultural and livestock operations, timber management practices, operation of private campgrounds, hunting, fishing, camping, accessing private property, construction of facilities or structures, and repair or replacement of residences, farmsteads, agricultural or recreational facilities, bridges, or fish hatcheries.

"(ii) Nothing in this Act shall prohibit the continued operation and maintenance of the Cornell Dam.

"(H) There are hereby authorized to be appropriated $3,500,000 for acquisition of lands and interests therein, and $1,000,000 for purposes authorized by subparagraphs (D), (E), and (F). Funds authorized pursuant to this paragraph shall be available only to the extent and in such amounts as are provided in advance in Appropriation Acts.".

SEC. 3. STUDY OF RIVER SEGMENT.

Section 5(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1276(a)), as amended, is further amended by adding the following new paragraph:

"(106) NIOBRARA, NEBRASKA.—The 6-mile segment of the river from its confluence with Chimney Creek to its confluence with Rock Creek. The study authorized in this paragraph shall include an analysis of alternative methods of protecting the values and natural resources of the river. The study authorized in this paragraph shall be completed not later than one year from the date of enactment of this paragraph.".

Mr. EXON. Mr. President, S. 280 provides meaningful protection to a very beautiful area of Nebraska. After lots of hard work and compromise, it is a well-balanced bill that recognizes the need to protect those things in life that are worth protecting; those places that might otherwise be lost to the vagaries of the busy world in which we live.

The section of the river protected under this bill is a biological crossroads where the low plains meet the high plains. The natural beauty of its water, its ponderosa pines, its waterfalls, and its cliffs have made it a favorite for many throughout Nebraska and the Nation. It is truly a canoeist's and outdoors persons' paradise. With this protection, we can be assured those things that make it special will be protected for years to come.

God's beautiful and unblemished gift to mankind must not be subject to

desecration. This bill assures the true "jewel" of northern Nebraska will live.

Mr. President, I was in the Niobrara River Valley again not long ago. My visit reaffirmed my commitment to see it protected. It is a place I want Nebraska's children and grandchildren and those that follow them to see and enjoy as our Maker created it.

Passage of S. 280 is the right thing to do and I am glad this body is about to move forward to protect the Niobrara. I look forward to working with my colleagues in the House of Representatives to pass similar legislation already introduced there to accomplish the same.

I thank my colleagues, Senator KERREY and Representative PETER HOAGLAND for their enthusiastic support for this important environmental legislation. I also salute the sizable Nebraska citizens group headed by Dick Spelts of Grand Island, NE, for their valued assistance.

Mr. KERREY. Mr. President, I am pleased to join Senator EXON today in supporting S. 280, a bill that will finally provide Nebraska's Niobrara River with the designation that it deserves. S. 280 grants scenic status to the Niobrara and marks the culmination of years of hard work and give and take between the various interests involved in this issue. It is also a tribute to the local landowners and others who have pushed to protect this natural treasure for all Nebraskans and for future generations.

The Niobrara River Valley is a unique setting in the Great Plains. It marks an ecological crossroads where the ponderosa forests of our country's West meet the broad leaf forests of the East. Its canyons hold birch trees that are a living remnant island of the Northern Boreal Forest from the last glacial period. The Niobrara has been one of our country's richest sources of information on the ancient species that roamed the North American Continent.

I have on numerous occasions done what thousands of Nebraskans and Nebraska visitors have done: canoed the Niobrara. In our State this river is unparalleled as a recreational river.

I am pleased that we have managed to work out a version of this bill that is sensitive to the various interests, while protecting existing land uses and the way of life of Nebraska families who have lived in that region for generations.

I also want to commend Senator EXON for his leadership on this bill. Without him the Niobrara River would not receive the protection it deserves. I look forward to similar action in the House where a similar bill has been introduced by Representative PETER HOAGLAND.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1094

(Purpose: To make a technical correction in S. 280 as reported from the Committee on Energy and Natural Resources)

Mr. MITCHELL. Mr. President, on behalf of Senator JOHNSTON, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. MITCHELL), for Mr. JOHNSTON, proposes an amendment numbered 1094.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 11, line 2, strike "With" and insert in lieu thereof "Within".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1094) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 280) as amended was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 280

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 "Niobrara River Scenic River Designation Act of 1989".

SEC. 2. DESIGNATION OF RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)), as amended, is further amended by adding at the end thereof the following:

"(111) NIOBRARA, NEBRASKA.—(A) The 40-mile segment from Borman Bridge southeast of Valentine to its confluence with Chimney Creek and the 30-mile segment from the river's confluence with Rock Creek to the bridge crossing the Niobrara on State Highway 137; both segments to be administered by the Secretary of the Interior, in consultation with the Niobrara Scenic River Advisory Council established pursuant to subparagraph (F), as scenic rivers.

"(B) After consultation with the Niobrara Scenic River Advisory Council, State and local governments, and with the interested public, and within two years after the date of enactment of this Act, the Secretary shall prepare a comprehensive management plan for the designated river segments pursuant to subsection (d) of this Act. In addition to those values specified in subsection (d), the plan shall provide for the protection of the pastoral landscape, and the established farming and ranching lifestyles.

"(C)(i) The authority of the Secretary to acquire lands in fee for purposes of this paragraph shall be limited to acquisition by donation or purchase with the consent of the owner. The Secretary may acquire easements for purposes of this paragraph in accordance with section 6 of this Act except that easements acquired by condemnation shall not affect more than 5 percent of the privately owned land within the designated river corridors and easements may be acquired by condemnation only if—

"(1) activities are occurring or threatening to occur which pose a significant threat to the values for which the river was protected or;

"(2) the easements to be acquired are reasonably necessary to give the public access to the river and to permit its members to traverse the length of the area or selected segments thereof.

"(ii) Notwithstanding any provision of this paragraph, easements acquired for providing river access to the public may only be acquired with the consent of the owner when the interest in land to be acquired is—

"(1) within one-quarter mile of a residence and adjacent to the Berry Bridge, Allen Bridge, Brewer Bridge, Rockford Bridge, Norden Bridge, Highway 183 Bridge, Riverview Bridge, Carns Bridge, or Highway 137 Bridge; or

"(2) located between the Borman Bridge and the Cornell Dam.

Any such easement shall provide for day use only.

"(iii) Within the river corridors designated by this paragraph, the Secretary shall not acquire subsurface rights, including but not limited to oil and gas rights, without the consent of the owner. Exploration for and the development of oil and gas shall be permitted pursuant to section 9 of this Act and applicable law.

"(D) The Secretary is authorized to enter into cooperative agreements with local units of government for maintenance of existing access and other roads within the designated river corridors.

"(E) The Secretary is further authorized to contribute to the costs of instituting conservation and streambank erosion control practices on private land within the river corridors which will enhance the scenic or natural values of the river segments or contribute to the protection of established bridges, and resources which are of historical or archaeological significance within the river corridors.

"(F)(i) In order to carry out the provisions of this paragraph, the Secretary shall establish the Niobrara Scenic River Advisory Council (Advisory Council) to consist of eleven members appointed by the Secretary—

"(1) three of whom shall be owners of farm or ranch property within the upper portion of the designated river corridor between the Borman Bridge and the Meadville Bridge;

"(2) three of whom shall be owners of farm or ranch property within the lower portion of the designated river corridor between the Meadville Bridge and the bridge on Highway 137;

"(3) one of whom shall be a canoe outfitter who operates within the river corridors;

"(4) one of whom shall be chosen from a list submitted by the Governor of Nebraska;

"(5) two of whom shall be representatives of the affected county governments or natural resources districts; and

"(6) one of whom shall be a representative of a conservation organization who shall have knowledge and experience in river conservation.

At least five of the six landowners appointed to the Advisory Council pursuant to phrases (1) and (2) shall be residents of Brown, Cherry, Keya Paha, or Rock Counties.

"(ii) The term of appointment to the Advisory Council shall be five years and no individual shall serve more than two terms.

"(iii) The Secretary shall consult with the Advisory Council in the development and review of the management plan prepared pursuant to subparagraph (B) and in the formulation and review of subsequent plans including annual operation and maintenance plans.

"(iv) The Secretary shall designate one of the members of the Advisory Council, who is a permanent resident of Brown, Cherry, Keya Paha, or Rock Counties, to serve as Chairperson. Vacancies on the Advisory Council shall be filled in the same manner in which the original appointment was made. Members of the Advisory Council shall serve without compenation, but the Secretary is authorized to pay expenses reasonably incurred by the Advisory Council in carrying out its responsibilities under this Act on vouchers signed by the Chairperson.

"(G)(i) Except as provided by subparagraph (C), nothing in this Act shall prohibit current or future uses of privately owned land within the river corridors, including agricultural and livestock operations, timber management practices, operation of private campgrounds, hunting, fishing, camping, accessing private property, construction of facilities or structures, and repair or replacement of residences, farmsteads, agricultural or recreational facilities, bridges, or fish hatcheries.

"(ii) Nothing in this Act shall prohibit the continued operation and maintenance of the Cornell Dam.

"(H) There are hereby authorized to be appropriated $3,500,000 for acquisition of lands and interests therein, and $1,000,000 for purposes authorized by subparagraphs (D), (E), and (F). Funds authorized pursuant to this paragraph shall be available only to the extent and in such amounts as are provided in advance in Appropriation Acts.".

SEC. 3. STUDY OF RIVER SEGMENT.

Section 5(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1276(a)), as amended, is further amended by adding the following new paragraph:

"(106) NIOBRARA, NEBRASKA.—The 6-mile segment of the river from its confluence with Chimney Creek to its confluence with Rock Creek. The study authorized in this paragraph shall include an analysis of alternatives methods of protecting the values and natural resources of the river. The study authorized in this paragraph shall be completed not later than one year from the date of enactment of this paragraph.".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION .AUTHORIZATION ACT, FISCAL YEAR 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar item No. 284, S. 916, a bill to authorize appropriations for the National Aeronautics and Space Administration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 916) to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "National Aeronautics and Space Administration Authorization Act, Fiscal Year 1990".

TITLE I—FISCAL YEAR 1990 NASA AUTHORIZATION

NASA AUTHORIZATION

SEC. 101. (a) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1989, for "Research and development", for the following programs:

(1) Space Station Freedom, $2,050,200,000, of which $80,000,000 is authorized only for development of the flight telerobotic servicer.

(2) Space transportation capability development, $635,500,000, of which $6,000,000 is authorized only for the Advanced Communications Technology Satellite upper stage development, plus such additional funds as may be transferred to the Administration from any other agency pursuant to a fiscal year 1990 appropriations Act.

(3) Physics and astronomy, $894,500,000, of which $25,000,000 is authorized only for the Gravity Probe B space shuttle flight experiment.

(4) Life sciences, $122,700,000.

(5) Planetary exploration, $396,900,000, of which $30,000,000 is authorized only for the CRAF and CASSINI missions if a cost containment plan is formulated for those missions and submitted to the Committee on Commerce, Science, and Transportation of the Senate, to the Committee on Science, Space, and Technology of the House of Representatives, and to the Committees on Appropriations of the Senate and House of Representatives.

(6) Space applications, $625,500,000, of which $62,000,000 is authorized only for the Advanced Communications Technology Satellite and $10,000,000 is authorized only for the Total Ozone Mapping Spectrometer.

(7) Earth Observing System of Mission to Planet Earth, $24,200,000 in order to complete Phase B activities and to initiate Phase C/D of this program in fiscal year 1990.

(8) Technology utilization, $22,700,000.

(9) Commercial use of space, $38,300,000.

(10) Aeronautical research and technology, $462,800,000, of which $25,000,000 is authorized only for the initiation of the environmental technologies research required for a high speed commercial transport and $10,000,000 is authorized only for the initiation of a high performance computer initiative.

(11) Transatmospheric research and technology, $127,000,000, if a new National Aerospace Plane management plan is submitted to the Committee on Commerce, Science, and Transportation and Committee on Armed Services of the Senate and to the Committee on Science, Space, and Technology and Committee on Armed Services of the House of Representatives within 60 days after the date of enactment of this Act.

(12) Space research and technology, $325,100,000.

(13) Safety, reliability, maintainability, and quality assurance, $23,300,000.

(14) Tracking and data advanced systems, $19,900,000.

(15) University Space Science and Technology Academic Program, $35,000,000, of which $5,000,000 is authorized only for the National Space Grant College and Fellowship Program.

Notwithstanding paragraphs (1) through (15), the total amount authorized by this subsection shall not exceed $5,786,600,000.

(b) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1989, for "Space flight, control and data communications", for the following programs:

(1) Space shuttle production and operational capability, $1,305,300,000, of which $121,300,000 is authorized only for development of an advanced solid rocket motor and of which such sums as may be necessary are authorized to ensure a safe, reliable space shuttle and an extended duration orbiter capability.

(2) Space transportation operations, $2,732,200,000.

(3) Space and ground network, communications and data systems, $1,077,100,000.

Notwithstanding paragraphs (1) through (3), the total amount authorized by this subsection shall not exceed $5,104,600,000.

(c) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1989, for "Construction of facilities", including land acquisition, as follows:

(1) Construction of addition for Space Systems Automated Integration and Assembly Facility, Johnson Space Center, $10,500,000.

(2) Construction of addition to Mission Control Center, Johnson Space Center, $17,800,000.

(3) Construction of addition to Simulator/Training Facility, Johnson Space Center, $3,800,000.

(4) Modifications for Expanded Solar Simulation, Johnson Space Center, $2,000,000.

(5) Modifications of Process Technology Facility for Space Station, Marshall Space Flight Center, $4,000,000.

(6) Replacement of Cooling Towers, Launch Complex 39 Utility Annex, Kennedy Space Center, $4,600,000.

(7) Replacement of Launch Complex 39, Pad A Chillers and Controls, Kennedy Space Center, $1,200,000.

(8) Replacement of Roofs, Launch Complex 39, Kennedy Space Center, $11,000,000.

(9) Replacement of Vehicle Assembly Building Air Handling Units, Kennedy Space Center, $1,800,000.

(10) Upgrading of Orbiter Modification and Refurbishment Facility to Orbiter Processing Facility 3, Kennedy Space Center, $26,000,000.

(11) Modifications of High Pressure Industrial Water System, Stennis Space Center, $2,000,000.

(12) Replacement of High Pressure Gas Storage Vessels, Stennis Space Center, $3,000,000.

(13) Construction of natural resource protection at various locations, $3,800,000.

(14) Refurbishment of bridges, Merritt Island, Kennedy Space Center, $4,500,000.

(15) Rehabilitation of Spacecraft Assembly and Encapsulation Facility II, Kennedy Space Center, $3,500,000.

(16) Rehabilitation of Central Heating/Cooling Plant, Johnson Space Center, $2,800,000.

(17) Construction of Data Operations Facility, Goddard Space Flight Center, $12,000,000.

(18) Construction of Quality Assurance and Detector Development Laboratory, Goddard Space Flight Center, $7,500,000.

(19) Modernization of South Utility Systems, Jet Propulsion Laboratory, $5,400,000.

(20) Construction of 40 x 80 Drive Motor Roof, Ames Research Center, $1,000,000.

