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SENATE—*Friday, April 20, 1990*

(Legislative day of Wednesday, April 18, 1990)

The Senate met at 8:30 a.m., and was called to order by the Acting President pro tempore [Mr. LIEBERMAN].

The ACTING PRESIDENT pro tempore. Today's prayer will be offered by the Reverend Richard C. Halverson, Jr., pastor, Chesterbrook Presbyterian Church, Falls Church, VA.

PRAYER

The Reverend Richard C. Halverson, Jr., pastor, Chesterbrook Presbyterian Church, Falls Church, VA, offered the following prayer:

Let us pray together:

Father in Heaven, this is a prayer for the wonderful gift of the Holy Spirit. You have written in Your Word that "If earthly fathers who are evil, know how to give good gifts to their children, how much more will the Heavenly Father give the Holy Spirit to those who ask Him."

And so this morning as one of Your little children among other of Your children, I would ask for this gift of the Spirit. Even though we do not understand Him and sometimes even resist Him, we pray for this favor now.

Lord, it is impossible for anyone to know the deeds that are represented by the people here in the Senate and those who work in this body, but we know that someone is lonely, someone is struggling in a relationship, someone is looking for direction or healing, for comfort or strength or courage, someone is just looking for how to pray. All of these things we know, Lord, are gifts that come to us by Your Holy Spirit.

So now together we stand on the threshold of Heaven, as we now knock on Heaven's door and ask, as we begin this very busy day, that when that door opens, You will be there.

We pray these things in the name of Christ Jesus. Amen.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved. Also under the previous order, there will now be a period for the transaction of morning business not to exceed 1 hour, to be under the control of the Senator from Georgia [Mr. NUNN].

Mr. NUNN. Mr. President, I yield to the Senator from Idaho.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Idaho [Mr. SYMMS].

Mr. SYMMS. Mr. President, I thank the distinguished chairman of the Armed Services Committee for yielding.

SPARKY MATSUNAGA

Mr. SYMMS. Mr. President, I take the floor this morning to express my sympathy for our departed colleague and to the Matsunaga family.

I might just say to the distinguished Presiding Officer and to my colleagues, I had the privilege of first being exposed to Hawaii via James Michener, like I am sure many Americans were. Little did I know when I read the book, "Hawaii," that later on I would become personally acquainted with some of the fictional characters that Michener presented in his book. Those people, two of whom were U.S. Senators since I have been in this body, one who was a U.S. Senator previously, Senator Fong, when I was in the House, were part of the makeup of the young Japanese community in Hawaii that acclaimed so much glory and so much real good, who stood for what America is about, and were good examples to the rest of the Nation.

When I was first elected to Congress, in the 93d Congress, I was assigned to the Ag Committee and that is where I first personally met Sparky Matsunaga, who had been in the Congress for several years at the time. He was a leader in the Democratic Party in the House, obviously a young Congressman who was still out to accomplish much in his legislative career. He had a really profound interest in one major agriculture crop, which was sugar. We also grow a great deal of sugar in my State, so we became friends on the Ag Committee. And he was a member of the Rules Committee, where I gained a great deal of respect for him.

After I came to the Senate in 1980, I had the opportunity, with Senator Matsunaga, to go to Minneapolis to look at some of the downtown area. It really pertained to the business of the Finance Committee, on which we both served. We were to look at the development of the St. Paul-Minneapolis area through financial revenue bonds, historical tax credits, and some other methods. We had a very interesting trip.

On that trip I had the opportunity, Mr. President, to really hear firsthand from Sparky the story about his experiences as a young Hawaiian. At dinner he told me the story about when he was a young officer and had gone on active duty and they were sent up to defend a small island in Hawaii. It was a heart-plucking story. He very sincerely told me how his company was on the defense of one of the islands in Hawaii. I am sorry, I cannot remember which one, but they actually captured some Japanese submarines that came in to bring Japanese troops ashore during the Pearl Harbor attack. These were all young Japanese soldiers of the 100th Battalion which later became part of the 442d Regiment.

Then, when the Japanese forces did not invade, later on all of the troubles broke out in California. We all know the story, which led ultimately to one of Sparky's most important legislative accomplishments—not one of the biggest but certainly one of the most important to him personally—namely, passage of the Japanese-American Reparations Act. But as a U.S. soldier in Hawaii, he had to make his rifle company stack arms, disarm himself and turn his own weapons over to the commanding officer. Then they were all sent to Minneapolis to an army post.

It was there that the first job they were given was to guard some Japanese prisoners who had been captured

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

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in the Hawaiian Islands, who had come in by submarine. These were the very troops he captured. At that point some of the young troops started a petition to President Roosevelt. Senator Matsunaga, then Captain Matsunaga, and all 1,500 members of the battalion signed and sent to the President a petition to have service in a theater where they could disprove the public skepticism about their patriotism.

We all know the story of the great valor and the decorations that were awarded to many members of the NISI regiment, the 100th battalion, which went to North Africa. Senator Matsunaga was part of that group. He not only received one Battle Star for the Pacific Theater for the defense of Pearl Harbor and the Hawaiian Islands, but he then went on and gained four Battle Stars, two Purple Hearts, and other decorations in the European Theater. He then came back and attended law school.

I found out a lot about Senator Matsunaga on that trip. We all knew him as a wonderful, kind man and will all miss him. But he also had a great appreciation for what makes people and what drives human motivation, incentives. In addition, he testified before a House committee about statehood when he was a young Harvard student. It was so appropriate because of his personal experience and background.

But then Senator Matsunaga told me a story about the Kona coffee. I am sure we have all tasted some of that wonderful coffee grown in the United States, in Hawaii. The reason there is a Kona coffee industry is that a young State legislator, Sparky Matsunaga, passed a bill granting an 8- to 10-year tax exemption for anyone starting a coffee business. And that is what started the industry.

I know as a member of the Finance Committee he had a very keen appreciation of human behavior, of responding through incentives. I shall miss him. I think we all miss him. Again, my thoughts and my prayers are with his family. And I just say aloha Sparky, wherever you are. God bless you.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Georgia [Mr. NUNN].

(Mr. WIRTH assumed the chair.)

IMPLEMENTING A NEW MILITARY STRATEGY: THE BUDGET DECISIONS

Mr. NUNN. Mr. President, Congress is about to begin the debate on the levels in the budget resolution for national defense for fiscal year 1991. In my remarks on March 22, I outlined the problems that the blanks in the Defense Department's threat assessment, strategy review, and budget pose for our committee and the Congress as a whole in making these decisions.

In remarks to the Senate on March 29, I provided my own assessment of the threat environment I believe we will face in the 1990's, based on the testimony before our committee and a number of other conversations. In my remarks on April 19, I outlined a new military strategy to relate the key missions our military forces must accomplish to the resource levels that are realistically available for defense in the years ahead.

SUMMARY OF THE NEW STRATEGY

The key elements of my suggested new strategy are:

First, although nuclear deterrence will provide the critical underpinning of our military strategy for now and for the foreseeable future, it should be achievable at significantly lower levels of weaponry, and with a much higher degree of stability, that is, with reduced incentives for either side to strike first with strategic nuclear weapons.

Second, our forward deployed forces should be reduced consistent with the changes in the threat while placing greater emphasis on increased specialization among allied nations and much greater reliance on reinforcement with deployable U.S. combat forces to support our allies.

Third, more of our forces should be put in the reserves, and specifically structured for a reinforcement mission.

Fourth, we should employ a concept of flexible readiness—high readiness for certain forces and adjustable readiness for others.

Fifth, our defense management and resource strategy should be guided by the phrase suggested by former Ambassador David Abshire: "think smarter, not richer."

Under this approach I would include greater emphasis on flying before buying; reduced costs of procuring and maintaining weapons, including improving existing platforms and reducing new starts; innovative research to preserve our technological superiority; and preserving a viable defense industrial base.

IMPLEMENTING THE NEW STRATEGY

Today I will highlight the policy and budget implications that flow from the threat assessment and the new military strategy I have suggested. This task is complicated by the fact that the Pentagon still has not filled in the major program and dollar blanks in their own budget plan. The President's overall defense budget request for fiscal year 1991 and the associated 5-year defense plan required Secretary Cheney to cut $167 billion from the previous 5-year plan. To date, Secretary Cheney has publicly identified $72 billion of his needed $167 billion in cuts.

I remain hopeful that our committee will receive the Defense Department's 5-year defense plan in the near future. Without that plan, it is very difficult to make logical choices about the 1991 budget level, and even more difficult to determine appropriate priorities.

Congress, however, is now faced with fundamental decisions on the defense budget level. Using the essential elements of my strategy recommendations as a starting point, I will discuss the implications for defense budget levels, both in fiscal year 1991 and over the next 5 years.

IMPACT IN FISCAL YEAR 1991

Taking the fiscal year 1991 budget level first: A new military strategy cannot be implemented overnight, and if we reduce the budget responsibly, the outlay savings in fiscal year 1991 will not be as substantial as many expect and demand. There are, however, savings we can and should make in the fiscal year 1991 budget request.

The budget authority target I recommend is derived from the reduced threat and the new strategy. Budget authority is what Congress actually authorizes and appropriates in a given fiscal year. It is essentially permission to spend money, often over a period of several years. Outlays are the actual dollars spent in a given fiscal year and are based on current and prior year appropriations. I believe it is critical that we establish a sensible budget authority target and let the outlays flow logically from the cuts in 1991 and in future years. Managing defense budgets by outlays increases inefficiencies and also increases outyear budget deficits.

The reductions I propose are measured in terms of the CBO baseline which is used by the two Budget Committees as the starting point for the budget resolutions. The CBO baseline is last year's defense appropriation level adjusted for inflation.

In my judgment, implementation of the new military strategy I outlined yesterday will permit a budget authority reduction of $25-$27 billion in fiscal year 1991, with an associated outlay reduction of $9-$10 billion. In other words, I recommend a fiscal year 1991 defense budget of $289-$291 billion in budget authority and $297-$298 billion in outlays.

FIVE-YEAR IMPACT

Over a 5-year period, the savings from implementing this strategy would be far more substantial. A determined yet practical implementation of this new strategy could save approximately $225-$255 billion in budget authority and $180-$190 billion in outlays from fiscal year 1991 through 1995.

I believe this range is a realistic and responsible target for the Armed Services Committee mark up of the defense authorization bill. It will be

tough to meet and will require many difficult decisions. I emphasize that this is not a number pulled out of the air for fiscal year 1991. It represents the first installment on a 5-year plan that is consistent with the reduced threat and with a new strategy.

Many in the Senate will not agree with all the specific reductions I suggest. Undoubtedly, the give and take of committee mark up and floor action will produce many changes in these suggestions, but it is time for the debate to begin.