(21) Modifications to Thermo-Physics Facilities, Ames Research Center, $4,600,000.

(22) Modifications to 14 x 22 Subsonic Wind Tunnel, Langley Research Center, $1,000,000.

(23) Modifications to National Transonic Facility for Productivity, Langley Research Center, $7,600,000.

(24) Modifications to 20-Foot Vertical Spin Tunnel, Langley Research Center, $1,900,000.

(25) Rehabilitation of Central Air Systems, Lewis Research Center, $2,400,000.

(26) Rehabilitation of Central Refrigeration Equipment, Lewis Research Center, $7,200,000.

(27) Rehabilitation of 8 x 6 Supersonic and 9 x 15 Low-Speed Wind Tunnels, Lewis Research Center, $6,800,000.

(28) Rehabilitation of Hypersonic Tunnel, Plum Brook, $4,100,000.

(29) Repair and Modernization of the 12-Foot Pressure Wind Tunnel, Ames Research Center, $27,600,000.

(30) Construction of Automation Sciences Research Facility, Ames Research Center, $10,600,000.

(31) Construction of Supersonic/Hypersonic Low Disturbance Tunnel, Langley Research Center, $6,900,000.

(32) Modifications for Seismic Safety, Goldstone, California, Jet Propulsion Laboratory, $2,600,000.

(33) Repair of facilities at various locations, not in excess of $750,000 per project, $28,000,000.

(34) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $36,000,000.

(35) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $10,000,000.

(36) Environmental compliance and restoration, $30,000,000.

(37) Facility planning and design not otherwise provided for, $26,300,000.

(d) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1989, for "Research and program management", $2,032,200,000.

(e) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1989, for "Inspector General", $8,795,000.

(f) Notwithstanding the provisions of subsection (i), appropriations authorized in this Act for "Research and development" and "Space flight, control and data communications" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the National Aeronautics and Space Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator of the National Aeronautics and Space Administration (hereinafter referred to as the "Administrator") determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $500,000, unless the Administrator or the Administrator's designee has notified the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of the nature, location, and estimated cost of such facility.

(g) When so specified and to the extent provided in appropriations Acts, (1) any amount appropriated for "Research and development", for "Space flight, control and data communications", or for "Construction of facilities" may remain available without fiscal year limitation, and (2) contracts may be entered into under the "Research and program management" appropriation for maintenance and operation of facilities and for other services for periods not in excess of 12 months beginning at any time during the fiscal year.

(h) Appropriations made pursuant to subsection (d) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(i)(1) Funds appropriated pursuant to subsections (a), (b), and (d) may be used for the construction of new facilities and additions to, repair of, rehabilitation of, or modification of existing facilities, except that the cost of each such project, including collateral equipment, shall not exceed $100,000.

(2) Funds appropriated pursuant to subsections (a) and (b) may be used for unforeseen programmatic facility project needs, except that the cost of each such project, including collateral equipment, shall not exceed $500,000.

(3) Funds appropriated pursuant to subsection (d) may be used for repair, rehabilitation, or modification of facilities controlled by the General Service Administration, except that the cost of each project, including collateral equipment, shall not exceed $500,000.

ADMINISTRATOR'S REPROGRAMMING AUTHORITY

SEC. 102. Authorization is granted whereby any of the amounts prescribed in section 101(c) (1) through (37)—

(1) in the discretion of the Administrator or the Administrator's designee, may be varied upward by 10 percent, or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the circumstances of such action, may be varied upward by 25 percent, to meet unusual cost variations.

The total cost of all work authorized under paragraphs (1) and (2) shall not exceed the total of the amounts specified in section 101(c).

SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES

SEC. 103. Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any locations; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed one-half of one percent of the funds appropriated pursuant to section 101 (a) and (b) to the "Construction of facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 101(c) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a written report describing the nature of the construction, its cost, and the reasons therefor.

LIMITATIONS ON AUTHORITY

SEC. 104. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Science, Space, and Technology of the House of Representatives;

(2) no amount appropriated pursuant to this Act may be used for any program in

excess of the amount actually authorized for that particular program by section 101 (a), (b), and (d); and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt by each such committee, of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

PRIVATELY FINANCED FACILITY PROJECTS

SEC. 105. Title III of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) is amended by adding at the end the following new section:

"PRIVATELY FINANCED FACILITY PROJECTS

"SEC. 312. Notwithstanding the provisions of any other law, the Administration is authorized to enter into contracts, leases, or agreements providing for private financing of the Space Station Processing Facility at the Kennedy Space Center, the Neutral Buoyancy Laboratory at the Johnson Space Center, and the Observational Instrument Laboratory at the Jet Propulsion Laboratory for the use of the Administration, its contractors, or its subcontractors, except that—

"(1) such authorization may not be utilized unless the Administrator determines that such privately financed construction or modification is in the best interests of the Government and results in net cost savings to the Government;

"(2) no project considered for private financing shall be initiated unless the Administration has submitted to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Science, Space, and Technology of the House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives a notice of intent to initiate the project, along with a description of the project, and thirty days have passed after such submission; and

"(3) if, pursuant to this section, the Administrator authorizes privately financed construction or modification, the Administration is authorized, notwithstanding any provision of law to the contrary, to assume in the resulting contract, lease, or agreement contingent liability in excess of available appropriations relating to the Government's potential termination for its convenience of such contract, lease, or agreement, if such contract, lease, or agreement limits the amount of the payments that the Federal Government is allowed to make under such contract, lease, or agreement to amounts to be provided in advance in appropriations Acts.".

GEOGRAPHICAL DISTRIBUTION

SEC. 106. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

PEACEFUL USES OF SPACE STATION

SEC. 107. No civil space station authorized under section 101(a)(1) of this Act may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

SMALL BUSINESS INNOVATION RESEARCH PROGRAM

SEC. 108. The Administrator of the National Aeronautics and Space Administration may utilize up to five percent of the funds provided for the Small Business Innovation Research Program for program management and promotional activities.

EXPORTS OF UNITED STATES-BUILT SATELLITES

SEC. 109. It is the sense of the Congress that the current prohibition on the export of United States-built satellites to the Soviet Union for launch on rockets of the Soviet Union shall continue to be the policy of the United States and that the policy shall be expanded to prohibit the export of United States-built satellites to other nations for launch on rockets of the Soviet Union.

TITLE II—COMMERCIAL SPACE LAUNCH ACT

AUTHORIZATION FOR SECRETARY OF TRANSPORTATION

SEC. 201. Section 24 of the Commercial Space Launch Act (49 App. U.S.C. 2623) is amended to read as follows:

"AUTHORIZED APPROPRIATIONS

"SEC. 24. There is authorized to be appropriated to the Secretary to carry out this Act $4,392,000 for fiscal year 1990. Sums appropriated for research and development shall remain available until expended.".

TITLE III—NATIONAL SPACE COUNCIL

COUNCIL AUTHORIZATION

SEC. 301. There is authorized to be appropriated to carry out the activities of the National Space Council established by section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2471), $1,200,000 for fiscal year 1990.

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

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

(By request of Mr. MITCHELL, the following statement was ordered to be printed in the RECORD:)

● Mr. GORE. Mr. President, the bill that stands before the Senate today authorizes appropriations for fiscal year 1990 for the National Aeronautics and Space Administration, the Department of Transportation's Office of Commercial Space Transportation, and the National Space Council.

This bill is the result of many hours of meetings, many weeks of hearings, and many hours of deliberations.

Mr. President, realizing the fact the fiscal year 1990 VA, HUD, independent agencies appropriations bill that appropriates funds for NASA has already passed the Senate and is in conference with the House, some Members might ask why the Senate Commerce Committee is bringing the authorization bill to the floor at this late date.

The answer to that question comes in three parts.

First, and most important, the bill before the Members today gives the Members the committee's best estimate of the real fiscal year 1990 budget requirements of NASA and the committee's best judgment as to the mix of programs that are required to retain U.S. technological leadership in space.

The bill before the Members today was not constrained in its formulation by an inadequate 302(b) allocation that forced deep and troubling cuts in NASA by the Appropriations Committee.

The bill before the Senate today informs this body of the minimum level of funding required if we are to implement the Civil Space Program that we all espouse and support.

Second, the bill before the Senate includes a variety of policy matters that require legislation. It establishes cost containment measures for NASA's fiscal year 1990 new start in space science, the CRAF/Cassini mission; it includes language that permits the private financing of three NASA facilities provided that such a proposal results in a net cost savings to the Federal Government; it includes a provision that would extend the current limitation on the launch of United States-built satellites on Soviet launch vehicles in the Soviet Union to the launch of such satellites on Soviet launch vehicles in other countries; and a provision that makes the committee's support of the national aerospace plane contingent upon the submission of a joint NASA/DOD management plan for this program.

Furthermore, the committee intends to offer four floor amendments today that would clarify existing legislation regarding the National Space Grant College and Fellowship Program, give the National Space Council much needed staffing and administrative authorities, bring the bill's private financing proposal into compliance with the Budget Act, and clarify its language on the Small Business Innovation Research Program to make it clear that none of these funds may be used for travel or civil service salaries.

Simply put, the authorizing committees still have a very important policy role to play, and this bill includes many provisions that are required if the committee is to fulfill its obligations and if NASA and the National Space Council are to be able to carry out their missions.

Third, and finally, since the National Aeronautics and Space Administration was established in 1958, there has only been 1 year when a NASA authorization bill was not enacted, and that was in 1987 when President Reagan vetoed the final bill because he objected to the establishment of the National Space Council.

Mr. President, that is a laudable record, and a record that this subcommittee chairman intends to keep intact.

I realize that in the current environment, it is hard to get an authoriza-

tion bill through the system. And, I realize that there are substantial differences between the proposed Senate authorization bill for NASA and the recently passed House version of the bill. But, it is important for the Congress to continue to enact authorization bills because these bills are the primary vehicles for congressional policy formulation and because these bills have become credible barometers of the real resource requirements of the Federal agencies. In a time of severely constrained budgets, the Senate's authorization committees have adopted a fiscal discipline of their own, and in many instances that has resulted in an excellent working relationship with their counterparts on the Appropriations Committee.

For the last decade, we have been trying to do things in the Civil Space Program on the cheap or with inadequate resources—budgetary, personnel, facilities, and equipment. And I am here to tell you that if the administration does not get more honest about the budget and resource requirements of NASA and if the Congress cannot provide the necessary resources to implement the proposed Civil Space Program, the Congress in the future is going to be required to terminate ongoing programs and projects and to reject new starts. And that would be a terrible situation and a tragic event. Unfortunately, the realities of Gramm-Rudman-Hollings conflict with the dreams and visions of the Space Program.

Mr. President, I ask unanimous consent to print in the RECORD a summary of the major provisions included in S. 916, a table that summarizes the budget provisions, and a section-by-section analysis.

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

SUMMARY OF MAJOR PROVISIONS

For FY 1990, the Committee would authorize $13,273,995,000 for NASA, $4,392,000 for the Office of Commercial Space Transportation in DOT and $1,200,000 for the National Space Council. Of the amount authorized for NASA, $5,786,600,000 is authorized for research and development, $5,104,600,000 for space flight, control and data communications, $341,800,000 for construction of facilities, $2,032,200,000 for research and program management, and $8,795,000 for the activities of the Inspector General's Office.

A. TITLE I—NASA AUTHORIZATIONS

Space station

The reported bill provides full funding for the space station (known as "Space Station Freedom") in FY 1990, $2,050,200,000, as a signal of its commitment to the program and to the agreement with our international partners. There is a concern with the pace of the space station program and with the inability of the Congress to provide adequate funds for this Presidential initiative. Unless the Congress is willing to recognize this program as a national priority and a budget priority, the Committee is concerned that this program will not be successfully implemented and that the United States will be forced to withdraw from this initiative.

The bill as reported does not include multi-year funding for the space station program, and it does not put a cap of $13,300,000,000 on the program as requested by the Administration. The Committee believes that it would be premature to put a cap on the space station program. As for multi-year funding, while there is a need for multi-year funding and Congress should provide full funding for the program and instruct NASA to manage the program to that cost and the associated schedule, the current budget situation makes full funding highly unlikely. Furthermore, multi-year authorizations may not add stability to the NASA budget or its programs, and multi-year authorizations without multi-year appropriations only serve to minimize the role of the authorization committees in the annual budgetary and policy deliberations.

Space transportation capability

The Space Transportation Capability Development budget of $635,500,000 is $3,500,000 below the President's FY 1990 budget request. This reduction is for activities associated with the integration of the Commercially Developed Space Facility in the space shuttle. The reports of the National Research Council and the National Academy of Public Administration raising questions about this effort both compel the Committee to defer any activities associated with the Commercially Developed Space Facility until a later date.

In addition, NASA will be instructed to absorb the cost of development of the upper stage for the Advanced Communications Technology Satellite (ACTS), $6,000,000, in this account. This should not adversely affect ongoing engineering activities nor should it affect adversely the spacelab or orbital maneuvering vehicle program activities.

Finally, the reported bill assumes authority to NASA to utilize funds transferred from the Department of Defense (DOD) for activities related to the Advanced Launch System program. It is estimated that DOD will transfer $100 million in FY 1990 to NASA for activities associated with this program.

Space science and applications

For Space Science activities, the substitute authorizes $1,414,100,000 in FY 1990—Physics and Astronomy, Life Sciences, and Planetary Exploration—which is $1,500,000 below the level requested in the President's budget request.

The $894,500,000 provided for Physics and Astronomy will support ongoing activities related to the deployment of the Hubble Space Telescope and the Gamma Ray Observatory and to the development of the Global Geospace Science spacecraft and Advanced X-Ray Astrophysics Facility (AXAF). This level of funding fully supports the FY 1990 request for mission operations and data analysis, as well as research and analysis—the lifelines of the university research communities.

The $122,700,000 provided for Life Sciences in FY 1990 is a substantial increase over the FY 1989 baseline of $79,100,000. The substantial increase recommended for life sciences activities is consistent with the Committee's strong support of the space station program and development of an extended duration orbiter capability. If the United States is to increase substantially the level of manned activity in space, it is absolutely essential to have a robust life sciences program.

The $396,900,000 provided in FY 1990 for Planetary Exploration is the full amount requested by the Administration and gives new start status to the CRAF and Cassini missions. The new start approval for the CRAF and Cassini missions is contingent upon the establishment and implementation of a cost containment plan for these two missions. This is intended to ensure that NASA learns to manage projects to cost—the CRAF and Cassini missions offer a unique opportunity to test this new approach. The last space science mission done within cost was Voyager, launched in 1977. NASA has agreed that its inability to contain the cost of the CRAF and Cassini missions would result in the termination of the CRAF mission. NASA also has agreed that the cost containment plan would be based on an annualized basis, as well as a total project cost basis.

For Space Applications activities the substitute authorizes $625,500,000—$420,100,000 for Earth Science and Applications, $90,700,000 for Materials Processing, $80,600,000 for Communications, and $34,100,000 for Information Systems.

For Earth Science and Applications, the reported bill provides $420,100,000 in FY 1990, $10,000,000 more than the President's request. The additional funding provided is to initiate the Earth Probe program as an FY 1990 new start and as a new line item in the NASA budget. The Earth Probe program will consist of a series of Explorer Class missions that will assess the level of ozone depletion, measure tropical rain forests, and monitor the oceans to understand better global change. The first mission to be funded is the Total Ozone Mapping Spectrometer (TOMS).

The reported bill authorizes $90,700,000 for Materials Processing in Space in FY 1990, a reduction of $2,000,000 from the President's request, and $34,100,000 for Information Systems, the same level as requested by the President. The bill also authorizes $80,600,000 for Communications in FY 1990, an increase of $62,000,000 above the President's budget request. The proposed increase in this latter account is to accommodate ACTS, which is strongly endorsed by the Committee. The Committee is concerned that the Administration has failed to fund the Acts program for the fourth straight year despite Congressional support for this program, which is designed to ensure sustained U.S. leadership in communications technology.

Mission to planet Earth

After months of review, the reported bill includes a new line item and instructions to NASA to initiate the Mission to Planet Earth, starting with the Earth Observing System (EOS) in FY 1990. The bill provides $24,200,000 for the initiative, which is the same amount of funding that the Administration proposed for advanced technology definition activities for EOS in FY 1990. The initiation of a Mission to Planet Earth should be viewed as part of a comprehensive Global Change Research Program and as a high national priority and reflects the hope that the Administration will work with the Congress to expedite implementation of this program as proposed in this bill.

Commercial programs/safety and reliability

The reported bill authorizes $61,000,000 for Commercial Programs, $23,300,000 for Safety, Reliability, Maintainability and

Quality Assurance, and $19,900,000 for Tracking and Data Systems—the same levels as the President's request.

Aeronautical research and technology

The reported bill also includes $462,800,000 for Aeronautical Research and Technology, including $25,000,000 to initiate technology efforts related to the development of an environmentally and economically sound high speed commercial transport. This level of funding represents full support for the President's budget request, which assumes funding for a high speed commercial transport and reflects great concern by the Committee about the United States maintaining its lead in aeronautics and a positive balance of trade. However, if a high speed commercial aircraft is to be marketable, it must be environmentally sound. It must be able to meet all existing environmental standards and have enough margin to meet future standards. In light of the growing concern about the ozone layer and other environmental issues, the bill endorses NASA's proposal to focus its technology activities on the critical environmental challenges of a high speed commercial aircraft program.

In the same vein, the bill earmarks $10,000,000 for a high performance computer initiative that will accelerate the development and application of high performance computing technologies. This initiative should consist of the following program elements:

1. massively-parallel scalable testbed facilities; 2. algorithms and advanced software development; and 3. basic research infrastructure.

National aerospace plane

The reported bill authorizes $127,000,000 for Transatmospheric Research and Technology, the National Aerospace Plane (NASP) program, in FY 1990.

This level of funding represents full funding of the Administration's request for the NASA portion of this joint NASA-DOD program. The NASP program is calculated to develop the technologies in materials processing, propulsion systems, and other areas needed to produce a plane capable of taking off from a conventional runway, accelerating into low earth orbit, and then landing conventionally. The Committee sees NASP as crucial to our national effort to maintain and enhance competitiveness in the aerospace industry. Some in Congress fully expect NASP to lay the technological groundwork for major improvements in our military aircraft, an alternative launch system to the space shuttle, and eventually hypersonic commercial transports.

Since NASP is a joint program shared by NASA and DOD, DOD's participation is essential if the program is to produce two experimental aircraft, X-30s, for flight test purposes. In that connection, the Committee is aware of the continuing debate within the Administration about the appropriate role of DOD in the NASP program. However, the Committee wants to do its part in advancing aerospace technology by authorizing full funding for NASA's portion of the NASP program.

The authorization of funds in the reported bill is contingent upon the submission of a revised management plan, including goals, objectives, milestones, and proposed budgets, for the NASP program.

Space research and technology

The reported bill authorizes $325,100,000 for Space Research and Technology in FY 1990. This is $13,000,000 less than the President's budget request. While there continues to be strong support for NASA's efforts to enhance its technology base, due to the extreme budget pressures that exist and NASA's inability to obtain funding for ongoing programs strongly endorsed by the Committee, it is necessary to reduce the FY 1990 budget request for Space Research and Technology. This figure assumes that the Pathfinder Program would be funded at the FY 1989 level of $40 million and that the proposed new start for the In-Space Flight Experiments would be funded at $10,200,000 instead of the $16,200,000 requested.

Academic programs

The reported bill includes a new line item for the University Space Science and Technology Academic Program, which reflects the full-funding Administration budget request for this program of $35,000,000. An amount of $5,000,000 is provided in this account for the National Space Grant College and Fellowship Program, which NASA initiated in FY 1989. NASA's efforts to broaden the participation of our Nation's educational institutions in the civil space program are very important.

General reduction/research and development account

To maintain a total level of spending for research and development activities of $5,786,600,000 in FY 1990, a general reduction of $17,000,000 has been applied against the account.

Space flight

The reported bill authorizes $5,104,600,000 for Space Flight, Control and Data Communications in FY 1990. This is $35,000,000 less than the President's budget request. This reduction represents a $25,000,000 general reduction to the Space Tracking and Data Acquisition account and a general reduction of $10,000,000 to the entire Space Flight Control and Data Communications Account. The amount provided for the Space Shuttle Productions and Operations Capability account, as well as the Space Transportation Operations account in FY 1990, should sustain operation of a safe and reliable space shuttle—NASA's highest priority.

The updated bill also provides $121,300,000 for the advanced solid rocket motor program in this account and gives NASA the authority to use the funds in the Space Shuttle Production and Operational Capability account as may be necessary to ensure operation of a safe and reliable space shuttle and development of an extended duration orbiter capability.

Construction of facilities

The reported bill fully authorizes the budget request for Construction of Facilities, $341,800,000, and provides additional legislative authority that permits NASA to secure private sector financing for the space station processing facility at the Kennedy Space Center, the neutral buoyancy laboratory at the Johnson Space Center, and the observational instrument laboratory at the Jet Propulsion Laboratory. The proposed Administration language for such service or lease contracts has been amended by the reported bill to require that such contracts result in net cost savings to NASA and are in the national interest. Some type of shared use agreement or equity investment on the part of the private sector should be required to make such proposals advantageous. While such projects should be funded by the Federal Government in the traditional manner, it is not feasible to provide additional funds for such activities in the current budget environment.

Research and program management inspector general

The reported bill authorizes $2,032,200,000 for research and program management in FY 1990. The value of NASA personnel to the success of the Nation's space program must be recognized, and this account reflects that view.

The reported bill includes $8,795,000 for the Office of the Inspector General in FY 1990, the level of funding requested by the President. This is the first time that this Office has been identified as a separate line item and as a separate appropriations account.

TITLE I—OTHER PROVISIONS

As previously indicated, Section 105 of the reported bill amends the National Aeronautics and Space Act to authorize the Administrator of NASA to enter into contracts, leases, or service agreements providing for private sector financing of the space station processing facility at the Kennedy Space Center, the neutral buoyancy laboratory at the Johnson Space Center, and the observational instrument laboratory at the Jet Propulsion Laboratory, provided that such activities are in the best interest of the goverment and result in net cost savings. If such contracts are entered into, the Administrator is allowed to use NASA's unobligated balances as a contingent liability in case of Government terminates one of these projects for its convenience. The Administration had requested a generic private financing authority, but the substitute reflects the view that a more limited authority as provided in section 105, contingent upon specified conditions, is in the best interest of the civil space program.

As has been the case with prior year authorization bills, section 106 of the reported bill instructs NASA to distribute research funds on a geographical basis where possible. Also, section 107 directs that the space station may be used only for peaceful purposes.

Section 108 gives the Administrator of NASA the authority to use up to 5 percent of the funds provided for the Small Business Innovation Research Program for program management and promotional activities. This should make NASA's implementation of the program consistent with that of other Federal agencies and promote the transfer of technology to commercial applications.

Section 109 indicates that it is the sense of the Congress that the current prohibition on the export of U.S.-built satellites to the Soviet Union for launch on rockets of the Soviet Union shall continue to be the policy of the United States and that the policy shall be expanded to prohibit the export of U.S.-built satellites to other nations for launch on rockets of the Soviet Union.

C. TITLE II—OTHER AUTHORIZATIONS

The reported bill includes the FY 1990 Authorization for the Office of Commercial Space Transportation at DOT. The bill provides $4,392,000 for these activities, the full amount requested by the Administration.

D. TITLE III

The reported bill also authorizes the activities of the National Space Council, established by P.L. 100-685 (the FY 1989 NASA Authorization Act). For FY 1990, $1,200,000 has been provided for these activities, which reflects an assumed 50% reimbursement to Federal agencies for detailees assigned to the National Space Council.

SECTION-BY-SECTION ANALYSIS

TITLE I

SECTION 101-104-NASA

Overview

Section 101(a), (b), (c), (d), and (e) authorizes $13,273,995,000 for NASA in FY 1990. These monies are distributed in five appropriations accounts:

Subsection (a), relating to research and development—$5,786,600,000 for space station, space science and applications, space transportation capability development, commercial programs, aeronautics research and technology development, transatmospheric research and technology, and space research and technology, as well as other programs.

The major assumptions in this area are full funding ($2,050,200,000) and a strong endorsement of the space station program; restoration of funding for ACTS; initiation of a new space technology initiative—In-Space Flight Experiments—but at a reduced level of funding; approval of the new start requests for the CASSINI mission and for the CRAF mission; endorsement of a new aeronautics research and technology program for high speed commercial transportation; initiation of a high performance computing program; continued support of the NASP program, contingent upon submission of a new program management plan; sustained support of the Gravity Probe B program; and approval of new start status for two programs at the initiation of the Committee—Earth Probe and Mission to Planet Earth (EOS).

Subsection (b), relating to space flight, control and data communications.—$5,104,600,000, including funds for space shuttle productions and operations capability ($1,305,300,000), space transportation operations ($2,732,200,000), and space tracking and data acquisition ($1,077,100,000).

The funds provided for these activities reflect this Committee's strong support of this program and its commitment to maintain a safe and reliable transportation system.

The reported bill reflects an endorsement of the initiation of the Advanced Solid Rocket Motor Program in this section. In this connection, the Committee also has agreed to permit private sector financing of the facility portion of this program. The authority has been granted in a separate bill that the Committee has ordered reported, S. 663.

Subsection (c), relating to construction of facilities.—$341,800,000 for a variety of repair, rehabilitation, and new construction activities required for a robust civilian space program.

Subsection (d), relating to research and program management—$2,032,200,000 for all civil service staff, maintenance of facilities, and support of research and development programs and contract activities, as well as technical and administrative support of research and development programs.

Subsection (e), relating to Inspector General.—$8,795,000 for the activities of the Office of the Inspector General of NASA. This is a new line item and a new appropriations account.

Section 101 (f), (g), (h), and (i) and Sections 102, 103, and 104 establish strict parameters for the Administrator of NASA concerning the amount of flexibility he or she has with construction of facilities activities, the transfer of funds from one account to another, and the use of funds for activities not approved by the Committee. These provisions are included in the NASA authorization bill every year.

SECTION 105

This section amends the National Aeronautics and Space Act of 1958 to give NASA the authority to enter into contracts, leases or agreements providing for private financing of three NASA facilities—the Space Station Processing Facility at the Kennedy Space Center, the Neutral Buoyancy Facility at the Johnson Space Center, and the Observational Instrument Laboratory at the Jet Propulsion Laboratory.

As was the case with the proposed private financing of the ASRM Production Facility, NASA requires legislative authority to be able to provide the necessary contingent liability/termination liability to ensure investor confidence in the private financing of such facilities. This language provides that authority and permits NASA to use its unobligated funds as collateral in case the Government terminates a contract for its convenience.

Based on its review of these and other private financing proposals contained in the President's FY 1990 NASA Authorization bill, the Committee became concerned that there were no clear standards by which to assess such private offerings. The Committee, therefore, asked the Congressional Budget Office (CBO) to assess the seven commercialization proposals that were contained in the NASA budget request. The CBO Staff Memorandum, "Preliminary Analysis of NASA Commercialization Initiatives," stated that:

" . . . if the lease or service contract arrangement is to be less expensive to the government than direct procurement, the government will have to share the use and cost of the facilities or hardware with other customers. An example would be a space station facility that the government uses fully during the deployment—thus, a smaller, lower-capacity alternative would not do—but thereafter shares with another user. For the government to realize cost saving from private financing, the lower 'principal' payments permitted by sharing with a non-U.S. Government user must be sufficient to offset the higher interest cost of borrowing at the private, as opposed to the government, rate."

Based on its analysis of the Administration's private financing proposals, the Committee has decided that it will assess each proposal on a case-by-case basis. The Committee, therefore, has not given NASA generic authority for such proposals as requested in the Administration's proposed FY 1990 NASA Authorization bill. In light of some reservations about the value and benefits of private sector financing, the Committee has established three standards that must be met by the three facilities that are addressed in this section before the use of such financing is authorized.

First, the Administrator of NASA must determine that the privately financed facility is in the best interest of the Government.

Second, the Administrator of NASA must determine that the privately financed facility will result in net cost savings to the Government.

Third, no project considered for private financing shall be initiated unless the Administration (NASA) has submitted to the Committee a notice of intent to initiate the project, along with a description of the project, and thirty days have passed after each submission.

As noted above, the Government's financial obligations under such contracts, leases, or agreements would be limited to amounts provided in advance in appropriations Acts.

SECTION 106

This section instructs NASA to distribute its research and development funds on a geographical basis where possible. The Committee has annually legislated this requirement, believing it is in the national interest.

SECTION 107

This section reiterates the past Committee position that the space station may be used only for peaceful purposes. This language is consistent with existing U.S. treaty obligations (the Outer Space Treaty) and current law—P.L. 100-685.

SECTION 108

This section allows the Administrator of NASA to utilize up to five percent to the funds provided for the Small Business Innovation Research Program for program management and promotional activities. None of these funds may be used for travel or civil servant salaries. This would make NASA's implementation of the program consistent with other Federal agencies and ideally would result in more commercial spinoffs and applications.

Presently, NASA is not allowed to use any of the Small Business Innovative Research Program funds for administrative, program management, or promotional activities. During its review of the Program, the Committee was advised that this constraint, which was upheld by the Comptroller General in decision B-217925 of July 29, 1985. (64 Comp. Gen. 711), severely constrains the program and the dissemination of its technical findings. The Committee was advised by the program officer that a small set-aside for program management and promotional activities such as proposal review costs, support contract costs, automated data processing costs, and outreach activities costs could assist the program and heighten the commercial potential of the innovative research being performed by small businesses.

SECTION 109

This section indicates that it is the sense of the Congress that the current prohibitation on the export of U.S. built satellites to the Soviet Union for launch on rockets of the Soviet Union shall continue to be the policy of the United States and that the policy shall be expanded to prohibit the export of U.S. built satellites to other nations for launch on rockets of the Soviet Union.