I want to stress that these are my own thoughts and suggestions which I hope that each of the Armed Services Committee subcommittees will consider during their hearings and during the mark up process. They will have their own views and the final product will be a collective judgment of our Committee, as modified and ultimately approved by the full Senate.

I. ELEMENT NO. 1: MAINTAINING NUCLEAR DETERRENCE AT LOWER LEVELS AND WITH GREATER STABILITY

Mr. President, the first element of the new military strategy—maintaining nuclear deterrence at lower levels and with greater stability—is necessarily a complex subject. I intend to offer more detailed comments at a later date about our strategic modernization programs and arms control objectives, but the basic strategic principles I have suggested have some direct implications for the budget.

I(A) SDI

Budgeting for SDI must be based on a sensible plan and not on political rhetoric. Assuming SDI is redirected into a coherent and rational research program, I believe it should be funded at roughly the current appropriated level. Restructuring SDI to respond to sensible goals is a prerequisite this year if Congress is to approve even this level of funding.

I(B) INTERCONTINENTAL BALLISTIC MISSILE (ICBM) MODERNIZATION

We cannot afford to continue the two mobile ICBM programs in accordance with the Administration's current funding profile. Procurement of the Rail Garrison MX basing system should be slowed due to excessive concurrency between the procurement of the missile trains and the test program for launching missiles from the trains. At the same time, the United States and the Soviet Union should continue to discuss a ban on rail-based MIRV'd ICBM systems as an initial step toward a ban on all land-based MIRV'd missiles.

The Small ICBM, or Midgetman, should be continued, but with an eye toward deploying the missiles initially in existing Minuteman ICBM silos, with mobile basing on Hard Mobile Launchers preserved as a later option, depending on Soviet strategic developments and on arms control outcomes. Both these approaches would produce substantial savings.

I(C) BOMBER MODERNIZATION

The B-2 bomber program must be made more affordable, both in terms of total program costs and annual costs over the course of the 5-year defense plan. I believe this is one of the key issues facing the Air Force and Secretary Cheney. It will likely be addressed in the results of the Major Aircraft Review which he will present to the Committee next Thursday. I will await these results before making my judgment on the appropriate B-2 funding level.

The B-2 must be adequately tested before we commit to increase the production rate above the two to three production aircraft per year that the Congress has authorized in the past.

I(D) SHORT RANGE NUCLEAR FORCES

As I stated in my remarks on strategy yesterday, "I do not believe there is a role in a new military strategy for land-based nuclear weapons whose range is so limited that they could only detonate on the soil of our allies or the newly emerging democracies in Eastern Europe." Accordingly, I think there is no reason to proceed with development of a replacement to the Lance missile system, and I seriously doubt that a sound case can be made for production of new nuclear artillery rounds.

Air-delivered weapons allow significantly greater flexibility for military planners, permit basing of nuclear capabilities in several NATO countries, and do not pose the significant security and political problems that accompany systems whose range is far more limited. With these considerations in mind, I think we should give priority to development of the nuclear tactical air-to-surface missile, or TASM.

I(E) OTHER ISSUES

In addition, there are practical acquisition questions that need to be raised with respect to other strategic programs. Many of the Department of Energy facilities that build our nuclear bombs and warheads are currently shut down for repairs and/or safety modifications. This means that nuclear warheads for the Trident D-5 missile are in short supply, which raises the question of how many Trident missiles we should buy in fiscal year 1991. We also need to review whether we should continue to buy a new Trident submarine each year if they cannot be armed with the most modern missiles.

I(F) NUCLEAR MODERNIZATION FUNDING

In the first element of the new military strategy—nuclear deterrence—these and other actions could save on the order of $3.0-$3.5 billion in fiscal year 1991 and between $20 and $30 billion over the next 5 years.

II. ELEMENT NO. 2: REINFORCEMENT STRATEGY—REDUCE FORWARD DEPLOYED FORCES, INCREASE SPECIALIZATION AND EMPHASIZE REINFORCEMENT

The second element of my suggested strategy is to reduce forward-deployed U.S. forces, increase specialization among allied nations, and emphasize a reinforcement capability, including the use of reserves to augment the remaining forward-deployed forces. This element applies primarily in Europe and to a certain extent in Korea.

In locations where the United States does not have prepositioned equipment and stationed forces, the Services will need to field lighter, more flexible and deployable projection forces with enhanced firepower and survivability.

II(A) REDUCTIONS OF OVERSEAS FORCES

The greatly lengthened warning time of a Soviet attack against NATO allows the United States to reduce the size of our standing forces defending well forward in Europe, and to emphasize reinforcement instead. Reducing the number of U.S. troops stationed in Europe to a level of 75,000-100,000 over the next 5 years, as I have recommended, could save between $10 and $15 billion over 5 years, depending on the pace of deactivation and developments in Europe.

II(B) EMPHASIS ON RECEPTION FORCES

As forward deployed forces are reduced, we should retain the ability to rebuild conventional forces in forward locations if reinforcement becomes necessary. Our residual forward-deployed forces should be lead elements of combat units and combat support forces structured in large part to support reinforcing combat units. These residual forces would include such elements as tactical planning units, intelligence and surveillance units, command and control forces, and "reception" forces along the lines suggested by former Army Chief of Staff Gen. "Shy" Meyer. Since these elements already exist in the services, there would be no significant budget impact for retaining them.

II(C) AUSTERE FORWARD STATIONING

In some areas, we will need to retain forward-deployed forces. We should emphasize temporary assignment of forces, including periodic rotation of Guard and Reserve units, which do not require large installations built to house military personnel and dependents for multiyear tours.

As but one example, the Air Force, after being asked to leave Spain, plans to move the 401st Tactical Fighter Wing to Italy. Building a new base in Italy will cost almost $900 million, with the U.S. share capped at $360 million. If we believe the new base continues to be necessary, we could rotate squadrons on temporary deployments, rather than permanently base 72 aircraft in Italy with all of the ex-

pensive facilities needed for families and dependents. This would avoid the extensive costs of a large installation and offer valuable training opportunities to stateside active and reserve tactical aircraft squadrons.

II (D) EMPHASIS ON LIGHTER, MORE LETHAL FORCES

Current U.S. capabilities for intervention at a distance, where there are few bases and a limited infrastructure, are not adequate for the likely threats of future years. Army light forces are rapidly deployable but lack sufficient firepower, sustainability and ground mobility. Army heavy forces are too heavy and too slow to deploy. For example, last fall in Panama the Army was forced to borrow light armored vehicles from the Marines, and it airlifted 25-year-old Sheridan tanks there because it didn't have any other light vehicles with sufficient firepower. In recent years, Marine Corps forces have allowed their increase in equipment to outstrip their already inadequate amphibious lift.

The Army and the Marine Corps need to go on a diet. We have the technological potential to permit the Army and the Marine Corps to get the weight of their combat forces back to 1980 levels by the year 2000, and with improved firepower and survivability.

Certain existing R&D programs should be redirected away from heavy new systems toward lighter, more lethal advanced technology systems. Some additional funding in this area could be required, but the payoff in capabilities would be significant. For planning purposes I have assumed that we may need to add between $2 and $3 billion over 5 years for programs to expedite promising new technologies for our contingency and expeditionary forces, and to continue the improvements to our special operations forces. Some of these needs could be met by offsetting reductions in heavy programs.

The Services also need to continue to give high priority to the new generation of sophisticated sensors and "smart" munitions. This includes programs like the Joint Surveillance and Target Acquisition Radar System [JSTARS] that will greatly improve tactical intelligence. The services also need to accelerate the development of standoff munitions that will improve the survivability of older platforms and their lethality against ground forces.

II (E) EMPHASIS ON MOBILITY FORCES

Mobility forces are a key component in a strategy that emphasizes the ability to reinforce allies where needed, or deploy forces to areas where forcible entry is required. In this regard, the Department must pay special attention to the proper mix of air, sea, and amphibious lift. I believe we need a more vigorous sealift program. But before major commitments are made for new lift programs, the Defense Department needs to update the now outdated 1981 congressionally mandated mobility study.

II (F) REEVALUATE BATTLEGROUP DEPLOYMENTS

As I noted in my March 29 threat analysis, Admiral Kelso testified to our committee that the Soviet Navy has reduced its "out-of-area" operations substantially in the last few years, and has adopted a defensive posture. Based on similar conclusions, former Secretary of the Navy John Lehman recently said "the sacred 6 month deployment should be dropped. * * * There is no need for back-to-back deployments unless there is a crisis."

I agree. We should retain and exercise the capability to send carrier battle groups where we need them, but that does not mean that the Navy needs to operate 6-month-long carrier deployments or must maintain continuous deployments in traditional operating areas.

A modest reduction in deployments and operational patterns could save between $12 and $15 billion over the next 5 years in operating costs alone. Such a policy would also relieve the punishing demands on personnel and equipment required to sustain 6-month deployments. These demands may have been justified in past years, but are not necessary now and are increasingly unaffordable.

II (G) RETIRE OLDER, SINGLE PURPOSE COMBAT SYSTEMS

The services have continued to operate increasingly obsolete hardware, often to sustain force structure of uncertain combat value. We can no longer afford to operate old, high-maintenance, single-purpose or tactically obsolete combat systems with the attendant force structure.

There is a long list of older combat systems that should be carefully examined to determine whether or not they should be eliminated or retired earlier than planned. This list includes:

Army systems:
OH-58 helicopters;
UH-1 helicopters;
CH-54 helicopters;
M-60 tanks;
M901 Improved TOW vehicles;
Eight-inch howitzers;
Vulcan air defense guns; and
OV-1 surveillance aircraft.
Navy/Marine Corps systems:
F-4 aircraft;
A-4 aircraft;
KA-6 tankers;
OA-4 observation aircraft;
A-7 strike aircraft;
RF-4 reconnaissance aircraft;
OV-10 observation aircraft;
CH-53A model helicopters;
Nuclear guided missile cruisers;
P-3A/B model patrol aircraft; and
SH-3H helicopters.
Air Force systems:
RF-4 reconnaissance aircraft;
OA-37B observation aircraft;
OV-10 observation aircraft;
C-22 transports;
C-140 transports;
HH-1 helicopters;
CH-3 helicopters;
B-52 bombers; and
Minuteman II missiles.

There are several key questions that should be asked in determining whether these older systems should be retained in operational units, either in the active or reserve force structure.

Is the mission essential or merely marginal?

Is the system still responsive to the projected threat?

Does the system need to be updated to meet the projected threat and are such modifications feasible and cost effective?

If the system is deactivated, how will the mission be accomplished?

As active force structure is reduced, will more modern replacements become available?

Is a replacement system, or approach, more or less cost effective than continuing to operate the older systems?