TITLE II

SECTION 201—OFFICE OF COMMERCIAL SPACE TRANSPORTATION

Section 201 of the bill amends section 24 of the Commercial Space Launch Act (49 U.S.C. 2623) to provide $4,392,000 for FY 1990 for the Office of Commercial Space Transportation (OCST) of DOT. This conforms to the President's request, will enable OCST to fulfill responsibilities pursuant to the Commercial Space Launch Act, and will ensure that OCST meets projected demand in FY 1990 from entities seeking a DOT license to launch commercial ELVs.

OCST was established pursuant to P.L. 98-575, with the specific purpose of establishing and enforcing the licensing and regulatory regime necessary for commercial space transportation operations. These activities include safety research and planning and licensing procedures.

To date, OCST has issued three commercial launch licenses and currently has under review and in process six commercial launch applications. The Office anticipates that 20 more requests for licensing actions will be

received before the end of the calendar year.

To review properly and thoroughly these applications, the Committee supports the FY 1990 budget request and the efforts of the Office to augment its staff with people with engineering and technical backgrounds.

Adequate resources to oversee and regulate properly the commercial ELV industry is essential to ensure that the United States can fulfill its obligations under international treaties, as well as to protect fully the health and safety of the public.

The Committee notes the role of the OCST in the effort to formulate model government contracts and requests for proposals for launch services on domestic ELVs. The Committee supports these efforts.

The Committee also notes the report submitted by the Secretary of DOT concerning "A Study of the Scheduling of Commercial Launch Operations at National Ranges." This report raises a variety of issues and concerns that the Committee intends to address as it assesses the viability and marketability of domestic ELVs.

TITLE III

SECTION 301—NATIONAL SPACE COUNCIL AUTHORIZATION

Section 301 of the bill authorizes $1,200,000 for the activities of the National Space Council in FY 1990. The Council was established pursuant to section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2471). The Committee has reviewed this authorization with the Council and OMB and believes the prescribed level of funding is adequate for FY 1990.

The Committee notes that the proposed level of funding in FY 1990 would provide for a 50 percent reimbursement for any Executive Branch employee detailed to the National Space Council. Concerning detailees, the Committee also notes that in establishing the Council, it did not envisage a prominent role for detailees. The Committee saw the Council as "lean and mean" with a professional staff of not more than seven people as required by section 501(C) of P.L. 100-685—FY 1989 NASA Authorization Act. Detailees were seen as "temporary" staff who would bring a specific expertise to the Council for a limited period of time—not permanent employees who would head up directorates. The Committee wants to remind the Council of this intent.

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION NASA BUDGET SPREAD SHEET FOR FISCAL YEAR 1990

[In millions of dollars]

	Fiscal year 1989 operating plan	Fiscal year 1990 request	Proposed Fiscal year 1990 Senate authorization	Comments
I. Research and Development	4,256.6	5,751.6	5,786.6	Reflects general reduction of $17m to R&D account.
1. Space Station	900.0	2,050.2	2,050.2	
2. Space Transportation Capability Development	681.0	639.0	635.5	Assumes absorption of the $6m required for ACTS upper stage activities.
Spacelab	88.6	98.9		
Upper Stages	133.6	88.6		
Engineering and Tech. Base	160.6	189.8		
Payload Ops and Sup. Equip.	64.7	81.1	−3.5	Delete funding for CDSF integration.
Advanced Programs	52.7	48.7		
Advanced Launch Systems	81.4	5.0		
Tethered Satellite System	26.4	19.9		
Orbital Maneuvering Vehicle	73.0	107.0		
3. Space Science	1,237.8	1,415.6	1,414.1	
A. Physics and Astronomy	742.1	894.5	894.5	Assumes absorption of $25m for Gravity Probe B.
Hubble Space Telescope Dev.	104.9	67.0		
Gamma Ray Observatory Dev.	50.9	26.7		
Global Geospace Science	64.4	112.3		
Advanced X-Ray Astrophysics Fac.	16.0	44.0		
Payload and Instrument Dev.	71.7	71.4		
Shuttle/Spacelab Payload Mgt.	69.7	86.1		
Sp. Station Integrated Planning and Attached Payloads	8.0	23.0		
Explorer Development	82.1	93.2		
Mission Operation and Data Analysis	143.2	204.8		
Research and Analysis	85.8	112.5		
Suborbital Program	45.4	53.5		
B. Life Sciences	79.1	124.2	122.7	General reduction of $1.5m.
C. Planetary Exploration	416.6	396.9	396.9	
Galileo Development	73.4	17.4		
Magellan	43.1			
Ulysses	10.3	14.5		
Mars Observer	102.2	100.5		
Missions Ops and Data Analysis	110.7	155.4		
Research and Analysis	76.9	79.1		
CRAF/CASSINI	(1)	30.0		Assumes new start status for the CRAF and Cassini. Missions in final fiscal year 1990.
4. Space Applications	592.4	555.5	625.5	
A. Earth Science and Applications	404.7	410.1	420.1	
Geodynamics	32.9	38.0		
Research and Analysis	106.0	124.8		
Mission Operations and Data Analysis	17.6	24.8		
Earth Science Payload Instrument Dev.	46.4	42.3		
Scatterometer	10.6	13.8		
Earth probe	(1)	0	10.0	Assumes new start for Earth Probe Program—+10m for Total Ozone Mapping Spectrometer.
Upper Atmos. Res. Satellite (UARS)	85.2	73.9		
Ocean Topography Experiment (TOPEX)	83.0	72.8		
Airborne Science and Applications	23.0	19.7		
B. Materials Processing in Space	75.6	92.7	90.7	General reduction of $2m.
C. Communications	92.2	18.6	80.6	+$62m for ACTS.
D. Information Systems	19.9	34.1	34.1	
5. Mission to Planet Earth—Earth Observing System	(1)	24.2	24.2	Assumes fiscal year 1990 New Start Status for Mission to Planet Earth–EOS (Administration assumes a fiscal year 1991 New Start).
6. Commercial Programs	44.7	61.0	61.0	
Technology Utilization	16.5	22.7		
Commercial Use of Space	28.2	38.3		
7. Aeronautical Research and Technology	404.2	462.8	462.8	Includes $25m to initiate research for a high speed commercial aircraft. Absorb $10m to initiate a High Performance Computing Initiative.
Research and Technology Base	315.6	335.7		
Systems Technology Programs	88.6	127.1		
8. Transatmospheric Research and Technology	69.4	127.0	127.0	Requires submission of a new management plan within 60 days of enactment.
9. Space Research and Technology	285.9	338.1	325.1	General reductions to Pathfinder (−$7m) and In-Space Flight Experiments (−$6m).
10. Safety, Reliability, Maintainability and Quality Assurance	22.4	23.3	23.3	
11. Tracking and Data Advanced Systems	18.8	19.9	19.9	
12. University Space Science and Technology Academic Program	(1)	35.0	35.0	
II. Space Flight Control and Data Communications	4,452.6	5,139.6	5,104.6	Reflects general reduction of $10m to SFC&DC account.
1. Space Shuttle Productions/Operations Capability	1,121.6	1,305.3	1,305.3	
Orbiter Operational Capability	281.8	237.0		
Launch and Mission Support	257.6	341.0		
Propulsion Systems	582.2	727.3		
2. Space Transportation Operations	2,385.7	2,732.2	2,732.2	
Flight Operations	687.7	772.6		
Flight Hardware	1,121.7	1,236.5		
Launch and Landing Operations	509.8	553.6		
Expendable Launch Vehicles	66.5	169.5		

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION NASA BUDGET SPREAD SHEET FOR FISCAL YEAR 1990—Continued

[In millions of dollars]

	Fiscal year 1989 operating plan	Fiscal year 1990 request	Proposed Fiscal year 1990 Senate authorization	Comments
3. Space Tracking and Data Acquisition	945.3	1,102.1	1,077.1	General reduction of $25M.
Space Network	483.9	582.3		
Ground Network	228.1	269.6		
Communications and Data Systems	233.3	250.2		
III. Construction of Facilities	281.7	341.8	341.8	
IV. Research and Program Management	1,906.6	2,032.2	2,032.2	
V. Inspector General	([1])	8.8	8.8	
Total NASA	[2] 10,897.5	13,274.0	13,274.0	

[1] New line items proposed for fiscal year 1990.
[2] The fiscal year 1989 Operating Plan includes $175 million in funds transferred from DOD to NASA for the Advanced Launch System and Space Shuttle Programs.

Mr. GORE. Mr. President, the bill before the Senate today has been thoughtfully formulated in a very bipartisan manner. I am hopeful that the Senate will approve this measure, that the Senate will be able to successfully negotiate an authorization bill with the House, and that in fiscal year 1990 there will be a NASA authorization bill.●

Mr. HOLLINGS. Mr. President, I rise in support of S. 916, the fiscal year 1990 NASA authorization bill, and I would like to associate myself with the remarks of the distinguished chairman of the Subcommittee on Science, Technology, and Space.

Mr. President, this has not been an easy year for the subcommittee or for the Civil Space Program. At the same time the subcommittee was trying to grapple with the budget realities of the fiscal year 1990 budget request, a new initiative for the Moon and Mars was proposed by the President and reassessment and subsequent rephasing of the space station was initiated by NASA. These two events best typify the dilemma facing my committee and the Congress—how to turn the dreams of today into the realities of tomorrow during a time of severe fiscal constraint.

Mr. President, I might note with a certain degree of dismay that the bill before the Senate today would authorize $13.3 billion for NASA, the same level of funding as the President's fiscal year 1990 budget request, but almost $1 billion more than we were able to provide recently in the Senate-passed fiscal year 1990 appropriations bill. I might also note that the administration's request of $13.3 billion in fiscal year 1990 was described by then-Administrator Dr. James C. Fletcher in March as "marginal to submarginal."

Mr. President, I have stood on the floor of the Senate on many different occasions and have discussed our budget situation. And I do not intend to do that again today. But I do want the Members of the Senate to realize that until we make our Civil Space Program a national priority, it will be hard to make it a budget priority.

Despite the heroic efforts of the chairman of the VA, HUD, Independent Agencies Appropriations Subcommittee this year to find additional funds for NASA in fiscal year 1990, she was not able to fund fully the budget request, nor was the former chairman of the subcommittee last year or the year before. As a matter of fact, if you look at a table that compares the final appropriations level to the administration's budget request over the last 5 years, you will see that there was only 1 year where the final appropriation exceeded or met the President's budget request, and that was fiscal year 1987, the year of the *Challenger* tragedy and the year when the Congress added full funding for a new orbiter.

Mr. President, I would ask unanimous consent that a table showing this relationship be printed in the RECORD.

(The material requested to be printed in the RECORD is not reproducible.)

Mr. HOLLINGS. Mr. President, I also ask unanimous consent that a table that depicts the budget requirements for a variety of space spectaculars be printed in the RECORD.

(The material requested to be printed in the RECORD is not reproducible.)

Mr. HOLLINGS. Mr. President, as you can see in the NASA budget option table, the cost of implementing a Mars base, a lunar base and the mission to planet Earth will be substantial. As you also can see in this table, there is a considerable gap between where we are today, slightly above the CBO baseline for fiscal year 1990, and the funding requirements of these grand initiatives. As a matter of fact, there are some of us who worry we will not be able to find the resources in the future to fund the core NASA program of currently ongoing activities including the space station.

Mr. President, the fact of the matter is that if we want to turn the dreams of the Paine Commission, the Ride Report, and the Bush initiative into realities, it is going to take an almost incomprehensible increase in the NASA budget. If we are going to make the space station and Mission to Planet Earth a reality, it is going to take a substantial budget increase.

Mr. President, the fiscal year 1990 NASA authorization bill identifies the minimum fiscal year 1990 budget requirements of NASA. It tells us what we should be doing. I would hope that the Members of the Senate would support this measure, and I would hope that next year the Members of the Senate will work with me, the distinguished chairman of the subcommittee, and other Members of Congress to increase funding for science, technology, and space in the budget resolution and in the 302(b) allocation to the Appropriations Committee. The simple fact of the matter is that you can't get there from here, and we have a long way to go if we are going to implement this program and if we are going to retain our leadership in space.

Mr. DANFORTH. Mr. President, I am pleased to support S. 916, the 1990 NASA authorization. This legislation authorizes $13.2 billion for NASA in fiscal year 1990, thus providing the full amount of the President's budget request. This funding level represents an increase of approximately 20 percent over last year's NASA budget.

The Commerce Committee's support of the President's budget request reflects its belief that NASA must have adequate funding to continue its important mission to explore outer space, expand man's presence in the solar system, and produce technological breakthroughs which enhance the quality of life.

Mr. President, this is a landmark juncture in the history of our space program. On July 20, President Bush declared his commitment to a lunar base and a manned mission to Mars. This bold mandate has given our space program an exciting new direction and purpose. But to realize this distant goal, we must fund NASA's current programs adequately and I believe that S. 916 does just that.

For instance, S. 916 provides the full $2.05 billion requested by the administration for space station "Freedom." The space station will be essential for any planned lunar or Mars mission. The space station will also educate us about man's ability to stay in space for the extended time period necessary to reach Mars. Beyond that, the space station will make possible challenging space science experiments, space com-

mercialization opportunities, and advanced technologies with promising spinoff potential. The space station also provides an opportunity for the United States to join with Europe, Canada, and Japan in demonstrating to the world how countries can combine forces ambitious civil space projects.

Mr. President, I am also pleased that S. 916 provides the full $127 million requested by the President for the National Aerospace Plane [NASP]. I am convinced that NASP is the future of aeronautical technology. It is amazing to contemplate a plane capable of taking off from a conventional runway, accelerating into low orbit at mach 25, and then landing on a conventional runway. NASP will produce dramatic advances in commercial aviation, the space program, and our national defense. With Japan, Germany, and the U.S.S.R. racing to develop their own space planes, we must provide NASP with maximum support or will find ourselves on the ground gazing up at the hypersonic transports of other countries. As NASP struggles for survival in the appropriations process, this authorization sends a clear signal that the Commerce Committee considers NASP a national priority.

Mr. President, I am pleased to note that this legislation authorizes several new starts. Prime among these are the Comet Rendezvous-Asteroid Flyby CRAF and Cassini space science missions. The CRAF mission will send an analytical probe into a comet and provide a closeup observation of an asteroid. The Cassini mission will send an orbiter to Saturn to analyze its atmosphere, rings, and Moons. I expect these missions to have the same success as the Voyager mission and thereby reaffirm U.S. dominance in solar system exploration.

Finally, Mr. President, S. 916 provides full funding for Mission to Planet Earth and instructs NASA to complete the design phase and move to initiate the program. Mission to Planet Earth is part of a larger U.S. Global Change Research Program to evaluate the dynamics of the Earth's atmosphere and surface. With global warming and ozone depletion threatening the future of mankind, Mission to Planet Earth will give us the important information necessary to develop strategies for stopping or reversing these kinds of alarming global trends.

Mr. President, S. 916 gives us a strong space program. This is imperative to the Nation's future. By exploring the universe, the planets, and other bodies, we learn how the Earth evolved, how it operates, and what the future holds for us. In addition, if the past is prelude, the space program can be expected to produce countless functional spinoffs just as earlier space initiatives gave us Velcro, Teflon, pacemakers, and microminiature computers.

Mr. President, for the future of our space station, I urge my colleagues to join me in supporting S. 916.