With regard to the strategic systems, will the system have to be eliminated under the terms of the START treaty?

Each system will have to be evaluated on a case-by-case basis. I am not suggesting that these systems have no military utility. But, as budgets and forces shrink, the least valuable military equipment should be scrapped, and more valuable equipment retained. I do not believe, for example, that it is cost effective to keep CH-54's, Vulcan air defense guns, KA-6 tankers, P-3A patrol aircraft, SH-3H helicopters, OA-37 observation aircraft and CH-3 helicopters operational in today's fiscal environment.

Since many of these systems are currently operated only in reserve component units, those units will need to be given modern equipment from the active units that will be deactivated as part of force structure reductions.

These older systems and their associated force structure cost billions every year. Retiring half of the systems on my list over the next 5 years could save approximately $15 billion.

This also applies to specialized force structure. For example, the Air Force maintains nine squadrons of dedicated reconnaissance aircraft, whereas the Navy has adapted F-14 aircraft to carry a reconnaissance pod, and eliminated the need for single purpose reconnaissance aircraft. A similar approach in the Air Force could save between $2 and $3 billion over the next 5 years for this mission alone.

The Department and the Congress needs to review all specialized force structure to determine which should be retained and which could be retired.

II (H) ROLES AND MISSIONS COMPETITION

I believe one of the best ways to meet the challenges of a tight budget and to redirect the efforts of the Services consistent with my suggested new strategy is to encourage the military departments to engage in a constructive competition for roles and missions. Such a competition could be organized and evaluated by the Chairman of the Joint Chiefs of Staff based upon a thorough analytical and operational assessment.

Promoting a roles and mission competition has several important goals.

First, such a competition would break out of the pattern of looking at problems in traditional ways. Must we do this job as we have in the past? Can we do it in a more cost-effective manner?

Second, a competition would help to integrate the various capabilities of the Services and eliminate unnecessary redundancy. Why should one Service spend tens of billions of dollars to accomplish a mission if another Service need spend only a fraction as much to provide substantially the same capability?

Third, a competition would foster greater coordination among the Services in accomplishing a joint task.

For example, when the United States decided to escort tankers through the Persian Gulf and Navy and Marine Corps helicopters were not suited to fighting Iranian gunboats or operating quietly to detect mine laying, Army helicopters operating from barges and U.S. Navy ships were called in to perform those tasks, which proved to be an effective, if unorthodox, solution.

I have in mind the following areas for constructive competition, but I believe the JDCS Chairman and the Services themselves could add others:

A sea control competition between the Navy's carrier battlegroups and the Air Force's long range bombers and tankers;

A force projection competition between the Army and Air Force on the one hand and maritime-based Marine and Navy forces on the other;

A close air support competition between the Army with attack helicopters and the Air Force with fixed wing aircraft;

A competition between active and reserve component squadrons to provide close air support, battlefield air interdiction, air superiority, tactical airlift, and antisubmarine warfare patrol coverage;

A competition between the Air Force with its preference for large satellites launched by massive and expensive launch vehicles, and the Defense Advanced Research Projects Agency, the Navy and other government organizations that are advocating constellations of smaller satellites electronically linked together and launched by numerous inexpensive, on-demand launch vehicles;

A competition between the services over which should provide certain training and education functions, for example helicopter flight training, basic instrument qualification training and skill training;

A competition between the service depots for ongoing modifications and support of fielded weapon systems;

A competition between the services and Defense agencies over who can best provide central services and support;

A competition between stealthy Air Force aircraft and Navy fleet air defense systems to test the advertised performance and capabilities of the systems;

I want to emphasize that the outcome of these and other competitions need not necessarily be an "either one or the other" outcome, though that might be the result. Indeed, keen competition among the services will lead to a refinement of the capabilities that each service has to offer and a better integration of those capabilities at lower cost.

III. ELEMENT NO 3: GREATER UTILIZATION OF THE RESERVES

The third element of my strategy is greater utilization of the Reserves. When we were facing a huge Warsaw Pact conventional threat and a short warning of an attack, most of the tooth of our combat capability was appropriately kept in the active components because we felt we had to be ready to go to war in a matter of days. To lower overall costs, much of the support or tail was put in Reserve component units. Increased warning times now permit placing more of the tooth in the Reserves as well.

The Assistant Secretary of Defense for Reserve Affairs, Mr. Stephen Duncan, recently summed it up well when he testified:

> I believe that for cost reasons alone, a rebuttable presumption should exist that missions should be considered for assignment to the Reserve forces unless there are sound and apparent military reasons for assigning the missions to the Active forces. If the presumption can't be easily rebutted, then a particular mission would seem to be a prime candidate for assignment to the Reserve forces.

III (A) RESERVE ACCESSIBILITY

At the outset there is an important issue that must be resolved if we are to depend more heavily on Guard and Reserve Forces, and that is the issue of accessibility. Accessibility means the availability of Reserve personnel to conduct operational missions in times of emergency.

Under current law, the President has the authority to mobilize up to 200,000 members of the Selected Reserve for operational missions for 90 days. This period may be extended by the President for an additional 90 days. The President can exercise this authority without declaring a national emergency.

Presidents have been reluctant to use that authority, and the Department of Defense and the services have been reluctant to recommend that they exercise the authority. Such political reticence to selectively mobilize Reserves has led military planners justifiably to question the accessibility of forces that depend on reserve personnel.

For example, at the time of the recent escorting of reflagged tankers in the Persian Gulf, almost all of the Navy's minesweeper ships were in the Naval Reserve. When it became necessary to deploy the minesweepers to the Persian Gulf, the Navy took the Reserve crews off the ships and replaced them with active duty crews. This delayed the deployment of the ships. It also sent the wrong message to both the Active and Reserve Forces. It told the Reserves that their skills and training would not be used in a contingency, and it told the Active Forces that "we can't afford to rely on the Reserves."

The Department must find ways to exercise the mobilization system—within the existing legal authority—to reassure military planners that Reserve units will be available when needed.

The following items are ways to place greater emphasis on reserve forces.

III (B) INCREASE NUMBER OF AIRCRAFT IN RESERVE UNITS

Reserve squadrons consistently are assigned fewer aircraft than comparable active duty squadrons. It would save money to increase the number of aircraft within existing Reserve squadrons.

Tactical air wings, when returned from Europe, should be deactivated, with equipment not required under the CFE Treaty to be destroyed distributed to existing Guard and Reserve units. For example, deactivating four active wings of fighters, and distributing those aircraft to existing Air National Guard and Air Force Reserve squadrons could save between $3 and $5 billion over the next 5 years.

III (C) TRANSFER MISSIONS TO GUARD/RESERVE UNITS

In some instances, entire missions could be transferred to the Reserve component. The tactical airlift mission could be transferred to the Reserves, though the Air Force might have to assign active duty pilots to Reserve units so that aircraft in that squadron are available for unanticipated missions or emergencies. Overseas deployments of tactical airlift, which will be considerably reduced as forward stationed forces are reduced, could be carried out on a rotational basis. This alone could save as much as $1 billion over the next 5 years.

Countermine warfare could be assigned to the Navy Reserve. Minesweepers and minesweeping helicopters rarely deploy, do not operate with battlegroups, can train and operate independently of other ships, and do not have multiple tactical missions for which operational training varies.

III (D) EXPAND THE USE OF NAVY RESERVES

With the reduction in the Soviet naval threat and the increased warning time associated with a major conflict with the Soviet Union, the United States Navy policy that virtually all deployable ships have to either be at sea or be able to get underway within days becomes increasingly unnecessary and unaffordable. A change in this policy would permit greater use of Navy Reserve forces. Should the Soviet Navy return to a more threatening posture, there would be time to augment manning of the ships to shorten any mobilization period.

I understand the Navy is currently studying an idea called nested ships which would apply to the ships in the Navy that do not routinely deploy with battlegroups, such as antisubmarine warfare frigates. Under this new concept, the Navy would station nondeploying ships together into small groups of from four to five ships of the same class. One of the ships in the small group would be a mother ship and would be manned 100 percent by active duty personnel. Reserve personnel would be assigned to the remaining three to four ships. The active crew on the mother ship would be responsible for essential maintenance on all five ships and, if called on in a major emergency, would be responsible for getting the Reserve crews up to combat proficiency standards.

In terms of Navy aviation, currently a third of the P-3 fleet is operated by Reserve units. By most accounts, they perform the ASW mission very well, even though they are given the oldest and least capable aircraft. Transferring modern P-3's to Navy Reserve P-3 squadrons and deactivating some active squadrons could save between $1.5 and $1.8 billion over 5 years.

These various alternatives—increasing the percentage of reservists on Navy Reserve ships, adopting the so-called "nested" approach, and transferring modern P-3's to Navy Reserve squadrons—could save between $9 and $12 billion over the next 5 years.

These are by no means the only opportunities to transfer missions to our Guard and Reserve Forces. Again, paraphrasing recent testimony by Assistant Secretary Duncan, the presumption should rest with placing as much capability into Reserve component forces as possible in this new era.

IV. ELEMENT NO. 4: FLEXIBLE READINESS

A fourth element of my suggested new strategy is based on a policy for our forces that I call "flexible readiness." I define flexible readiness as the adjustment of the readiness status of various forces based on the threat; the amount of warning time; the likelihood these forces will go into action; and the availability of lift to transport them to the battle.

The reduction in the conventional threat and the severe fiscal pressures present the military services with two alternatives:

They can have a relatively larger force structure, but with the readiness of those forces based on the threat, the warning time, the likelihood of use, and the ability to get to the battle.

If the services are reluctant to move in the direction of flexible readiness, then they will face a substantially smaller force structure than is currently being discussed in the Pentagon.

I believe the flexible readiness alternative is the better approach for our future requirements. The military services would keep certain high priority forces—strategic forces, expeditionary forces, forward deployed forces, and early deployable forces, special operations forces, and selected intelligence units—at the high readiness levels. Forces that are not in these categories can be sustained at adjusted readiness levels. Most importantly, they should be maintained so that their readiness can be quickly increased if we observe increase in the threat.

Adjusting the readiness of combat and support units could save between $20 and $30 billion over the next 5 years.

IV (A) MAJOR INVESTMENT IN SIMULATORS

To ensure combat proficiency at adjusted readiness and reduced operational tempos, the Department of Defense should launch a major program to invest in simulators to permit enhanced proficiency training without employing expensive field training. Third and fourth generation simulators now permit sophisticated training that was not possible 5 years ago.

For example, it is now possible to link tank crews in simulators in Kentucky with artillery units in New England and helicopter pilots in simulators in Texas to train together as a combined force, and even to fight against similar combinations of simulated enemy forces linked electronically from various locations around the country. In the past, such sophisticated training was possible only by putting battalions into the field in expensive exercises.