Mr. PRESSLER. Mr. President, I strongly urge adoption of the NASA authorization bill S. 916 for fiscal year 1990. The bill authorizes $13.2 billion for NASA, which was the funding level requested by the President.

I believe that adequate funding for NASA is critical to enable it to carry out its important missions. This is especially true now in light of President Bush's recently announced plan for a lunar base and a manned mission to Mars. Our Space Program helps us unlock the secrets of the universe, gathering information about Earth's origins, the dynamics of its surface and atmosphere, and the future of mankind. It also extends man's presence in the solar system—an extension of the pioneering spirit that founded this country. Equally important is the way in which the program has traditionally lead to technological spinoffs that have enhanced our quality of life. Modern water filtration systems, pacemakers, miniature computers were all outgrowths of the NASA Space Program.

Some of the programs authorized by the bill deserve special mention. The bill directs NASA to complete the design phase of Mission to Planet Earth and initiate the program this fiscal year. Scientists tell us that global warming, ozone depletion, and other adverse global trends may result in an ecological crisis within the next 50 years. Mission to Planet Earth will employ orbiting platforms, as well as suborbital and ground-based instruments, to gather critical data about the processes underlying these global trends and thus enable policymakers to fashion remedies. The data from the space elements of Mission to Planet Earth will be received, processed, and archived in a central ground-based facility accessible to global change scientists all over the world. I am pleased that the bill enables NASA to take a lead role in heading off global disaster.

This legislation provides $2.05 billion for the space station—the full amount requested by the President. With the administration's commitment to a mission to Mars, expedited development of the space station will be needed for an operational base for that effort. But beyond its role in the Mars mission, the space station will provide useful data about man's ability to live and perform rules duties in space for extended periods. Further, it will permit microgravity and other scientific experiments only possible in outer space. I also believe that the cooperation of our foreign partners in developing the station's structure will hopefully pave the way for future joint ventures in space. But this will only happen if the United States honors its commitment to its space station partners, who have already invested millions in the project.

From the perspective of the Commerce Committee, the bill also gives appropriate support for the fledgling space commercialization effort in the United States. Space is the next international marketplace. Its economic potential is limitless. This fact is not lost on spacefaring countries like France, Japan, and Germany. France's commercial remote sensing service and commercial launch industries give us some indication of the business opportunities in space. By contrast, Landsat is not expected to become self-sufficient until after the year 2000 and our commercial launch industry is still in its infancy.

We have a long way to go in space commerce. For this reason, I am pleased that S. 916 fully funds both NASA's Office of Commercial Programs and the Department of Transportation's Office of Commercial Transportation. Both offices are mandated to promote and develop domestic space opportunities. The bill also addresses the problem of our commercial launch efforts being undercut by predatory pricing by nonmarket economy countries. to that end, this legislation bars the export of United States satellites for launch on Soviet rockets. It is imperative that the United States become competitive in the space market. If it does not, France, Japan and others will preempt this fertile area before our industry ever gets off the ground.

I am mindful that the final appropriations legislation for NASA will be less than the funding level we have authorized in S. 916. That is a function of fiscal realities and NASA having to compete with equally worthwhile programs in housing and veterans benefits falling under the jurisdiction of the same Appropriations subcommittee. However, Commerce Committee believes that the funding level herein authorized is necessary for NASA to accomplish its important missions that have traditionally enhanced the quality of life and the breadth and depth of our understanding.

Accordingly, I strongly support S. 916 as an investment in the future of mankind.

AMENDMENTS NOS. 1095, 1096, AND 1097

Mr. MITCHELL. Mr. President, I send three amendments to the desk, en bloc, in behalf of Senator GORE, and I ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] for Mr. GORE, proposes amendments numbered 1095, 1096, and 1097, en bloc.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1095

On page 31, at the end of line 21, insert the following: "None of the NASA Small Business Innovation Research Program funds may be used for travel or civil service salaries."

AMENDMENT NO. 1096

On page 32, line 19, delete the "." and insert the following: ": *Provided*, That the National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

SEC. 302. Not more than six individuals may be employed by the National Space Council without regard to any provision of law regulating the employment or compensation of persons in the government service, at rates not to exceed the rate of pay for Level VI of the Senior Executive Schedule, as provided pursuant to section 5382 of title 5, United States Code.

SEC. 303. Section 5314 of title 5, United States Code is amended by adding at the end thereof.

"EXECUTIVE SECRETARY, NATIONAL SPACE COUNCIL

SEC. 304. The National Space Council may, for the purposes of carrying out its functions employ experts and consultants in accordance with section 3109 of title 5, United States Code, and may compensate individuals so employed for each day (including travel time) at rates not in excess of the maximum rate of pay for grade GS-18 as provided in section 5332 of title 5, United States Code.

SEC. 305. (1) The National Space Council is requested to initiate a review of United States launch policy including the Nation's expendable launch vehicle and satellite industries, their current and projected markets, the existing and projected level of foreign competition in these industries, the extent and level of support from foreign governments in these markets and industries, the consequences of the entry of nonmarket providers of launch services and satellites into the world market, restrictions on the use of foreign launch services and the export of United States satellites, and the importance of the United States launch vehicle and satellite industry to the national and economic security.

(2) The findings of this review and any policy recommendations are to be submitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation in the Senate by August 1, 1990.

AMENDMENT NO. 1097

On page 32, immediately after line 19, insert the following:

TITLE IV—NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM

SEC. 401. Section 203(1) of Public Law 100-147, the National Aeronautics and Space Administration Authorization Act of 1988, (42 U.S.C. 2486(a)(1)) is amended by inserting "and undergraduate" immediately after "graduate".

SEC. 402. Section 209(a) of Public Law 100-147, the National Aeronautics and Space Administration Authorization Act of 1988, (42 U.S.C. 2486g(a)) is amended by inserting "and undergraduate" immediately after "graduate".

AMENDMENT NO. 1095

(By request of Mr. MITCHELL, the following statement was ordered to be printed in the RECORD.)

● Mr. GORE. Mr. President, the amendment is meant to clarify the committee's intent in section 108 of the bill that addresses the Small Business Innovation Research [SBIR] Program.

This amendment, suggested by the senior Senator from New Hampshire, incorporates into the bill language that is currently contained in the committee report. This language indicates that NASA may not use any of the SBIR Program funds for travel or civil service salaries.

Mr. President, I urge the Senate accept this amendment.●

AMENDMENT NO. 1096

(By request of Mr. MITCHELL, the following statement was ordered to be printed in the RECORD.)

● Mr. GORE. Mr. President, the proposed amendment pertains to the National Space Council and gives it certain administrative authorities that are required for the Council to fulfill its mission. It designates the executive secretary position at the Council to be an Executive Level III slot and indicates that not more than six individuals may be employed at the Council at pay rates not to exceed Executive Level VI. Members will recall Public Law 100-685 that established the National Space Council limited the total number of staff slots at the Council to seven. The amendment also gives the Council the authority to hire experts and consultants.

I might note that some members of the committee have some reservations about this latter provision because of recent press accounts about "potential" candidates for these slots and because of concern about the appropriate role and responsibility of the National Space Council. The committee, therefore, will keep a close eye on the use of this authority.

The committee fought long and hard to establish the National Space Council and to raise the visibility of space matters in the White House. And the committee intends to support the Council and to make it work because the committee sees that it is in the national interest. However, I am concerned that recent National Space Council policy statements were not followed up with detailed budget requests and visible support on Capitol Hill. I also am concerned to understand that the staff of the National Space Council, as part of the Moon/Mars review, is initiating its own comprehensive review of the NASA technical proposal institutional issues, and alternative financing proposals. There are important matters and issues that require a thorough review. However, I do not believe the staff of the National Space Council is equipped to handle these issues nor do I believe the Council was established to undertake such matters. I would prefer to see the Council working on near-term policy matters and budget issues. We need a lot of White House support with these matters.

At the same time, section 305 of this amendment requests the National Space Council to thoroughly review the Nation's space launch policy and to submit its findings and policy recommendations to the Congress by August 1, 1990.

Mr. President, having expressed these reservations, I urge that the amendment be approved.●

AMENDMENT NO. 1097

(By request of Mr. MITCHELL, the following statement was ordered to be printed in the RECORD.)

● Mr. GORE. Mr. President, when the Congress enacted the National Space Grant College and Fellowship Program in Public Law 100-147, it appears that we created a degree of ambiguity as to the eligibility of undergraduate and graduate schools to participate in the program. To correct this problem, the proposed amendment will insert the word "undergraduate" in the appropriate places in the act so that it reads "undergraduate and graduate."

I should note that NASA recently designated 17 universities and consortia as "Designated Space Grant Colleges/Consortia," which gets this program off to an excellent start.

Mr. President, I recommend the Senate accept this provision.●

The PRESIDING OFFICER. The question is on agreeing to the amendment, en bloc.

The amendments (Nos. 1095, 1096, and 1097) were agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1098

Mr. MITCHELL. Mr. President, I send an amendment to the desk on behalf of Senators GORE, HOLLINGS, and METZENBAUM, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] for Mr. GORE, (for himself, Mr. HOLLINGS,

and Mr. METZENBAUM), proposes an amendment numbered 1098.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all on page 29, line 11, through page 30, line 24.

(By request of Mr. MITCHELL, the following statement was ordered to be printed in the RECORD.)

● Mr. GORE. Mr. President, the amendment that I am proposing is cosponsored by the distinguished chairman of the Senate Committee on Commerce, Science, and Transportation, Senator HOLLINGS, and the distinguished Senator from Ohio [Mr. METZENBAUM].

The amendment would delete the privately financed facility projects language, section 105, of S. 916, as reported by the Commerce Committee.

Mr. President, for the past few years, the Subcommittee on Science, Technology, and Space has struggled with private financing schemes that were proposed for NASA by the Office of Management and Budget. After many hours of review and many years of consternation, I now am convinced that these initiatives just will not work.

As most of the Members know, the subcommittee was recently forced to withdraw its request for consideration of S. 663, the contingent liability bill for the advanced solid rocket motor facility, because of the degree of opposition in the Senate to a private financing scheme that was not available for other high priority projects and was described by some as costing the Federal Government more than the traditional Government procurement process. I am pleased to say that thanks to the cooperation of the distinguished chairman of the VA, HUD, and Independent Agencies Appropriations Subcommittee that project has been funded as a Government-owned facility in the fiscal year 1990 VA, HUD, and independent agencies appropriations bill, H.R. 2916. However, the ASRM facility debate turned out to be only the tip of the iceberg as regards private financing for NASA programs.

With respect to private financing in general, committee members have expressed reservations about the administration's private financing scheme for the seven projects proposed in fiscal year 1990. Nevertheless, the committee pursued the private financing option to try to ensure the development of much needed facilities and technologies at a time of severe budgetary pressures. However, the facts now are very clear—private financing will not work. The economies of scale and economic efficiency gains that were promised by OMB do not exist. Quite frankly, there is little or no interest in the private sector to get into the business if such economies or efficiencies are required.

To illustrate this, Mr. President, at this point I would ask unanimous consent that a letter to the committee from Adm. Richard Truly, the Administrator of NASA, dated October 23, 1989, concerning NASA's assessment of the feasibility of private financing be inserted in the RECORD. I also would ask unanimous consent that a technical memorandum prepared for the committee by the Congressional Budget Office be submitted in the RECORD at this time.

Mr. President, as the Members can see from both of these documents, it takes a unique set of circumstances and conditions to make private financing a winner for the Federal Government. While some clever budgeteers at OMB might like to think these circumstances and conditions exist, it now is clearer than ever to the committee that they don't. It also is clear to the committee that OMB did not go out of its way to assess the feasibility of these private financing proposals before they were submitted to the Congress. I think one could easily make the case that these proposals were just another element of the budget game that goes on each and every year—support everything but don't provide the funding. Hopefully, the new Director of OMB will establish higher standards for the budget submissions that are formulated on his watch.

It is clear to me that if NASA is to have a neutral buoyancy tank, a space station processing facility, or an observational instrument laboratory, the Federal Government is going to be required to pay for these facilities. There is no rich uncle when it comes to Federal facilities, and it is time for OMB to realize that. It also is time for OMB to realize that the success of the Civil Space Program is not just a measure of the level of funding that one gets for research and development. The construction of facilities and the research and program management budgets are important elements of the Civil Space Program, and implementation of the Space Station Program and the Mission to Planet Earth will require significant augmentations in these accounts.●

Mr. METZENBAUM. Mr. President, I am pleased to join my distinguished colleagues in offering an amendment to strike those provisions in the NASA reauthorization bill dealing with private financing for three NASA projects.

It is no secret that I have been an outspoken critic of such private financing arrangements. They subvert the budget process and generally cost the Government—that is, the taxpayers—more than if we paid for the projects directly through the Treasury. That is because these deals typically involve borrowing money from private lenders at interest rates which are higher than Federal financing.

If a project is truly meritorious we should fund it up front through the Treasury. We should count it on the budget. We should not succumb to the temptation that private financing presents.

Our Space Program is an important one. I look forward to working with my distinguished colleagues in finding ways to provide funding for those projects which can improve and strengthen the program.

Mr. HOLLINGS. Mr. President, I thank the distinguished subcommittee chairman, and I would like to indicate that I fully endorse his remarks. The success of the Civil Space Program requires more than gamesmanship and budget gimmicks; it requires the commitment of the administration and the Congress to the people, facilities, and budgetary resources that are required. We learned the hard way that you cannot operate a space program on the cheap. The Space Program already presents enough risks without budgeting gimmicks adding to those risks.

Mr. President, over the course of the last few years, I have waged many a battle with OMB over their private financing schemes for Landsat, expendable launch vehicles and the commercially developed space facility. I think the time has come to end these games, to provide the funds required to implement the Civil Space Program, and to put the focus of the debate on the issues that deserve it—for example, the space station and space science programs of NASA including the Mission to Planet Earth.

The Truly letter, previously mentioned by the subcommittee chairman, further illustrates that private finacing will not work. It states that

"In view of the responses and comments received on the draft RFP's, coupled with the restrictions contained in the pending fiscal year 1990 legislation, that is, that the project must result in net cost savings, it is NASA's assessment that private sector investment in these projects is not feasible."

Thus, I support this amendment, and I thank the Senator from Ohio for constantly questioning the logic of these financing schemes and the assumed cost savings.

Furthermore, I would recommend that NASA and OMB include a funding request for these projects in the fiscal year 1991 NASA budget request. I will work with the Agency to ensure Federal funding for these projects in fiscal year 1991, but I am no longer willing to try to secure private financing. It's time to acknowledge our mistake and to correct it. It's time to indicate that our experiment has failed and that the conditions do not yet

exist to support private financing initiatives for NASA programs.

(By request of Mr. MITCHELL, the following statement was ordered to be printed in the RECORD.)

● Mr. GORE. Mr. President, I would like to thank the Senator from Ohio for his comments and the Senator from South Carolina for his assistance in this matter.