Similar opportunities exist for maintenance and logistics personnel, and for simulating shipboard operations.

The services have gradually increased their use of simulators, but a major expansion in the use of simulators is now necessary. For planning purposes, I have assumed that we may have to spend between $2 and $3 billion more on simulators than is currently planned in order to fully implement a flexible readiness approach. However, this investment would be offset by the substantial savings noted above.

V. RESOURCE STRATEGY: "THINK SMARTER, NOT RICHER"

Mr. President, a new resource strategy is long overdue. The defense budget has been on a roller coaster. During the first half of the decade, the budget shot up very quickly. The Department developed 5-year plans with huge funding increases in the so-called "outyears." These unrealistic outyear projections distorted the defense budget by letting the services start many more programs than they could actually afford to buy. The services created a bow wave of procurement plans that were very doubtful at the outset and that now cannot be accommodated in shrinking budgets. This is the primary reason why cuts today, even in light of a reduced threat, are so difficult and painful.

Faced with shrinking defense budgets, it is critical that we have stable long-term budgets and that we squeeze the maximum amount of defense capability out of each dollar invested. I believe the following policies are important to getting better management of scarce defense resources.

V (A) "FLY BEFORE BUY"

The Packard Commission recommended we return to the "fly before buy" concept. Let us make sure we know what it is we are getting before we commit to the procurement of major new weapon systems.

In the 1980's, DOD virtually abandoned this principle. The services feared the pace of Soviet weapons developments and felt an urgency to field technologically superior weapons to counter numerically superior Soviet/Warsaw Pact forces. This resulted in excessive concurrency—starting procurement in most weapon systems before all the bugs were worked out in development.

The B-1 bomber is a classic example. All 100 B-1 bombers were under construction in some form before initial operational test and evaluation was started. The sad results are testimony as to how not to do business. The taxpayers will have to spend nearly $1 billion for "fixes" required for the B-1 which, if they work—and we are not assured of that yet—will not even meet the originally advertised capabilities.

The reduction of the Soviet/Warsaw Pact threat means we do not have to rush to buy a weapon system. We can wait until we know it works.

This approach should be applied to the following major new weapon programs:

Light helicopter (Army);

Armored systems modernization;

Advanced air-to-air missile;
Advanced tactical fighter;
B-2 bomber;
C-17 transport aircraft;
Rail garrison MX;
A-12 attack aircraft;
T-45 training system;
SSN-21 submarine;
P-7 antisubmarine patrol aircraft;
Bigeye bomb;
SRAM II;
Tactical air-to-surface missile [TASM];
Advanced launch system;
Milstar satellite system; and
Small ICBM.

Greater use of prototyping and deferring full rate production until operational testing is substantially completed could save over $40 billion if applied to these programs. A uniform and inflexible application of this guideline is not practical, since individual programs will vary, as will the urgency of fielding. Nonetheless, a very heavy burden of proof must be put on any service request to buy before we fly. We now have time to make sure equipment is affordable and works as promised.

V(B). EMPHASIZE PRODUCT IMPROVEMENTS OVER NEW STARTS

The Packard Commission emphasized product improvements to existing weapon systems as an alternative to designing new generations of weapons. Despite this recommendation, the pending budget request continues most of the major new weapon development programs while terminating existing weapons, some of which could be updated at far less expense.

We must continue to modernize our forces, but in some cases we can skip one generation of weapons. We now have an opportunity to weigh the relative merits of continuing and upgrading existing weapons versus launching major replacement programs. The following list of weapons illustrate some of the alternatives we should consider.

Current system	Replacement system
F-15 fighter	
F-16 fighter	Advanced tactical fighter.
AH-64 helicopter	
AHIP helicopter	Light helicopter [LH].
SSN-688 submarine	SSN-21 submarine.
AMRAAM missile	
Phoenix missile	AAAM missile.
M1 tank	
M2 fighting vehicle	Armored system modernization.

In each instance, the Defense Department needs to carefully evaluate the tradeoffs between product improvements for current systems and proceeding with a new replacement program. In making these tradeoffs, we need to ask the following key questions:

How has the threat changed from that postulated at the time the services launched the new starts?

Are product improvements possible with existing systems and how well would they meet the revised threat?

Which technological developments can be retrofitted into current systems and which can be included only on a newly-designed weapon?

What production rate assumptions are incorporated in the estimates of cost for new systems and are those assumptions valid? Do more realistic assumptions make a difference in cost-effectiveness?

Are new weapons cost-effective if the needed quantity is substantially reduced because of smaller force structure?

In many instances, it is possible to fit older weapon platforms with modern smart munitions to dramatically improve the overall effectiveness of current weapon systems. For example, 30 year old B-52's can launch swarms of small cruise missiles that each have an independent capability of hunting out and destroying enemy radars. In this instance, an obsolete system can be fitted with a state of the art munition to make it a powerful weapon system well into the next century.

As the Packard Commission indicated, that burden of proof should rest with those who advocate the start of a new system rather than an upgrade of existing weapons.

V(C). MAINTAIN TECHNOLOGICAL SUPERIORITY

United States technological superiority helped us offset numerically superior Soviet/Warsaw Pact forces. We must continue to maintain this superiority by maintaining a viable technology base and reinvigorating our laboratories and our research universities.

Senator BINGAMAN, who chairs the Defense Industry and Technology Subcommittee has been a leader in this area. He has outlined the key questions that we have to address as a country.

What are the critical technologies that we will need to support our forces and implement our strategy in the future?

Who in DOD is responsible for identifying and promoting those critical technologies?

How will we transfer those critical technologies from the laboratories to industry to insure they are fielded promptly in new generations of weapons systems?

How can we promote technologies that have a useful application in commercial industry as well as in defense applications, so the overall cost of new technology is affordable for both sectors?

These are the right questions, which must lead to concrete goals and objectives. We must establish concrete achievable resource allocation goals for insuring U.S. technological superiority at the turn of the century. This may require real increases in funding for the technology base.

V(D). ELIMINATE EXCESSIVE OVERHEAD IN PRIME CONTRACTORS

During the first half of the decade, the Department spent substantial sums to expand the production capacity of prime contractors, and in many instances established competitive sources to produce the same weapon system. While competition is a good thing when procurement quantities are large, the Department finds it now must pay for excessive production capacity, to include facilities and tools. Today almost every weapon system is being produced at only a fraction of the production capacity initially established, with enormous waste in useless overhead.

The Department should develop an approach to eliminate excessive production capacity if the production rate falls to inefficient levels. For example, DOD could require a military Department to conduct a winner-take-all competition between two producers any time that the proposed production rate falls below 25 percent of combined production capacity of the two producers.

To its credit, the Army recently held a competition between the two producers of the Hellfire antitank missile. That competition led to a 19-percent reduction in unit costs. All the services need to carefully review acquisition strategies to eliminate burdensome overhead.

V(E). STREAMLINE HEADQUARTERS ORGANIZATIONS

During the cold war decades, the services built up multiple layers of headquarters organizations and commands. These include the service component headquarters as well as the development, acquisition and management headquarters. A comprehensive review by the DOD inspector general several years ago called for fundamental streamlining. The Department should make this a priority when it implements its defense management review. Otherwise, the Congress will have to mandate reductions in funding of the various headquarters and organizations.

V(F). PRODUCTION RATE STRETCHOUTS

Historically, the services project unrealistically high production rates in order to advertise lower per-unit costs for new weapon systems under development. Program managers buy the production capacity needed to produce weapons at those unrealistic rates. Subsequent budget pressures hold down production rates to a much lower, inefficient percentage of capacity, resulting in high overhead rates and soaring unit prices. Forced optimism at the outset of a program always returns to haunt procurement later when programs enter a negative

spiral of higher unit costs and shrinking annual buys.

Systematically, the services have started more programs than they can afford to buy because they assumed these unrealistic high production rates and artificially low per-unit costs. Year by year, production rates across the board are lowered because of funding limitations, and program costs increase. We must change this way of doing business.

For weapon systems that are still in development, the services must not build excess production capacity based on unrealistically high production rates. The Under Secretary of Defense for Acquisition must ensure that the services do not continue to create grossly excessive production capacity.

Unfortunately, DOD is now locked into an entire generation of weapon systems that have substantial excess production capacity and low annual production rates. Our choices are limited for those programs currently in production. Some of the systems in low production will have to be canceled. For other weapon systems, inefficient production rates may be the only way to preserve essential production capabilities required in American industry.

The following are typical systems that preserve key technologies, but which do not need to be produced at high production rates because of reduced force structure.

F-16 fighter;

F-18 fighter;

SH-60 helicopters;

E-2 early warning aircraft;

MLRS rockets and launchers;

M2 fighting vehicles; and

AMRAAM, HARM and tacit rainbow missiles.

Selective stretchouts for these programs could save between $9 and $14 billion over the next 5 years, even though regrettably unit costs and total program costs would be increased.

V(G). COOPERATIVE RESEARCH AND DEVELOPMENT

Cooperative research and development between the United States and its NATO and major non-NATO allies could yield common military equipment and hence improve combat capabilities. Moreover, each country's share of a collaborative project's cost will be far less than the cost that each country would have incurred if it had undertaken the project itself. The progress to date under this program has been uneven, but nonetheless encouraging. As United States and allied defense budgets shrink, cooperative research and development is even more essential.

CONCLUSION

As I indicated at the outset of this presentation, implementation of this strategy, I believe, will permit a budget authority reduction of $25-$27 billion in fiscal year 1991, with associated outlay reductions of $9-$10 billion. Over a 5-year period, the savings would reach approximately $225-$255 billion in budget authority and $180-$190 billioin in outlays. I ask unanimous consent to have printed in the RECORD two summary tables on these savings.

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

ESTIMATED SAVINGS FROM IMPLEMENTING THE NEW STRATEGY

[In billions]

	Fiscal year 1991 savings	5-yr savings (fiscal years 1991-95)
I. Nuclear Deterrence at lower levels	$3-$3.5	$20-$25
II. Reduce forward deployments and emphasize deployable forces	1-1.5	20-25
III. Shift more to reserves		12-15
IV. Employ flexible readiness	1.5-2.5	20-30
V. "Think Smarter, Not Richer"	10.5	30-35
Total savings	16-18	100-130
Total estimated savings from the President's budget:		
Budget authority	16-18	100-130
Estimated Outlay Savings	6-7	90-100
Estimated savings when compared to the CBO baseline:		
Budget Authority	25-27	225-255
Outlays	9-10	180-190

Source: Savings are listed in budget authority and are from President Bush's fiscal year 1991 Defense budget and 5 yr Defense spending levels.

RECOMMENDED DEFENSE BUDGET LEVELS AND SAVINGS BASED ON REASSESSED THREAT AND NEW MILITARY STRATEGY

[In billions]

	Fiscal year 1991	5-yr total (fiscal years 1991-95)
I. Recommended level for national defense function:		
Budget authority	$289-$291	$1,456-$1,486
Outlays	297-298	1,463-1,473
II. Reduction compared to CBO baseline: [1]		
Budget authority	25-27	225-255
Outlays	9-10	180-190
III. Reductions compared to President's fiscal year 1991 budget request:		
Budget authority	16-18	100-130
Outlays	6-7	90-100

[1] The CBO baseline is used by the Budget Committees in developing the budget resolution. The baseline is the fiscal year 1990 level adjusted for inflation.

Mr. NUNN. Mr. President, when the Armed Services Committee prepares to mark up the Defense authorization bill, I believe this represents a realistic and responsible target. It represents the first installment on a 5-year plan that is consistent with a new strategy.

Mr. President, a recent CSIS study summed up our current situation very well: "Building up without a strategy is foolish; building down without one could be disastrous." In my remarks over the last few weeks, I have offered a number of suggestions intended to help us avoid that disaster. I look forward to working with my colleagues to develop the best defense program we can consistent with the remarkable changes that have and are occurring in our world.

MORNING BUSINESS

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

REDUCED FUNDING FOR THE MX RAIL GARRISON MISSILE SYSTEM

Mr. LEVIN. Mr. President, let me congratulate the chairman of the Armed Services Committee for the most extraordinarily coherent and comprehensive series of speeches that he has made on a subject which is of immense importance to the Nation. There is nobody in this body that could do what he has done for us and for the Nation and I am grateful for it and all the members of the committee are grateful for it and I believe the country is grateful for it.

Mr. NUNN. I thank the Senator.

Mr. LEVIN. He recently addressed one part of a presentation, and I wish to just comment very briefly on it and that has to do on the MX rail garrison system. The chairman has indicated that he believes that the funding for this system should now be slowed principally because of a concurrency problem. We are acquiring these trains prior to the completion of the testing of these trains. It is on that subject that I shall briefly make some remarks.

Senator JEFFORDS and I are introducing today a bill to eliminate all of the procurement funds and all of the military construction funds for the MX rail garrison system.

The Levin-Jeffords bill cuts $1.614 billion in procurement and military construction funds from $2.162 billion that has been requested for the program by the administration and that $1.614 billion represents all of the procurement and military construction funds in the President's request. It keeps the MX rail garrison in the development phase by providing $548 million for R&D.

The administration request is a perfect example of wasting Government funds. The Pentagon wants to purchase large numbers of MX trains before the system is fully tested. There are other reasons why the system is wasteful.

The MX rail garrison request is an example of wasting Government funds in two respects. First, the Pentagon wants to purchase large numbers of MX trains before the system is fully tested, and second, we simply do not need the MX rail garrison system to improve our nuclear deterrent capability.

By requesting over $2 billion for MX rail garrison this year, including a thirteenfold increase in procurement funds and over double the amount of military construction funds appropriated in fiscal year 1990, the administration is asking the Congress to approve of a fiscally irresponsible plan. What the chairman has pointed out is the concurrency problem. What that means is that there is a significant overlap between the development and the production phases of the MX rail garrison system. It is known as concurrency.

For the last 2 years the GAO has been reporting to the Congress that the MX rail garrison program has a significant overlap between its development and production phases. This overlap, known as concurrency, has been cited by GAO as a significant factor in excessive weapon system cost, schedule delays, and performance problems. Concurrent weapon programs can and should be scaled back to save money.

In fact, the GAO has pointed out four unique characteristics of the MX rail garrison program that they say require testing before we purchase large numbers of MX trains. These include: First, the capability of the train to withstand missile launch; second, the launch effects on commercial railroad trackbeds and the ability of the train to resume mobile operation after launch; third, the capability of the guidance and control system to recover specified levels of accuracy following rail transit; and fourth, the effects of horizontal basing and rail movement on MX missile performance and reliability.

The GAO very strongly urges us not to proceed with the procurement at this time, and this Levin-Jeffords bill will strike all the money for procurement development.

The DOD has concurred with GAO on their assertion that the "unique operational effectiveness characteristics associated with mobility on the rail network must be fully evaluated and demonstrated before the effectiveness of the—rail garrison—operational concept can be confirmed." However, the Air Force as recently as last month continued to tell the SASC that in spite of the danger, "we regard the concurrency as not an issue."

The MX rail garrison funding plan is a classic example of the flawed "buy before you fly" policy that has cost this country so much money in recent years. It is a policy that in many cases has required the U.S. taxpayer to put up the money for costly repairs of weapons systems that were rushed into production before being adequately tested. The B-1B strategic bomber is one example of a concurrent program that continues to cost the U.S. taxpayer hundreds of millions of dollars to fix.

But, the Pentagon has not learned its lesson from the B-1B fiasco. It continues to rush forward with the MX rail garrison system, despite the risks posed by concurrency.

The President's Blue Ribbon Commission on Defense Management, known as the Packard Commission, pointed out the importance of subjecting new weapons systems to rigorous operational test and evaluation 4 years ago. In its report titled "A Quest for Excellence," the Commission made the following recommendation:

> That operational testing began early in advanced development and continue through full-scale development, [and] the first units to come off the limited-rate production line should be subjected to intensive operational testing and the systems should not enter high-rate production until the results from these tests are evaluated.

The Pentagon acquisition plan for the MX rail garrison is completely at odds with the Packard Commission recommendation. The Air Force proposes to purchase 65 percent of the MX trains before the operational test and evaluation of the system is completed. In other words, the Air Force wants to purchase 16 of the 25 MX trains before we know whether the MX rail garrison system will work under operational conditions.

In this period of shrinking resources we cannot commit to procuring large numbers of MX trains before this missile program has been rigorously tested.

The Packard Commission and the GAO both recommend that we "fly before we buy" and I agree with that advice.

Besides fiscal concerns, there are a number of other reasons why this Nation should slow down the MX rail garrison system. The primary one is that our current strategic nuclear systems are survivable and robust. Even if the Soviets launched a nuclear attack today with no warning we would have over 4,000 surviving nuclear warheads on our aircraft and ballistic missile submarines with which to retaliate. And if the number of warheads that the Soviets targeted on United States nuclear weapons were doubled, we would still have about 4,000 strategic nuclear weapons for retaliatory purposes because our alert aircraft and ballistic missile submarines at sea would still survive the attack. That is the key—if the Soviets increase their strategic forces, the number of our survivable retaliatory forces is not significantly affected.

So why are we fixated on maintaining exact numerical parity with the Soviets? Just as a purely static bean count of weapons made no sense when evaluating the level of conventional defense in Europe—it makes no sense when evaluating the level of nuclear deterrence. The key to evaluating nuclear deterence, is not determining whether the United States or Soviets have more nuclear warheads—the United States does at the moment. It is the number of survivable warheads that determines the robustness of your deterrence.

The MX rail-garrison system is a perfect example of the ongoing overemphasis on nuclear weapons that is wasting billions of dollars while adding little to our existing robust level of nuclear deterrence.

In the President's proposal, billions will be spent to move our 50 existing MX missiles from the hardened silos in which they are currently deployed, and placed on unhardened trains. In this new configuration, the MX missiles and the rail road cars on which they will sit will be significantly more vulnerable to surprise attack than in current silos.

In a recent letter to me, the Congressional Research Services [CRS] stated that the MX missile deployed on trains and sitting in the open was hardened to about 5 to 10 pounds per square inch [PSI]. In its garrison the PSI would only be slightly higher the CRS said. By comparison, the MX in silos is estimated to be hardened to 2,200 PSI. So, in its silo, the MX is presently 220 times as hard as—that is, 220 times as survivable—as it will be in the rail-garrison configuration that the President is proposing.

The issue of vulnerability is especially important for those who believe the strength of the MX lay in its mobility. In fact, the MX will rarely be mobile. It will not be able to survive a surprise attack. Stability comes from survivability and the MX in rail-garrison will be less survivable than it is now, except in those rare cases when our forces are generated. Yet, its destructive potential actually makes MX an especially inviting target for a surprise attack. The reason is that the four trains, each carrying two missiles with 10 warheads, are all deployed in unhardened shelters within a one-quarter mile area. As a result of this configuration, a few enemy warheads could eliminate 80 of ours—4 times 2 times 10. That is a very inviting target—a 40:1 ration that is very destabilizing.

In current silos, each 10-warhead MX missile is no closer than 3 miles apart. It would take two attacking warheads to destroy 10 of ours. This is a 5:1 ratio which is much more stabilizing. The status quo is more stable than the change that is proposed because the proposed mobility only rarely exists and during all the other times the MX is a more vulnerable, more attractive target than it is now.

The MX proponents argue that MX rail garrision will survive in times of crisis when our nuclear forces are generated. At this time, the MX train is supposed to pull out of the station and

leave its vulnerability behind. What exactly is a time of crisis? Thirty years ago, the United States created the DEFCON or defense condition system. Since then, on three occasions worldwide U.S. nuclear forces were placed on a high state of alert. These events occurred in May 1960 during the Paris Summit Conference; October 1962 during the Cuban missile crisis; and October 1973 during the war in the Middle East.

But it is in those rare times of crisis we need the MX least—because our airplanes and submarines are generated, are deployed, in a time of crisis and we have more than twice as many survivable warheads available as in times of calm. The numbers here are important. In normal times, as I have pointed out, some 4,000 of our nuclear warheads could survive a surprise attack on the United States. In times of crisis, more than 8,000 warheads would be survivable after our forces were put on a higher state of alert.

The fact is that for either a surprise attack or an attack that came during a crisis, the United States has more than enough nuclear weapons to launch a totally devastating counterattack against any enemy. This is the essence of deterrence, and every military official that has testified before the Armed Services Committee in past years has stated that we have sufficient nuclear deterrence. And, this scenario of a potential attack on our ICBM's does not include the nuclear weapons possessed by our allies, or our nuclear-tipped cruise missiles on ships at sea.

As generals and administration officials have testified, it would be totally irrational for a Soviet leader to launch a nuclear attack when faced with such certain and potent retaliation. It would be irrational to launch a surprise attack against us when we would have 4,000 survivable warheads and irrational to launch a nuclear attack against us after we have generated 8,000 warheads capable of retaliation. By the way, just one of the 192 survivable warheads on one Trident submarine has about 6.5 times the destructive power of the Hiroshima bomb and each Trident sub has 192 warheads.