Mr. President, I urge that this amendment be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1098) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 1099, 1100, 1101, 1102, 1103, 1104, 1105, AND 1106

Mr. MITCHELL. Mr. President, I send a series of technical amendments to the desk, en bloc, on behalf of Senators HOLLINGS and GORE, and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] for Mr. HOLLINGS (for himself and Mr. GORE) proposes amendments numbered 1099, 1100, 1101, 1102, 1103, 1104, 1105, and 1106, en bloc.

AMENDMENT NO. 1099

On page 17, line 18, delete "$894,500,000" and insert in lieu thereof "$903,500,000".

AMENDMENT NO. 1100

On page 18, line 6, delete "$625,500,000" and insert in lieu thereof "$631,500,000".

AMENDMENT NO. 1101

On page 19, line 14, delete "$35,000,000" and insert in lieu thereof "$38,000,000".

AMENDMENT NO. 1102

On page 19, line 25, delete "$1,305,300,000" and insert in lieu thereof "$1,340,300,000".

AMENDMENT NO. 1103

On page 24, line 8, delete "$2,032,200,000" and insert in lieu thereof the following: "$2,049,200,000".

AMENDMENT NO. 1104

On page 24, immediately after line 4, insert the following:

(38) Construction of the Advanced Solid Rocket Motor Facility, Yellow Creek, Mississippi, $90,000,000.

(39) Construction of a Space Station Orbital Debris Radar Facility, $15,000,000.

(40) Construction of a Wake Shield Facility, $2,500,000.

AMENDMENT NO. 1105

On page 32, immediately after line 3, insert the following new sections:

FUNDING FOR SPACE SHUTTLE STRUCTURAL SPARES

SEC. 110. The Administrator is authorized to use up to $25,000,000 of the funds appropriated in section 101(g) of the Joint Resolution entitled "Joint Resolution making continuing appropriations for the first year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-242), for space shuttle structural spares.

FUNDING FOR EXTENDED DURATION ORBITER DEVELOPMENT

SEC. 111. The Administrator is authorized to use up to $25,000,000 of the funds appropriated in section 101(g) of the Joint Resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-242), for continued development of an extended duration orbiter.

FUNDING FOR SPACE TRANSPORTATION SYSTEM

SEC. 112. The Administrator is authorized to use up to $25,000,000 of the funds appropriated in section 101(g) of the Joint Resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-242), for space transportation system requirements.

AMENDMENT NO. 1106

On page 20, line 2, after the word "motor" insert the following: ", of which $35,000,000 is authorized only for tooling and equipment associated with the Advanced Solid Rocket Motor Facility authorized in subsection (c)(38) of this section,".

AMENDMENTS NOS. 1099 THROUGH 1103

Mr. HOLLINGS. Mr. President, on October 31, 1989, the House of Representatives agreed to an amendment of the Senate, and the fiscal year 1990 VA-HUD-independent agencies appropriations bill, H.R. 2916, was cleared for signature by the President. This appropriations bill contains $12.4 billion for NASA in fiscal year 1990, in addition to funding for other agencies. Today, after several delays, the Senate finally has before it the fiscal year 1990 NASA authorization bill, S. 916, that also addresses the budget requirements of NASA. I regret that this bill has not been considered by the Senate before now, but this has been a difficult year for this bill in light of questions surrounding private financing mechanisms.

In light of the fact the appropriations bill that funds NASA has already passed the Senate, I thought that it made good sense to offer a series of amendments today to increase the levels of funding prescribed in the authorization bill to those in the appropriations bill in those few cases where the appropriations bill does or could exceed the authorization bill. In particular, this includes physics and astronomy, space applications, university academic programs, space shuttle production and operational capability, and research and program management. As the Members know, I have worked closely with the Senator from Maryland on the NASA and National Science Foundations portions of the VA-HUD-independent agencies appropriations bill, and I think that at this point in the process, it makes sense to make these adjustments.

Normally, I would suggest that we wait until the NASA bill was in conference and then adjust the spending levels in the bill to the NASA operating plan levels, except in those cases where the Members feel NASA needs; First, increased flexibility; second, more funding to meet program requirements; or third, a signal as to areas they should be funding. However, this year, it appears that the Congress could adjourn before the operating plan is available. Therefore, I would like to make these minor adjustments with the expectation that the final authorization bill would not underfund any of the already appropriated programs.

Mr. President, I urge that these amendments be accepted en bloc.

AMENDMENTS NOS. 1104 THROUGH 1106

Mr. HOLLINGS. Mr. President, there were three other provisions in the fiscal year 1990 VA-HUD-independent agencies appropriations bill that require a change in the fiscal year 1990 authorization bill.

In particular, the authorization must include an authorization of appropriations for three facilities that were included in the appropriations bill. One of these facilities, the advanced solid rocket motor facility, was not included in the fiscal year 1990 NASA authorization bill because the committee thought that the private financing scheme contained in S. 663 would prove fruitful. However, it did not, and the Appropriations Committee was gracious enough to include funding for this facility in their bill.

The other two facilities, the wake shield facility and the space station orbital debris radar facility, are both included in the fiscal year 1990 NASA authorization bill in the research and development portions of the bill. However, the Appropriations Committee was correct in including these facilities as new line items in the construction of facilities account.

The first amendment in this package takes care of these three items.

Furthermore, the committee agrees with the Appropriations Committee that $75 million of prior year unobligated orbiter production funds should be used to fund space shuttle structural spares, an extended duration orbiter and additional space transportation operational activities. The committee, therefore, has authorized $25 million for each of these activities in the second amendment.

Finally, the last amendment in this package earmarks $35 million in the space shuttle production and operational capability account for the tool-

ing and equipment associated with the advanced solid rocket motor facility. As was the case with the authorization for the facility, the committee did not originally include money for tooling and equipment in the space flight budget because it assumed these expenses would be part of the privately financed portion of the program.

Mr. President, the intent of these amendments is once again to conform the fiscal year 1990 NASA authorization bill to the basic provisions of the fiscal year 1990 VA-HUD-independent agencies appropriations bill. Unfortunately, there will still be many more issues that will require consideration by the House and the Senate as we strive to finalize the final bill for fiscal year 1990. But making these few adjustments is important and will go a long way in making the fiscal year 1990 authorization and appropriations bills consistent.

Mr. President, I move that these amendments be accepted en bloc.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments (Nos. 1099, 1100, 1101, 1102, 1103, 1104, 1105, and 1106) were agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

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

The motion to lay on the table was agreed to.

(By request of Mr. MITCHELL, the following statement was ordered to be printed in the RECORD.)

● Mr. GORE. Mr. President, before final consideration of S. 916, let me indicate that we stand at a critical juncture in the U.S. Civil Space Program. With the return to flight of the space shuttle, we are back in space. But we have yet to decide to what extent.

Despite the fact the Space Station Program has survived another budget threat, the Congress has yet to give NASA the resources—the people, the dollars, or the facilities—required to implement this program, and we have needlessly concerned our partners and allies over our commitment to the Space Station Program. Most recently, NASA was forced to reassess the content and schedule of the Space Station Program due to the reduction of the fiscal year 1990 space station budget request by the House Appropriations Committee. This reassessment has brought a new-found reality to the Space Station Program, but it also has resulted in a rephasing of the program that further delays some critical milestones and delays the incorporation of needed capabilities. The good news is that the rephasing confirms the merit of the space station configuration. The bad news is, 6 years into the program we are still debating the cost and configuration. Quite frankly, the time has come to quit talking and to start building.

Mr. President, during the rephasing study, NASA was forced to eliminate some of the program content in order to minimize the schedule impacts. I am pleased to say that the final proposal includes adequate power levels, crew size, and data management systems.

However, the most recent proposal also includes a slip of 2 years in the deployment of the space station polar platform, the first element of a comprehensive Mission to Planet Earth. This is very troubling to me and other Members of the committee and Congress who actively support this initiative and who believe that the data from this and other space-based systems will substantially improve our knowledge about the fragile planet Earth. I intend to pursue this matter with NASA aggressively, and I intend to work to ensure the initiation of the Mission to Planet Earth and a comprehensive U.S. Global Change Research Program as soon as possible.

Mr. President, the environmental crisis that faces the United States and the world is a threat to our national and economic security, and we must not wait to address these problems. The time to act was yesterday, and we cannot in good conscience justify any further delays.

Mr. President, when I was first made the chairman of the Subcommittee on Science, Technology, and Space, I asked the staff what the primary issues were likely to be in the 101st Congress. The answer was budget, budget, and budget. The problem is, we have failed to date to correct the budget problem, and as a result programs in NASA and other federal agencies have been adversely affected. It is critical that this trend be corrected. It is critical that we provide the necessary resources to implement the Space Station and Mission to Planet Earth Programs in an orderly and predictable manner.

Mr. President, I believe that next year will be critical to the future of the Civil Space Program. And I believe the Congress will need to do three things next year in order to signal to the world that we are committed to retaining our leadership in space in deed as well as in rhetoric.

First, the Congress and the administration must provide the necessary resources to implement the ongoing NASA programs. The budget resolution, the 302(b) allocations and the authorization and appropriations bills must contain the funds required to meet our commitments.

Second, there must be a multiyear appropriation for the Space Station Program. I am convinced that if we fail to provide multiyear funding for this program that we will continue to reassess the content and schedule of the program due to budget pressures, and we will further alienate our partners and allies in this program. The United States has signed agreements with the European Space Agency, Canada, and Japan, and we have given our commitment to the American people. I intend to work to make sure that we honor these agreements and that the space station becomes a reality.

Finally, we must initiate a well designed and responsible Mission to Planet Earth. We need to have in place a program that will provide good scientific data in a reasonable timeframe, and we need to have in place a data management system that will facilitate the dissemination and utilization of this data.

Mr. President, the challenges that face the Civil Space Program are great. But I am convinced that the Nation and the Congress will support the Civil Space Program and that the United States will continue to retain its leadership in space. The race for space is a race for the markets and technologies of tomorrow. It is a race that we must run, and it is a race that we cannot afford to lose.

Mr. Preisdent, I move for immediate consideration of S. 916, the fiscal year 1990 NASA authorization bill, and I would hope that the Senate would strongly endorse this bill as a sign of its commitment to the Civil Space Program.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 916

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 Aeronautics and Space Administration Authorization Act, Fiscal Year 1990".

TITLE I—FISCAL YEAR 1990 NASA AUTHORIZATION

NASA AUTHORIZATION

SEC. 101. (a) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1989, for "Research and development", for the following programs:

(1) Space Station Freedom, $2,050,200,000, of which $80,000,000 is authorized only for development of the flight telerobotic servicer.

(2) Space transportation capability development, $635,500,000, of which $6,000,000 is authorized only for the Advanced Communications Technology Satellite upper stage

development, plus such additional funds as may be transferred to the Administration from any other agency pursuant to a fiscal year 1990 appropriations Act.

(3) Physics and astronomy, $903,500,000, of which $25,000,000 is authorized only for the Gravity Probe B space shuttle flight experiment.

(4) Life sciences, $122,700,000.

(5) Planetary exploration, $396,900,000, of which $30,000,000 is authorized only for the CRAF and CaSSINI missions if a cost containment plan is formulated for those missions and submitted to the Committee on Commerce, Science, and Transportation of the Senate, to the Committee on Science, Space, and Technology of the House of Representatives, and to the Committees on Appropriations of the Senate and House of Representatives.

(6) Space applications, $631,500,000, of which $62,000,000 is authorized only for the Advanced Communications Technology Satellite and $10,000,000 is authorized only for the Total Ozone Mapping Spectrometer.

(7) Earth Observing System of Mission to Planet Earth, $24,200,000 in order to complete Phase B activities and to initiate Phase C/D of this program in fiscal year 1990.

(8) Technology utilization, $22,700,000.

(9) Commercial use of space, $38,300,000.

(10) Aeronautical research and technology, $462,800,000, of which $25,000,000 is authorized only for the initiation of the environmental technologies research required for a high speed commercial transport and $10,000,000 is authorized only for the initiation of a high performance computer initiative.

(11) Transatmospheric research and technology, $127,000,000 if a new National Aerospace Plane management plan is submitted to the Committee on Commerce, Science, and Transportation and Committee on Armed Services of the Senate and to the Committee on Science, Space, and Technology and Committee on Armed Services of the House of Representatives within 60 days after the date of enactment of this Act.

(12) Space research and technology, $325,100,000.

(13) Safety, reliability, maintainability, and quality assurance, $23,300,000.

(14) Tracking and data advanced systems, $19,900,000.

(15) University Space Science and Technology Academic Program, $38,000,000, of which $5,000,000 is authorized only for the National Space Grant College and Fellowship Program.

Notwithstanding paragraphs (1) through (15), the total amount authorized by this subsection shall not exceed $5,786,600,000.

(b) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1989, for "Space flight, control and data communications", for the following programs:

(1) Space shuttle production and operational capability, $1,340,300,000, of which $121,300,000 is authorized only for development of an advanced solid rocket motor, of which $35,000,000 is authorized only for tooling and equipment associated with the Advanced Solid Rocket Motor Facility authorized in subsection (c)(38) of this section, and of which such sums as may be necessary are authorized to ensure a safe, reliable space shuttle and an extended duration orbiter capability.

(2) Space transportation operations, $2,732,200,000.

(3) Space and ground network, communications and data systems, $1,077,100,000.

Notwithstanding paragraphs (1) through (3), the total amount authorized by this subsection shall not exceed $5,104,600,000.

(c) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1989, for "Construction of facilities", including land acquisition, as follows:

(1) Construction of addition for Space Systems Automated Integration and Assembly Facility, Johnson Space Center, $10,500,000.

(2) Construction of addition to Mission Control Center, Johnson Space Center, $17,800,000.

(3) Construction of addition to Simulator/Training Facility, Johnson Space Center, $3,800,000.

(4) Modifications for Expanded Solar Simulation, Johnson Space Center, $2,000,000.

(5) Modifications of Process Technology Facility for Space Station, Marshall Space Flight Center, $4,000,000.

(6) Replacement of Cooling Towers, Launch Complex 39 Utility Annex, Kennedy Space Center, $4,600,000.

(7) Replacement of Launch Complex 39, Pad A Chillers and Controls, Kennedy Space Center, $1,200,000.

(8) Replacement of Roofs, Launch Complex 39, Kennedy Space Center, $11,000,000.

(9) Replacement of Vehicle Assembly Building Air Handling Units, Kennedy Space Center, $1,800,000.

(10) Upgrading of Orbiter Modification and Refurbishment Facility to Orbiter Processing Facility 3, Kennedy Space Center, $26,000,000.

(11) Modifications of High Pressure Industrial Water System, Stennis Space Center, $2,000,000.

(12) Replacement of High Pressure Gas Storage Vessels, Stennis Space Center, $3,000,000.

(13) Construction of natural resource protection at various locations, $3,800,000.

(14) Refurbishment of bridges, Merrit Island, Kennedy Space Center, $4,500,000.

(15) Rehabilitation of Spacecraft Assembly and Encapsulation Facility II, Kennedy Space Center, $3,500,000.

(16) Rehabilitation of Central Heating/Cooling Plant, Johnson Space Center, $2,800,000.

(17) Construction of Data Operations Facility, Goddard Space Flight Center, $12,000,000.

(18) Construction of Quality Assurance and Detector Development Laboratory, Goddard Space Flight Center, $7,500,000.