Some argue that we need to build more modern nuclear systems because the Soviets continue to modernize their nuclear forces. But the approach that we should take is to put the brakes on Soviet modernization through the arms control process. I am pleased to see that the President suggested to the Soviets a mutual ban on all land-based mobile MIRV'd missiles. It is unfortunate that the Soviets have responded coolly to this offer, although one news report indicated that the door has not been slammed shut on this issue by the Soviets.

However, some will point to the Soviet resistance to bargain away land-based mobile MIRV'd missiles as a reason to move full speed ahead with the MX rail garrision system, but we must be fiscally prudent and not overfund this highly concurrent system. If we decide to buy this weapon, though we shouldn't for the reasons I have outlined, at least we should make certain that it will perform the way it is supposed to.

At a time when the defense budget is going to be reduced at a minimum of 2 to 3 percent per year, we cannot afford to waste money. We will need to manage defense reductions wisely and apply the savings in a way that strengthens our Nation's security by meeting the challenges of tomorrow.

Mr. President, I ask unanimous consent that a copy of our bill and the GAO reports and testimony on the MX system and a series of quotations by U.S. military and political leaders regarding the MX rail garrison system be printed in the RECORD.

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

S. 2479

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

Section 1. FUNDING LIMITATION.—No funds appropriated after the date of the enactment of this act may be obligated or expended for procurement or military construction for the MX rail garrison missile system. Delete $1.614 billion in procurement and military construction funds from the $2.162 billion requested for the MX rail garrison system.

[U.S. General Accounting Office, Report to the Secretary of Defense]

ICBM MODERNIZATION—RAIL GARRISON PRODUCTION DECISION AND LAUNCH CAR ACQUISITION SHOULD BE DELAYED

NATIONAL SECURITY
INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, December 7, 1989.

Hon. RICHARD B. CHENEY,
The Secretary of Defense.

DEAR MR. SECRETARY: As part of our periodic reviews of the Air Force's intercontinental ballistic missile (ICBM) modernization efforts, we evaluated the current and planned land-based ICBM force structure. During our review you announced that the 50 Peacekeeper missile force will be rebased from the silos at F.E. Warren Air Force Base, Wyoming, to rail garrisons at various Air Force installations. This report dicusses how your announcement provides an opportunity for the Air Force to revise its missile launch car acquisition schedule and more fully consider operational test and evaluation results before deciding to begin initial and full production of the system.

RESULTS IN BRIEF

Initial operational capability [1] for the rebased Peacekeeper missiles is planned for 1992, and full operational capability of all 50 missiles is expected to be achieved in 1994. To meet these milestones, an initial low-rate production decision for the missile launch cars is scheduled for April 1990, and a final full-rate production decision is scheduled for March 1992. The final production decision will be supported by the results of a completed operational test and evaluation program, but no operational test and evaluation of the complete weapon system (missiles and rail cars) will have been conducted prior to the initial production decision. Additionally, the Air Force plans to purchase about 73 percent of the missile launch cars in connection with the initial production decision. Such a large purchase would, in effect amount to a full-rate production decision in the absence of any operational test and evaluation of the complete weapon system.

Since the missiles to be rebased on rail cars are already on alert in silos, your announcement provides an opportune time for the Air Force to reassess its Rail Garrison acquisition strategy and restructure the production program. The restructure should provide for (1) delaying the initial production decision until after some operational test and evaluation of the complete weapon system has been conducted and (2) procuring most basing hardware after the opertional test and evaluation program has been completed.

BACKGROUND

The Rail Garrison concept involves placing a force of 50 missiles on 25 trains, each carrying two Peacekeeper missiles. The trains will be parked inside train alert shelters in secure garrisons at Air Force bases throughout the continental United States. The missiles will be kept on the trains in continuous strategic alert. In the event of national need, the missiles will move onto the nation's railroad network. If necessary, the missiles can be promptly launched from within the train alert shelters.

The Air Force's 1988 Selected Acquisition Report estimates Rail Garrison basing acquisition costs to be about $6.8 billion in then-year dollars. This estimate includes costs to develop and procure trains and other basing hardware, facility construction, land acquisition, and five basing verification flight test missiles. It does not include the cost of the 50 missiles in silos that were purchased for the Peacekeeper program.

RAIL GARRISON PRODUCTION DECISIONS WILL PROCEDE OPERATIONAL TESTING

According to the Air Force's current acquisition milestones, no operational test and evaluation of the complete Rail Garrison weapons system will have been conducted at the time the initial production decision is scheduled to be made. Also, current program office plans indicate that the majority of missile launch cars will be purchased in connection with the initial production decision rather than after the final full-rate production decision, as intended by Department of Defense directives.

Opportunity to delay production decision

The Department of Defense's policy on major weapon system acquisition stresses the importance of minimizing the time to develop, produce, and deploy major systems for use by operational forces. However, we have maintained that even in expedited programs, as is the case with Rail Garrison, decisionmakers should have some information to assess a weapon system's operational performance before production begins.

[1] Initial operational capability for the Rail Garrison conecept has been defined as one train on alert with two missiles plus one train for use in training.

Therefore, we have stated that, at a minimum, some operational test and evaluation should be performed before proceeding into production.

Operational test and evaluation assesses a weapon system's effectiveness and suitability when operated and maintained by military personnel and in environment that is as operationally realistic as possible and practical. Operational test and evaluation results are required to be available before major decisions regarding production are made, even though the necessary corrective actions identified through operational test and evaluation may be undertaken after production begins. In a prior report,[2] we recommended that the Director, Operational Test and Evaluation, ensure that sufficient operational test results are available to warrant production start-up. The Department of Defense concurred with the recommendation.

In the case of Rail Garrison, the initial production decision is scheduled for April 1990. At that time about 2 years of the scheduled 4-year test program will have been completed. Most of the testing that is scheduled to be completed and used to support the April 1990 decision will be developmental testing of preliminary designs of individual subsystems.

The April 1990 initial produciton decision is to be supported by an early operational assessment prepared by the Air Force Test and Evaluation Center. However, an Air Force Operational Test and Evaluation Center official advised us that, in the absence of systems level operational testing, the scope of the early operational assessment will be limited and that the primary thrust of that document will be an appraisal of the schedule for providing operationally respresentative systems for the operational testing required to support the March 1992 full-rate production decision.

The Air Force considers the Rail Garrison program as a low technical risk because it views the program as basically an engineering effort to integrate proven missile systems into the existing rail industry. However, the Rail Garrison Test and Evaluation Master Plan identifies unique characteristics of the Rail Garrison program that require testing. These include:

The capability of the train to withstand missile launch effects (e.g., impact of ejection from the missile canister and pressures, shock, and heat from first stage ignition),

The launch effects on commercial railroad trackbeds and the ability of the train to resume mobile operations after launch,

The capability of the guidance and control system to recover specified levels of accuracy following rail transit, and

The effects of horizontal basing and rail movement on Peacekeeper missile performance and reliability.

According to the Test and Evaluation Master Plan, flight testing to demonstrate the capabilities is scheduled to begin during the third quarter of calendar year 1991.

Until now, the Air Force's Rail Garrison acquisition strategy has been based on a Peacekeeper force of 100 missiles: 50 based in silos and 50 based on rail cars. However, your recent announcement reflects a 50 missile force all of which will be based on rail cars. Because there currently exists a 50 missile force based in silos, which was declared to be fully operational by the Strategic Air Command on December 31, 1988, there may not be a need to expedite the rebasing process. Therefore, we believe this is an opportune time for the Air Force to reassess its Rail Garrison acquisition strategy with a view toward restructuring the production program. This restructure should provide for (1) conducting some operational test and evaluation of the complete weapon system before the initial production decision is made and (2) procuring most of the Rail Garrison basing hardware after the operational test and evaluation program has been completed and the final production decision has been made.

Delaying the initial production decision until some operational test and evaluation of the weapon system has been completed would ensure that decisionmakers are more fully informed on the operational effectiveness of the system before starting production. A delay in the production decision from April 1990 to the third quarter of calendar year 1991, when the first flight test of the complete weapon system is currently scheduled, could result in a comparable delay in initial operational capability. However, the delay could help preclude potential cost growth, schedule slippages, and performance shortfalls that weapons systems have historically experienced during the later years of program development. Our concerns in this regard are increased by the fact that, as discussed in the next section, the Air Force currently plans to contract for the majority of missile launch cars in connection with the initial production decision.

Need to reassess missile launch car acquisition schedule

Department of Defense directives state that low-rate initial production is the production of a system in limited quantity to be used in operational test and evaluation for verification of production engineering and design maturity and to establish a production base.

According to the program office's current preliminary acquisition plans, 38 of the 52 operational missile launch cars to be procured (includes 2 spare cars), or 73 percent, will be contracted for in connection with the initial production decision. Under this plan, the Air Force plans to request about $2.6 billion of the $3.5 billion budgeted for Rail Garrison hardware procurement before the March 1992 full-rate production decision. All of the launch cars acquired with procurement funds are for operational trains; launch cars for developmental and operational test and evaluation are being acquired through research and development contracts. We believe that buying 73 percent of the operational launch cars in connection with the initial production decision would exceed the "limited quantity" intended by Department of Defense directives. These directives clearly state that the commitment of the majority of a program's procurement funds should be predicated upon a full-rate production decision supported by the results of adequate operational test and evaluation.

The former Secretary of Defense stated in May 1988 that the number of trains to be acquired on the initial production contract would be an issue for the Defense Acquisition Board to discuss when it meets in April 1990 to authorize the initial production.

RECOMMENDATIONS

We recommend that you delay the April 1990 initial Rail Garrison production decision until the Air Force has conducted some operational test and evaluation of the complete weapon system. We recommend also that the Air Force's current acquisition schedules be revised so that the majority of the operational launch cars are not procured until after a final production decision, based on a completed operational test and evaluation program, has been made.

SCOPE AND METHODOLOGY

This report is based on our continual monitoring of the Air Force's efforts to sustain and modernize the land-based ICBM force. We accumulated and analyzed information on the history of the Rail Garrison and Peacekeeper in silos acquisition programs, including applicable regulations, Air Froce and Department of Defense documents issued during the planning and development of the systems, test plans and results, and the rationale behind management decisions.

We performed our work at the Ballistic Systems Division, Norton Air Force Base, California; the Office of the Secretary of Defense, Air Force Headquarters, and the Federal Railroad Administration, Washington, D.C.; and the Strategic Air Command, Offutt Air Force Base, Nebraska. We did not obtain written agency comments on this report. However, we discussed the details of the report with officials from your office, Air Force Headquarters, and the Ballistic Systems Division and incorporated their comments as appropriate. We conducted our review from October 1988 to October 1989 in accordance with generally accepted government auditing standards.