(19) Modernization of South Utility Systems, Jet Propulsion Laboratory, $5,400,000.

(20) Construction of 40 x 80 Drive Motor Roof, Ames Research Center, $1,000,000.

(21) Modifications to Thermo-Physics Facilities, Ames Research Center, $4,600,000.

(22) Modifications to 14 x 22 Subsonic Wind Tunnel, Langley Research Center, $1,000,000.

(23) Modifications to National Transonic Facility for Productivity, Langley Research Center, $7,600,000.

(24) Modifications to 20-Foot Vertical Spin Tunnel, Langley Research Center, $1,900,000.

(25) Rehabilitation of Central Air Systems, Lewis Research Center, $2,400,000.

(26) Rehabilitation of Central Refrigeration Equipment, Lewis Research Center, $7,200,000.

(27) Rehabilitation of 8 x 6 Supersonic and 9 x 15 Low-Speed Wind Tunnels, Lewis Research Center, $6,800,000.

(28) Rehabilitation of Hypersonic Tunnel, Plum Brook, $4,100,000.

(29) Repair and Modernization of the 12-Foot Pressure Wind Tunnel, Ames Research Center, $27,600,000.

(30) Construction of Automation Sciences Research Facility, Ames Research Center, $10,600,000.

(31) Construction of Supersonic/Hypersonic Low Disturbance Tunnel, Langley Research Center, $6,900,000.

(32) Modifications for Seismic Safety, Goldstone, California, Jet Propulsion Laboratory, $2,600,000.

(33) Repair of facilities at various locations, not in excess of $750,000 per project, $28,000,000.

(34) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $36,000,000.

(35) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $10,000,000.

(36) Environmental compliance and restoration, $30,000,000.

(37) Facility planning and design not otherwise provided for, $26,300,000.

(38) Construction of the Advanced Solid Rocket Motor Facility, Yellow Creek, Mississippi, $90,000,000.

(39) Construction of a Space Station Orbital Debris Radar Facility, $15,000,000.

(40) Construction of a Wake Shield Facility, $2,500,000.

(d) There are authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1989, for "Research and program management", $2,049,200,000.

(e) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1989, for "Inspector General", $8,795,000.

(f) Notwithstanding the provision of subsection (i), appropriations authorized in this Act for "Research and development" and "Space flight, control and data communications" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the National Aeronautics and Space Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator of the National Aeronautics and Space Administration (hereinafter referred to as the "Admininstrator") determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this Act may be used in accordance wtih this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $500,000, unless the Administrator or the Administra-

tor's designee has notified the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of the nature, collection, and estimated cost of such facility.

(g) When so specified and to the extent provided in appropriations Acts, (1) any amount appropriated for "Research and development", for "Space flight, control and data communications", or for "Construction facilities" may remain available without fiscal year limitation, and (2) contracts may be entered into under the "Research and program management" appropriation for maintenance and operation of facilities and for other services for periods not in excess of 12 months beginning at any time during the fiscal year.

(h) Appropriations made pursuant to subsection (d) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(i)(1) Funds appropriated pursuant to subsections (a), (b), and (d) may be used for the construction of new facilities and additions to, repair of, rehabilitation of, or modification of existing facilities, except that the cost of each such project, including collateral equipment, shall not exceed $100,000.

(2) Funds appropriated pursuant to subsections (a) and (b) may be used for unforeseen programmatic facility project needs, except that the cost of each such project, including collateral equipment, shall not exceed $500,000.

(3) Funds appropriated pursuant to subsection (d) may be used for repair, rehabilitation, or modification of facilities controlled by the General Services Administration, except that the cost of each project, including collateral equipment, shall not exceed $500,000.

ADMINISTRATOR'S REPROGRAMMING AUTHORITY

SEC. 102. Authorization is granted whereby any of the amounts prescribed in section 101(c)(1) through (37)—

(1) in the discretion of the Administrator or the Administrator's designee, may be varied upward by 10 percent, or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the circumstances of such action, may be varied upward by 25 percent, to meet unusual cost variations.

The total cost of all work authorized under paragraphs (1) and (2) shall not exceed the total of the amounts specified in section 101(c).

SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES

Sec. 103. Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occured; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any locations; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed one-half of one percent of the funds appropriated pursuant to section 101 (a) and (b) to the "Construction of facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 101(c) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a written report describing the nature of the construction, its cost, and the reasons therefor.

LIMITATIONS ON AUTHORITY

Sec. 104. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Science, Space, and Technology of the House of Representatives;

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by section 101 (a), (b), and (d); and

(3) no amount appropriated pursuant to this act may be used for any program which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt by each such committee, of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

GEOGRAPHICAL DISTRIBUTION

SEC. 105. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

PEACEFUL USES OF SPACE STATION

SEC. 106. No civil space station authorized under section 101(a)(1) of this Act may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

SMALL BUSINESS INNOVATION RESEARCH PROGRAM

SEC. 107. The Administrator of the National Aeronautics and Space Administration may utilize up to five percent of the funds provided for the Small Business Inovation Research Program for program management and promotional activities. None of the NASA Small Business Innovation Research Program funds may be used for travel or civil service salaries.

EXPORTS OF UNITED STATES-BUILT SATELLITES

SEC. 108. It is the sense of the Congress that the current prohibition on the export of United States-built satellites to the Soviet Union for launch on rockets of the Soviet Union shall continue to be the policy of the United States and that the policy shall be expanded to prohibit the export of United States-built satellites to other nations for launch on rockets of the Soviet Union.

FUNDING FOR SPACE SHUTTLE STRUCTURAL SPARES

SEC. 109. The administrator is authorized to use up to $25,000,000 of the funds appropriated in section 101(g) of the Joint Resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-242), for space shuttle structural spares.

FUNDING FOR EXTENDED DURATION ORBITER DEVELOPMENT

SEC. 110. The Administrator is authorized to use up to $25,000,000 of the funds appropriated in section 101(g) of the Joint Resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-242), for continued development of an extended duration orbiter.

FUNDING FOR SPACE TRANSPORTATION SYSTEM

SEC. 111. The Administrator is authorized to use up to $25,000,000 of the funds appropriated in section 101(g) of the Joint Resolution entitled "Joint Resolution making continuing apppropriations for the fiscal year 1987, and for other purposes", approved, October 30, 1986 (Public Law 99-591; 100 Stat. 3341-242), for space transportation system requirements.

TITLE II—COMMERCIAL SPACE LAUNCH ACT

AUTHORIZATION FOR SECRETARY OF TRANSPORTATION

SEC. 201. Section 24 of the Commercial Space Launch Act (49 App. U.S.C. 2623) is amended to read as follows:

"AUTHORIZES APPROPRIATIONS

"SEC. 24. There is authorized to be appropriated to the Secretary to carry out this Act $4,392,000 for fiscal year 1990. Sums appropriated for research and development shall remain available until expended.".

TITLE III—NATIONAL SPACE COUNCIL

COUNCIL AUTHORIZATION

SEC. 301. There is authorized to be appropriated to carry out the activites of the National Space Council established by section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2471), $1,200,000 for fiscal year 1990 : *Provided,* That the National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

SEC. 302. Not more than six individuals may be employed by the National Space Council without regard to any provision of law regulating the employment or compensation of persons in the government service, at rates not to exceed the rate of pay for level VI of the Senior Executive Schedule, as provided pursuant to section 5382 of title 5, United States Code.

SEC. 303. Section 5314 of title 5, United States Code is amended by adding at the end thereof.

"EXECUTIVE SECRETARY, NATIONAL SPACE COUNCIL"

SEC. 304. The National Space Council may, for the purposes of carrying out its functions employ experts and consultants in accordance with section 3109 of title 5, United States Code, and may compensate individuals so employed for each day (including travel time) at rates not in excess of the maximum rate of pay for grade GS-18 as provided in section 5332 of title 5, United States Code.

SEC. 305. (1) The National Space Council is requested to initiate a review of United States launch policy including the Nation's expendable launch vehicle and satellite industries, their current and projected markets, the existing and projected level of foreign competition in these industries, the extent and level of support from foreign governments in these markets and industries, the consequences of the entry of nonmarket providers of launch services and satellities into the world market, restrictions on the use of foreign launch services and the export of United States satellites, and the importance of the United States launch vehicle and satellite industry to the national and economic security.

(2) The findings of this review and any policy recommendations are to be submitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation in the Senate by August 1, 1990.

TITLE IV—NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM

SEC. 401. Section 203(1) of Public Law 100-147, the National Aeronautics and Space Administration Authorization Act of 1988, (42 USC 2486a(1)) is amended by inserting "and undergraduate" immediately after "graduate".

SEC. 402. Section 209(a) of Public Law 100-147, the National Aeronautics and Space Administration Authorization Act of 1988, (42 USC 2486g(a)) is amended by inserting "and undergraduate" immediately after "graduate".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

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

The motion to lay on the table was agreed to.

DIRECTING THE SECRETARY OF THE SENATE TO TAKE CERTAIN ACTIONS REGARDING SENATE JOINT RESOLUTION 216

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Secretary be directed to return to the House of Representatives its message informing the Senate that the House has passed the joint resolution (S.J. Res. 216), a joint resolution designating November 12-18, 1989, as "Community Foundation Week," in compliance with a request of the House for the return thereof.

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

VETERANS' DISABILITY COMPENSATION

Mr. MITCHELL. Mr. President, I understand that the veterans' disability compensation bill, Calendar item No. 288, H.R. 1335, has been cleared on this side, and I inquire of the distinguished Republican leader whether that bill has been cleared for action on the Republican side.

Mr. DOLE. It has not yet been cleared for action on this side. We did have a meeting today of all ranking members of committees. The matter was discussed with Senator MURKOWSKI, of Alaska. I think there are still problems so that I cannot clear it at this time.

Mr. MITCHELL. I thank the Senator.

NOMINATIONS

Mr. DOLE. Mr. President, since the beginning of the 101st Congress I have from time to time inserted in the RECORD the status of the Bush administration's nominations that remain in the Senate awaiting confirmation.

According to the Senate executive clerk, he has indicated to me, through staff, that the average length of time which a nomination is confirmed by the Senate once received from the White House is 30 days. With that in mind, I have tried to compile a list of nominations remaining in the Senate awaiting conformation. In fairness to both the majority and the minority, we have holds on some and some are not yet reported, I ask unanimous consent that the list be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DOLE. To summarize the list, there are now 101 nominations that are in the Senate awaiting confirmation, most of which still need committee action. Of those 101 nominations, 32 have not been in the Senate longer than 30 days. Therefore, in fairness to committee chairmen and others, they will not be included in the total number of nominations that have not, in this Senator's opinion, moved in a timely fashion.

However, there are 69 nominations that have been in the Senate for more than 30 days and have not been confirmed, only two or possibly three of which are being held by a Member on this side of the aisle. If there is any indication we may adjourn in the next week or two, hopefully all these can be cleared. I understand that a large group are in the clearance process now.

I raised this with all Senators in the hope we could expedite the confirmation process so that we can be helpful to these nominees.

Again, I point out, as I have done to colleagues on my this side of the aisle, many of these nominees have families. Many of them are going to have to relocate. Some have relocated. It just seems to me, if there is any way possible—and if we are the problem, we are going to try to resolve it on this side; if the White House is a problem, we are going to try to resolve it there and, hopefully, if the majority is the problem, we will try to resolve it there. I know in one or two cases nominees are being held because there has not been a designation of who should be chairman of, for example, the National Transportation Safety Board, and therefore the other Members of the Board are still being held. I relayed that just moments ago to the President's Chief of Staff, John Sununu, and hopefully, if there are other problems of that kind, they can be resolved.

I want to assure the majority leader that I want to work closely with him in confirming as many of these nominees as possible. I am not making this statement in criticism of anyone. I am just suggesting if, in fact, we may be departing here in the next couple of weeks, I hope that we can expedite wherever possible the nomination process so that these good men and women can be confirmed and do what they need to do as far as their family concerns and starting their job efficiently.

EXHIBIT

NOMINEES AWAITING CONFIRMATION

Name and title	Date nominated
Morton I. Abramowitz, Personal Rank of Career Ambassador.	Oct. 17, 1989.
William P. Albrecht, Commissioner, Commodity Futures Trading Commission.	Aug. 1, 1989.
Martin Lewis Allday, Chairman, Federal Energy Regulatory Commission.	Oct. 17, 1989.
Duane Perry Andrews, Asst. Secretary of Defense	Sept. 8, 1989.
Cresencio S. Arcos, Jr., Ambassador, Republic of Honduras.	Oct. 6, 1989.
Tony Armendariz, Member, Federal Labor Relations Authority.	Sept. 6, 1989.
Bernard W. Aronson, Member, Board of Directors of the Inter-American Foundation.	Oct. 17, 1989.
Richard G. Austin, Administrator of General Services	Oct. 17, 1989.
Pearl Bailey, U.S. Representative, 44th Session of the U.N. General Assembly.	Sept. 26, 1989.
Barbara Everitt Bryant, Director of the Census	Oct. 6, 1989.
Allan V. Burman, Administrator for Federal Procurement Policy.	Oct. 25, 1989.
James E. Cason, Asst. Secretary of Agriculture (Special Services).	May 2, 1989.
Philip Lawrence Christenson, Asst. Administrator of AID (Food for Peace).	Oct. 6, 1989.
Don R. Clay, Asst. Administrator, Office of Solid Waste, EPA.	Oct. 17, 1989.
Hilary P. Cleveland, Member of International Joint Commission.	Nov. 1, 1989.
Brian W. Clymer, Urban Mass Transportation Administrator.	June 16, 1989.
Frances D. Cook, Ambassador, Republic of Cameroon	Oct. 25, 1989.
Susan M. Coughlin, Member, National Transportation Safety Board.	June 21, 1989.
Jerry Ralph Curry, Administrator, National Highway Traffic Safety Administration.	Sept. 6, 1989.
Cindy Shinga Daub, Commissioner of the Copyright Royalty Tribunal.	Sept. 6, 1989.
Edmund DeJarnette, Jr., Ambassador to United Republic of Tanzania.	Oct. 10, 1989.
Bernard DeLury, Federal Mediation and Conciliation Director.	Sept. 27, 1989.
Dennis M. Devaney, Member, National Labor Relations Board, remainder of expiring term.	Sept. 14, 1989.
Five-year term	Sept. 29, 1989.
Michael Bruce Donley, Asst. Secretary of the Air Force (Financial Management).	Oct. 6, 1989.

NOMINEES AWAITING CONFIRMATION—Continued

Name and title	Date nominated
Robert Clifton Duncan, Director of Operational Test and Evaluation, Department of Defense.	Aug. 4, 1989.
Edward Martin Emmett, Member, Interstate Commerce Commission.	June 8, 1989.
Edwin G. Foulke, Jr., Member, Occupational Safety and Health Review Commission.	Sept. 26, 1989.
Barbara Hackman Franklin, U.S. Alternate Representative, 44th Session of the U.N. General Assembly.	Oct. 6, 1989.
Michael Paul Galvin, Asst. Secretary of Commerce	Aug. 4, 1989.
Joyce J. George, U.S. Attorney, Northern District of Ohio.	Oct. 6, 1989.
Stephen J. Hadley, Commissioner-Observer to Commission on Security and Cooperation in Europe.	Nov 6, 1989.
Barry L. Harris, Deputy Administrator of FAA	Nov. 6, 1989.
Ronald G. Hein, U.S. Marshal for the D.C. Superior Court.	Sept. 15, 1989.
Robert W. Houk, Public Printer	Nov. 6, 1989.
Jerry M. Hunter, General Counsel, National Labor Relations Board.	May 12, 1989.
Eric M. Javits, Ambassador to Venezuela	July 11, 1989.
Christopher Jehn, Asst. Secretary of Defense (Force Management and Personnel).	Sept. 6, 1989.
Kyo Ryoon Jhin, Chief Counsel for Advocacy, Small Business Administration.	June 23, 1989.
Jacqueline Jones-Smith, Commissioner, Consumer Product Safety Commission Chairman.	Oct. 12, 1989.
Richard T. Kennedy, U.S. Alternate Representative, 33rd Session of the General International Atomic Energy Agency.	Oct. 25, 1989.
Jane A. Kenny, Director of the ACTION Agency	July 11, 1989.
Craig S. King, General Counsel, Navy Department	Sept. 6, 1989.
Donald E. Kirkendall, Inspector General, Treasury Department.	Oct. 10, 1989.
Kathleen Day Koch, General Counsel, Federal Labor Relations Authority.	July 11, 1989.
Hilda Gay Legg, Alternate Federal Co-chairman of the Appalachian Regional Commission.	Oct. 4, 1989.
Timothy D. Leonard, U.S. Attorney, Western District of Oklahoma.	Oct. 25, 1989.
David E. Lewis, Asst. Secretary of Veterans Affairs (Acquisition and Facilities).	Oct. 12, 1989.
Edward G. Lewis, Asst. Secretary of Veterans Affairs (Information Resources Management).	Sept. 18, 1989.
Susan M. Livingstone, Assistant Secretary of Army for Installations and Logistics.	Nov. 2, 1989.
Edward J. Lodge, U.S. District Judge for District of Idaho.	Oct. 30, 1989.
Antonio Lopez, Associate Director of FEMA	May 18, 1989.
Robert C. McCormack, Asst. Secretary of the Navy (Financial Management).	Oct. 10, 1989.
Jean McKee, Chairman, Federal Labor Relations Authority.	July 11, 1989.
Robert R. McMillan, Member, Board of the Panama Canal Commission.	Oct. 6, 1989.
Gary Edward MacDougal, U.S. Alternate Representative, 44th Session of the U.N. General Assembly.	Oct. 6, 1989.
Margot E. Machol, Commissioner, Commodity Futures Trading Commission.	Sept. 8, 1989.
Harry F. Manbeck, Jr., Commissioner of Patents and Trademarks.	Oct. 12, 1989.
Hart T. Mankin, Associate Judge, U.S. Court of Veterans Appeals.	Sept. 29, 1989.
Gordon H. Mansfield, Asst. HUD Secretary (Fair Housing & Equal Opportunity).	Oct. 3, 1989.
Larry K. Mellinger, U.S. Executive Director for Inter-American Development Bank.	Oct. 30, 1989.
Richard H. Melton, Ambassador, Federative Republic of Brazil.	Sept. 20, 1989.
Zinora M. Mitchell, Associate Judge, D.C. Superior Court.	Sept. 29, 1989.
Jerry Alexander Moore, Jr., Ambassador, Kingdom of Lesotho.	July 11, 1989.
Edwin L. Nelson, U.S. District Judge, Northern District of Alabama.	Sept. 13, 1989.
Michael H. Newlin, Alternate U.S. Representative to General Conference of International Atomic Energy Agency.	Oct. 30, 1989.
Michael J. Norton, U.S. Attorney, District of Colorado	Sept. 15, 1989.
Edward W. Nottingham, U.S. District Judge, District of Colorado.	Oct. 10, 1989.
Clifford R. Oviatt, Jr., Member, National Labor Relations Board.	July 20, 1989.
Ann Christine Petersen, General Counsel, Department of the Air Force.	Oct. 3, 1989.
Bill R. Phillips, Deputy Director, Office of Personnel Management.	Sept. 6, 1989.
Jacqueline L. Phillips, Federal Co-chairman, Appalachian Regional Commission.	Sept. 6, 1989.
Barbara Spyridon Pope, Asst. Secretary of the Navy (Manpower and Reserve Affairs).	Sept. 6, 1989.
J. Thomas Ratchford, Associate Director, Office of Science and Technology Policy.	Oct. 3, 1989.
Ronald E. Ray, Asst. Secretary of Veterans Affairs (Human Resources and Administration).	Sept. 6, 1989.
Forrest J. Remick, Member, Nuclear Regulatory Commission.	Aug. 4, 1989.
Donald F. Rodgers, Member, National Labor Relations Board.	July 20, 1989.
Abraham N.M. Shashy, Jr., Assistant General Counsel-IRS.	Nov. 2, 1989.
Scott Alan Sewell, U.S. Marshal for District of Maryland	Nov. 7, 1989.
Joy A. Silverman, Ambassador to Barbados, Dominica, Saint Lucia, and to Saint Vincent and the Grenadines.	July 11, 1989.

NOMINEES AWAITING CONFIRMATION—Continued

Name and title	Date nominated
Daniel Howard Simpson, Ambassador, Central African Republic.	Oct. 17, 1989.
Leon Snead, Inspector General, Department of Agriculture.	Oct. 3, 1989.
Frank B. Sollars, Member, Board of Directors of the National Consumer Cooperative Bank.	Sept. 6, 1989.
Ronald J. Sorini, Rank of Ambassador during tenure as U.S. Negotiator on Textile Matters.	Aug. 2, 1989.
Arthur D. Spatt, U.S. District Judge, Eastern District of New York.	Oct. 25, 1989.
Victor Stello, Jr., Asst. Secretary of Energy (Defense Programs)	July 24, 1989.
James J. Strock, Asst. Administrator of EPA	Aug. 4, 1989.
Robert W. Sweet Jr., Administrator, Office of Juvenile Justice and Delinquency Prevention.	Oct. 13, 1989.
Pamela Talkin, Member, Federal Labor Relations Authority.	July 31, 1989.
Clarence Thomas, U.S. Circuit Judge for District of Columbia.	Oct. 30, 1989.
Dennis B. Underwood, Commissioner of Reclamation	Sept. 6, 1989.
G. Thomas Van Bebber, U.S. District Judge, District of Kansas.	Sept. 13, 1989.
Adis Maria Vila, Asst. Secretary of Agriculture (Administration).	Sept. 14, 1989.
Catalina V. Villalpando, Treasurer of the United States	Sept. 26, 1989.
Edward S. Walker, Jr., Ambassador, United Arab Emirates.	Oct. 20, 1989.
John M. Walker, Jr., U.S. Circuit Judge, Second Circuit	Sept. 21, 1989.
Vaughn R. Walker, U.S. District Judge, Northern District of California.	Sept. 7, 1989.
Ruth V. Washington, Ambasssador to Gambia	Oct. 10, 1989.
James D. Watkins, U.S. Representative, 33rd Session of the International Atomic Energy Agency.	Sept. 20, 1989.
David C. Williams, Inspector General, Nuclear Regulatory Commission.	July 24, 1989.
Jennifer Joy Wilson, Asst. Secretary of Commerce for Oceans and Atmosphere.	Sept. 8, 1989.
Deborah Wince-Smith, Asst. Secretary of Commerce for Technology Policy.	June 13, 1989.
Melva G. Wray, Director, Office of Minority Economic Impact.	Sept. 6, 1989.
Susan Webber Wright, U.S. District Judge, Eastern and Western Districts of Arkansas.	Sept. 21, 1989.
James B. Wyngaarden, Associate Director, Office of Science and Technology Policy.	Oct. 3, 1989.
William H. Young, Asst. Secretary of Energy (Nuclear Energy).	Sept. 29, 1989.

Mr. MITCHELL. Mr. President, I thank the Republican leader for his comments. Since I was not aware of the subject prior to his statement, I am not able to respond in detail, but I will be prepared to do so on Monday when we convene.

I am not aware of all of the 69 that he mentioned. After a quick look at the pending Executive Calendar, I am advised that there are five holds in place, three by Republicans and two by Democrats. I am unaware of the additional numbers which make up the 69, but will review them over the weekend and be prepared to comment on Monday.

But I will say that, as the distinguished Republican leader knows, it is my policy to move these nominations as rapidly as possible. We will certainly make every effort to do that.

Mr. DOLE. As I said, I did not intend any criticism. I raised this today with Members on our side. We had a meeting today. I know at least in one case we are holding. A Republican has a hold on a certain nominee, which has brought forth maybe a hold on four others; National Labor Relations Board, for example. So it is four for one.

I indicated to the ranking members on those committees that we need to resolve these differences where we can. That does happen from time to time. I think sometimes nominations are overlooked in the rush maybe to close business.

I say for the record as I have before that the majority leader has been most helpful when the nominees were here. We have had our disputes, and we have had our debates. We voted. So I am just making a plea that we can resolve any other problems that may exist between now and midweek next week.

Mr. MITCHELL. I look forward to that, Mr. President.

SUPPORT FOR EAST EUROPEAN DEMOCRACY ACT

Mr. MITCHELL. Mr. President, I now call for the regular order.

The PRESIDING OFFICER. Regular order is S. 1582 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1582) to amend the Foreign Assistance Act of 1961 to provide for certain forms of assistance to Poland to ensure the success of freedom and democracy in Poland.

The Senate resumed consideration of the bill.

AMENDMENT NO. 1065 WITHDRAWN

The PRESIDING OFFICER. Under the previous agreement, amendment No. 1065 by Senator PACKWOOD is withdrawn.

ORDERS FOR MONDAY, NOVEMBER 13, 1989

RECESS UNTIL 2:30 P.M., MONDAY, NOVEMBER 13, 1989

Mr. MITCHELL. Mr. President, I now ask unanimous consent that when the Senate completes its business today it stand in recess until 2:30 p.m. on Monday, November 13; and, that following the time for the two leaders, there be a period for morning business until 3 p.m. with Senators permitted to speak therein for up to 5 minutes each.

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

PROGRAM

Mr. MITCHELL. Mr. President, at 3 p.m. on Monday, the Senate will resume consideration of S. 1582, the Poland-Hungary assistance bill.

I might say for the benefit of all Senators—and I hope that their staffs will communicate this to them for those who are not aware of it—I have discussed this matter with the distinguished Republican leader, and I believe that the most appropriate and expeditious way to handle this will be to conclude debate on all remaining amendments to the Poland-Hungary bill on Monday.

There will be no rollcall votes on Monday, but we intend to complete

action, short of voting, on all matters pending or relating to that bill on Monday. So if any Senator has an amendment to the Poland-Hungary bill, he or she must be present on Monday at 3 p.m. or shortly thereafter to offer that amendment.

Once we complete the debate, then the votes on the Poland-Hungary bill will be scheduled for Tuesday morning.

So Senators should be aware that there will be no session of the Senate tomorrow. The Senate will be in session on Monday, to complete action up to but not including voting on all amendments to the Poland-Hungary bill; that the votes on those amendments and final passage will be set for Tuesday morning, the time to be decided on Monday after full consultation with the distinguished Republican leader.

Then on Tuesday we hope to have resolved the remaining questions with respect to the transportation appropriations conference report, and to complete action on that Tuesday morning.

Under the previous order already entered, there will be debate and a vote on cloture on the capital gains provision on Tuesday afternoon. Following that, we will attempt to return to and complete action, as much as possible, on remaining appropriations conference reports.

That is the schedule that we have agreed upon for the early days of next week. I invite any comment by the distinguished Republican leader, if he has any.

Mr. SARBANES. Will the leader yield for a question?

Mr. MITCHELL. Yes.

Mr. SARBANES. Did I understand that any amendments that might be offered on the Poland-Hungary bill will be voted on on Tuesday morning and then the bill itself on final passage?

Mr. MITCHELL. Yes; that is correct.

Mr. SARBANES. Before the break for the conference, is that correct?

Mr. MITCHELL. Yes. Indeed, as I indicated, it is my hope that we will be able to do that relatively early Tuesday morning, and then if we have been able to work out the remaining matter on the transportation appropriations, then we will be able to complete action on that prior to the Tuesday noon break, as well. Then immediately after the break we go, under a previous order, to the capital gains debate and vote at 5:15 p.m.

Mr. SARBANES. I thank the leader.

Mr. DOLE. Mr. President, I will just indicate that I hope we can accommodate that schedule and that request. There are negotiations ongoing, as the majority leader knows, to try to resolve many of the policy differences, and again, dollar differences. I am not certain that we can do all that, but there is a good-faith effort being made. That should limit the number of amendments.

I understand there will be an amendment on cargo preference, and there may be a number of players on each side of the aisle that may be involved in that. Perhaps, there is some indication that there might even be a revenue item attached to the Polish aid bill. The only request I have, which I think can be accommodated, is that one Member on this side, Senator MURKOWSKI, does not get back until late Monday, and he would like to speak for at least 5 minutes on Tuesday morning.

Mr. MITCHELL. I can see no problem with that, if he is not arriving until late, and we are not in session, certainly I would be prepared to accommodate him for a brief period of time on Tuesday, just to make a speech, as I understand.

Mr. DOLE. Right. He has some amendments that will be accepted, and they will be offered by someone else on his behalf.

RECESS UNTIL 2:30 P.M., MONDAY, NOVEMBER 13, 1989

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 2:30 p.m., Monday, November 13, 1989.

There being no objection, the Senate, at 6:35 p.m., recessed until Monday, November 13, 1989, at 2:30 p.m.

NOMINATIONS

Executive nominations received by the Senate November 9, 1989:

DEPARTMENT OF STATE

STEPHEN J. LEDOGAR, OF CONNECTICUT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS U.S. REPRESENTATIVE TO THE CONFERENCE ON DISARMAMENT.

THE JUDICIARY

GERALD E. ROSEN, OF MICHIGAN, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN VICE PHILIP PRATT, DECEASED.

DONALD J. LEE, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA VICE HUBERT I. TEITELBAUM, RETIRED.

INTERSTATE COMMERCE COMMISSION

EDWARD J. PHILBIN, OF CALIFORNIA, TO BE A MEMBER OF THE INTERSTATE COMMERCE COMMISSION FOR A TERM EXPIRING DECEMBER 31, 1993, VICE HEATHER J. GRADISON, TERM EXPIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 9, 1989:

JANE A. KENNY, OF VIRGINIA, TO BE DIRECTOR OF THE ACTION AGENCY.

DEPARTMENT OF THE INTERIOR

DENNIS B. UNDERWOOD, OF CALIFORNIA, TO BE COMMISSIONER OF RECLAMATION.

ACTION AGENCY

DEPARTMENT OF ENERGY

MELVA G. WRAY, OF CONNECTICUT, TO BE DIRECTOR OF THE OFFICE OF MINORITY ECONOMIC IMPACT.

WILLIAM H. YOUNG, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF ENERGY (NUCLEAR ENERGY).

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.