As you know, 31 U.S.C. 720 requires the head of a federal agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of the report. A written statement must also be submitted to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this report to the Chairmen, House Committees on Government Operations and on Armed Services and Senate Committees on Governmental Affairs and on Armed Services; the Secretary of the Air Force; and the Director, Office of Management and Budget. We will also make copies available to others upon request.

Please contact me at (202) 275-4268 if you or your staff have any questions concerning this report. Other major contributors to this report are Steven F. Kuhta, Assistant Director, and John J. Klotz, Evaluator, National Security and International Affairs Division, Washington, D.C.; and James Dinwiddie, Evaluator-in-Charge, Los Angeles Regional Office.

Sincerely yours,

NANCY R. KINGSBURY,
Director, Air Force Issues.

[U.S. General Accounting Office, Report to the Chairman, Committee on Armed Services, U.S. Senate]

DEFENSE ACQUISITION PROGRAMS—STATUS OF SELECTED SYSTEMS, DECEMBER 1989

APPENDIX III—AIR FORCE PROGRAMS

PEACEKEEPER RAIL GARRISON

The Peacekeeper Rail Garrison concept emerged in 1988 as DOD's highest priority basing mode for intercontinental ballistic missiles (ICBMs). Under the concept, a force of 50 Peacekeeper missiles will be placed on 25 trains, each carrying two mis-

[2] Production of Some Major Weapon Systems Began With Only Limited Operational Test and Evaluation Results (GAO/NSIAD-85-68, June 19, 1985).

siles. The Air Force remains confident that it can achieve a successful system by integrating existing missile and railroad technology. System performance, however, will not be demonstrated until the system progresses through the developmental cycle. The Air Force estimates that rail basing will cost $6.8 billion (escalated dollars).

Whether the Rail Garrison concept retains its high priority status is uncertain—congressional approval to deploy Peacekeeper missiles in Rail Garrison basing has not been given and the program's acquisition pace has been slowed. Also, the Air Force has extended the Rail Garrison program's initial and full operational capability dates by 6 months, to June 1992 and June 1994, respectively, because of budget constraints. These dates could change further based on the pending decision by the Congress. Thus, the cost, schedule, and performance goals of the program are subject to change and the following assessment of status should be viewed within that context.

Background

The principal mission of the Peacekeeper Rail Garrison weapon system is to deter nuclear and conventional attacks against the United States, its allies, and any nation whose security is vital to U.S. interests. The weapon system is intended to combine the capabilities of the Peacekeeper missile, such as payload, range, and accuracy, with the survivability and flexibility inherent in the Rail Garrison basing approach. DOD believes that rail basing of the Peacekeeper will enhance the U.S. strategic posture significantly by providng a more survivable land-based system.

The Peacekeeper Rail Garrison basing system will consist of a train having two locomotives; two missile launch cars; one launch control car; two security, personnel, and support cars; one maintenance car; and a fuel car. (See fig. III.1) The Air Force may add more rail cars, as required, for operations. The train's external appearance will resemble commercial freight rail equipment as much as possible.

[Figures not reproducible in RECORD.]

The trains will be parked inside secure garrisons at the main operating base at F.E. Warren Air Force Base, Wyoming, and at yet to be selected Air Force bases throughout the continental United States, with up to four trains at each garrison. Each garrison will include train alert shelters for housing the trains and a maintenance area/facility that will provide the capability to remove/replace the missile guidance and control set and the reentry system. All Peacekeeper missiles will be on continuous alert and will move onto the nation's railways only in the event of national need. If necessary, the missiles can be rapidly launched from within the train alert shelters while in the garrisons. Figure III.2 shows a typical Rail Garrison layout.

The program office divided Rail Garrison development into three major contracts. The first contract, a basing test and system support contract, was awarded to Boeing Aerospace Company in September 1987. The contract's purpose is to (1) design, develop, and fabricate unique transportation and handling equipment, test facilities, test support equipment, and maintenance car, (2) modify the train's locomotive to provide some protection against certain threats, and (3) design the operational garrison. The second contract was awarded to Westinghouse Electric Corporation in May 1988 to develop the missile launch car. The third contract was awarded to Rockwell International in May 1988 to develop the launch control and security cars, the launch control and communication systems, and the train security system.

Requirements

The President instructed DOD on December 19, 1986, to begin the development of a Rail Garrison basing system for the Peacekeeper missile. The Congress had limited Peacekeeper missile deployment in Minuteman silos to 50 missiles and had instructed DOD and the Air Force to develop more survivable concepts for Peacekeeper basing. The Rail Garrison concept will enable the Air Force to deploy 50 Peacekeeper missiles on rail cars and accomplish survivability through dispersal onto the commercial railroad network in time of national need.

OSD and the Air Force believe that Rail Garrison will meet the requirements for additional warheads in a survivable basing mode. The requirement for the system was validated when Air Force Headquarters approved the Strategic Air Command's formal statement of operational requirements document, dated June 1988.

Schedule

On May 13, 1988, the Secretary of Defense approved the advancement of the Peacekeeper Rail Garrison Program into full-scale development. The program office completed its system design review process, which was made to assure that it and the three contractors agreed upon the basic system requirements, in September 1988. On the basis of this review, all three contractors were authorized to proceed toward the preliminary design review phase. This represents the next key design phase during which the program office plans to refine the system design further. Preliminary design reviews started in February 1989 and ran through June 1989.

The initial operational capability and full operational capability dates were each extended by 6 months, to June 1992 and June 1994, respectively, to accommodate budget constraints. The dates of selected major program milestones, scheduled as of February 1989, are listed in table III.1.

TABLE III.1.—APPROVED PROGRAM MILESTONES AS OF FEBRUARY 1989

Milestone	Date
Start of full-scale development	May 1988.
System design reviews	September 1988.
Preliminary design reviews	February to June 1989.
Critical design reviews	December 1989 to March 1990.
Initial production decision	April 1990.
Basing verification missile tests	July 1991 to May 1992.
Full-rate production decision	March 1992.
Initial operational capability [1]	June 1992.
Full operational capability	June 1994.

[1] Initial operational capability is defined as one train on alert with two missiles, plus one training train available to the Strategic Air Command.

Previously, we reported that the schedule was optimistic and that concurrency—the overlap of developmental and production phases—existed in the program. For example, at the time of the full-scale development decision in May 1988, the program office believed that achieving a December 1991 initial operational capability date required an ambitious schedule to perform all the activities to support deployment of Peacekeeper missiles on trains. To meet that challenge, the program office developed an acquisition schedule that provided for the start of production 2 years before development contracts were complete—train car development contracts extend into mid-1992, even though a production decision was scheduled for early 1990. As demonstrated in other Air Force acquisition programs, unless concurrency is well planned and controlled, it can cause cost, schedule, and performance problems.

The program office expects that the results of developmental testing of preliminary designs of individual subsystems will provide adequate information to support an April 1990 initial production decision. However, by then the Air Force will have completed only about 2 years of the 4-year test program planned at the beginning of full-scale development. At that time, the Air Force will not have conducted most systems' integration testing, all basing verification missile flight tests, and most of the operational test and evaluation effort. Program officials believe that Rail Garrison's low technical risk combined with the planned sequential testing and evaluation program represent a reasonable risk in achieving the initial operational capability date.

As previously discussed, dates for initial and full operational capabilities have been extended by 6 months, but the program milestones preceding these two dates have remained basically unchanged.

Additionally, the fiscal year 1990 funding request was reduced from about $2.4 billion to about $1.2 billion due to competing demands from other Air Force programs. Taken collectively, these issues make it unclear how the overall program schedule will be affected.

PERFORMANCE

The Rail Garrison involves requirements not common to silo-based ICBM systems such as stabilization and land navigation. However, the Air Force believes that the Rail Garrison option offers a low-risk program that is principally an integration effort taking advantage of existing (1) equipment and technology, (2) rail network infrastructure, and (3) Strategic Air Command bases and ICBM infrastructure, such as nuclear weapons storage areas and strategic command, control, and communications systems.

The Rail Garrison concept entered the full-scale development phase in May 1988, and any conclusive assessment of its technical performance must await the results of planned testing. In particular, certain unique operational effectiveness characteristics associated with mobility on the rail network, such as the capabilities to restore missile accuracy in a specified time frame and to launch from the missile launch car, must be fully evaluated and demonstrated before the effectiveness of the operational concept can be confirmed. These issues are discussed below.

Missile accuracy restoration

If the weapon system is moved from secured garrisons onto the rail network before missile launch, it will be necessary to plot precisely each train's new location so that the accuracy required to destroy designated targets can be maintained. The Air Force has established time frames within which system accuracy must be restored. To facilitate accuracy restoration, the Air Force will establish presurveyed locations from which the missiles' guidance systems can be recalibrated. On the basis of studies and analyses and initial rail tests, the Air Force is confident that accuracy can be restored within the time frames at the presurveyed launch locations. However, the tests indicate that additional techniques may be required to plot the trains' new locations within the time frames if missiles are launched from

locations other than those that have been presurveyed. The program office plans to conduct a series of tests during 1989 and 1990 to continue to define the effects of movement on system accuracy and to evaluate the means to restore accuracy from anywhere on the rail network.

Missile launch from a rail car

When analyzing and evaluating the capability to launch a missile from a rail car and resume mobile operations after launch, the program office has to consider such factors as the train's ability to withstand the effects of missile launch and subsequent first-stage ignition and the launch effects on commerical railroad trackbeds. The program office believes that 18 developmental flight tests of the Peacekeeper silo program[1] have provided confidence that the pressures, shock, heat, and noise of first-stage ignition will not create difficulties in the Rail Garrison program. In addition, on the basis of tests conducted during March and July 1988 that used a developmental model of the missile launch car, the program office concluded that the car, track, and roadbed can sustain launch loads. Additional testing is planned during fiscal years 1989, 1990, and 1991 to evaluate, demonstrate, and confirm the capability to launch from a rail car either from the train alert shelter or while dispersed on the rail network.

Railroad interface

To ensure the mobility necessary for survivability, the Air Force must be confident that enough track to meet the size requirements of the missile train is available. Survivability also depends upon the ability of the Peacekeeper train to operate safely on the available rail network in conjunction with commercial rail traffic.

Preliminary estimates identified about 120,000 miles of 148,000 miles of main line track surveyed that are available for Rail Garrison deployment based on its present size and weight specifications. The Air Force is further refining this estimate by reviewing track segments that may have restrictions and by surveying short line railroads and other connecting segments.

We reported in January 1989 that the current Rail Garrison train car dimensions meet railroad standards. We also reported, however, that the potential for growth does exist—particularly with respect to the weight of the missile launch ear—and that increases in rail ear dimensions could reduce the amount of suitable track mileage available for deployment. The Air Force is closely managing this issue and believes it will be able to design the system within the railroad standards.

The ultimate goal for interface between Rail Garrison and the commercial rail network is a system that will operate under formal agreements with railroad companies and that will comply not only with railroad companies and that will comply not only with railroad operational policies and practices but with government regulations imposed on the railroad industry. The program office expects to finalize formal agreements with the railroad companies between mid-1990 and mid-1991.

Cost

The Air Force's preliminary 1988 Selected Acquisition Report (SAR) estimates Rail Garrison basing program acquisition costs to be $6.8 billion in escalated dollars. This estimate includes costs to develop and procure train cars and other basing hardware, facility construction, land acquisition, and five based verification flight test missiles. This estimate is $600 million less than the $7.4 billion estimated in January 1988 and the program office attributed the decrease to better cost estimates. Table III.2 shows the program office's acquisition cost estimate by cost category.

TABLE III.2.—PEACEKEEPER RAIL GARRISON ACQUISITION COSTS—ESCALATED DOLLARS

[In billions of dollars]

Cost category	January 1988	April 1989	Changed
Research and development	2.9	2.6	−0.3
Procurement	3.6	3.5	−0.1
Construction	0.9	0.7	−0.2
Total	7.4	6.8	−0.6

The Congress appropriated $1.02 billion for the Rail Garrison basing program—$90 million, $332 million, and $600 million in fiscal years 1987, 1988, and 1989, respectively, for research and development. In authorizing the fiscal year 1989 research and development funds, the Congress stipulated that authorization did not constitute a commitment or express an intent by the Congress to provide funds to deploy any Peacekeeper missiles in a Rail Garrison basing mode. In addition, the Congress stipulated that only $250 million of the $600 million could be obligated before February 15, 1989. Furthermore, the Congress requested the President to submit a report to the Committees on Armed Services and on Appropriations between January 21, 1989, and February 15, 1989, on how funds for ICBM modernization would be obligated for the remaining amount. In February 1989 the President advised the Congress that the administration was reviewing various ICBM modernization options and would report its findings to the Congress when completed. Later, the President released all the Rail Garrison funding and decided to redeploy the 50 Peacekeeper missiles currently in silos to trains. The President, however, requested that $100 million of Rail Garrison funds be reprogrammed to the small ICBM program.

The Air Force reduced its fiscal year 1990 Rail Garrison request for research, development, and procurement funds from about $2.4 billion to about $1.2 billion to accommodate needs in other programs. According to program officials, the reduced amount for procurement has resulted in Rail Garrison hardware being bought in fiscal year 1991 rather than in fiscal year 1990. Only advanced procurement of materials is planned in fiscal year 1990 to support later production.

RECENT GAO REPORTS—

"ICBM Modernization: Availability Problems and Flight Test Delay in Peacekeeper Program" (GAO/NSIAD-89-105, Mar. 9, 1989).

"ICBM Modernization: Status of the Peacekeeper Rail Garrison Missile System" (GAO/NSIAD-89-64, Jan. 12, 1989).

"ICBM Modernization: Selected Funding Options for the Small ICBM" (GAO/NSIAD-88-193, July 7, 1988).

"DOD Acquisition Programs: Status of Selected Systems" GAO/NSIAD-88-160, June 30, 1988).

"Procurement: Delivery Problems With Ineritial Measurement Units" (GAO/NSIAD-87-74BR, Dec. 18, 1987).

"ICBM Modernization: Status, Survivable Basing Issues, and Need to Reestablish a National Consensus" (GAO/NSIAD-86-200, Sept. 19, 1986).

"Status of the Intercontinental Ballistic Missile Modernization Program" (GAO/NSIAD-85-78, July 8, 1985).

[U.S. General Accounting Office, Report to Congressional Requesters]

ICBM MODERNIZATION—STATUS OF THE PEACEKEEPER RAIL GARRISON MISSILE SYSTEM

NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION

Washington, DC, January 12, 1989.

Hon. ROBERT C. BYRD,
Chairman, Committee on Appropriations, U.S. Senate.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations, House of Representatives.

Hon. LES ASPIN,
Chairman, Committee on Armed Services, House of Representatives.

Intercontinental Ballistic Missile (ICBM) modernization continues to be a controversial topic after several years of debate. Because of the high level of congressional interest in the Peacekeeper Rail Garrison basing concept, we have reviewed the progress being made in developing that concept as part of our periodic reviews of the Air Force's ICBM modernization efforts.

BACKGROUND

The Peacekeeper Rail Garrison concept emerged during 1988 as the Department of Defense's (DOD) highest priority basing mode for ICBMs. Under the concept, a force of 50 missiles will be placed on 25 trains, each carrying two Peacekeeper missiles. The trains will be parked inside train alert shelters in secure garrisons at Air Force bases throughout the continental United States. The missiles will be kept on the trains in continuous strategic alert. In the event of national need, the missiles will move onto the nation's railroad network. If necessary, the missiles can be promptly launched from within the train alert shelters.

The Rail Garrison basing mode will use the Peacekeeper missile with no changes except for software. The missiles would be launched in the same manner Peacekeeper missiles are launched from a silo.

The Congress has made it clear that its authorization of research and development funds does not constitute a commitment to procure and deploy Peacekeeper missiles in a Rail Garrison basing mode.

ACQUISITION SCHEDULE IS OPTIMISTIC

On May 13, 1988, the Secretary of Defense approved the advancement of the Peacekeeper Rail Garrison Program into full-scale development. An initial operational capability (IOC) date of December 1991 was directed by the President. IOC is defined as one train on alert with two missiles plus one train for use in training.

Developing the system by the IOC date requires an ambitious schedule, and all costs, testing, and delivery schedules have been developed to meet this date. Any trade-offs necessary in the future will be made with the primary objective of maintaining the IOC date without degrading mission objectives. To meet this objective, the program office has developed an acquisition

[1] The first 8 of those 18 tests were launched from ground level sites and the last 10 were launched from a silo.

schedule with concurrent development and production activities.

The program acquisition schedule is optimistic. The acquisition strategy provides for the start of production 2 years before development contracts are complete—train car development contracts extend into mid-1992, even though a production decision is scheduled for early 1990. This overlap between development and production is referred to as concurrency. Unless concurrency is well planned and controlled, it can cause cost, schedule, and performance problems, as demonstrated in other Air Force acquisition programs.

Program officials agree that concurrency exists, but they believe that Rail Garrison's low technical risk combined with the planned sequential testing and evaluation program represents a reasonable risk in achieving the IOC date.

The initial decision to begin production of Rail Garrison basing hardware is scheduled for March 1990. The program office expects that the results of developmental testing of preliminary designs of individual subsystems will provide adequate information to support that decision. However, by March 1990 only about 2 years of the 4-year test program planned to begin after the start of full-scale development will have been completed. Most systems integration testing, all basing verification missile flight tests, and most of the operational test and evaluation effort will remain to be done.

COST ESTIMATES

The Air Force estimates Rail Garrison basing program acquisition costs to be about $7.4 billion in then-year dollars. This estimate includes costs to develop and procure train cars and other basing hardware, facility construction, land acquisition, and five basing verification flight test missiles. It does not include costs associated with developing and acquiring Peacekeeper missiles. All missile costs are included in the original plan to deploy 100 Peacekeeper missiles in Minuteman silos. The Rail Garrison concept has many characteristics that distinguish it from the silo-based program. These differences could require as many as 108 additional Peacekeeper missiles for testing to provide confidence that the rail-based system is as capable as the silo-based system. DOD currently has 17 test missiles (5 for basing verification flight tests and 12 for operational test and evaluation) programmed for Rail Garrison.

In addition to the need to determine the number of operational test and evaluation missiles, the final cost of deploying 100 Peacekeeper missiles—50 in silos and 50 in Rail Garrison—is dependent on several factors: (1) the effect of funding restrictions imposed by the Congress in fiscal year 1989, which could stretch out the program and delay IOC, (2) the congressional funding actions related to annual procurement of Peacekeeper missiles as they affect economical production rates and operational deployment milestones, and (3) the impact of the planned concurrency between development and production of basing system components.

EVALUATION OF TECHNICAL PERFORMANCE AWAITS TESTING

The Rail Garrison basing program is in the early stages of its full-scale development phase, and it is too early for any assessment of its technical performance. Certain unique characteristics, such as the capability to restore missile accuracy in a specified time frame and to launch from the missile launch car, remain to be fully evaluated and demonstrated before the effectiveness of the operational concept can be confirmed.

SITE SELECTION WILL DETERMINE LAND ACQUISITION REQUIREMENTS

Peacekeeper missile trains will be deployed initially at F.E. Warren Air Force Base, Wyoming, and at up to 10 other candidate Air Force installations. Depending on the siting alternatives selected, the Air Force may need to acquire 31 to 639 acres of land adjacent to 7 installations for Rail Garrison facilities or relocate existing base facilities to accommodate Rail Garrison facilities. For three of the siting alternatives under consideration, almost all the garrison facilities will be located on land to be acquired off base.

AGENCY COMMENTS

DOD reviewed a draft of this report and concurred with GAO's findings (see app. III). DOD stated that it did not believe the characteristics of the silo and rail launches would be sufficiently different to require a large separate test program for the rail mode. DOD believes that the 17 test missiles programmed for Rail Garrison will be sufficient.

We performed our work at the Ballistic Missile Office, Norton Air Force Base, California; the Office of the Secretary of Defense, Air Force Headquarters, the Federal Railroad Administration, the Association of American Railroads, Washington, D.C.; Strategic Air Command, Offutt Air Force Base, Nebraska; Boeing Aerospace Company, Seattle, Washington; and several commercial railroad companies. We conducted our review from September 1987 to October 1988 in accordance with generally accepted government auditing standards.

This report was prepared under the direction of Harry R. Finley, Senior Associate Director. Other major contributors are listed in appendix IV. Copies of our report are being provided to appropriate congressional committees; the Secretaries of Defense and the Air Force; the Director, Office of Management and Budget; and other interested parties.

FRANK C. CONAHAN,
Assistant Comptroller General.

APPENDIX I—PEACEKEEPER RAIL GARRISON BASING PROGRAM STATUS AND ISSUES

COSTS

In January 1988 the program office estimated the Rail Garrison basing program cost to be about $5.2 billion in 1982 dollars (referred to as base-year dollars), or about $7.4 billion adjusted for inflation (referred to as then-year dollars). This estimate includes costs to develop and procure train cars and other basing hardware, facility construction, land acquisition, and five basing verification flight test missiles. Table I.1 shows the program office's acquisition cost estimate for the basing program.

TABLE I.1.—ESTIMATED RAIL GARRISON BASING PROGRAM ACQUISITION COSTS

[Dollars in billions]

Cost category	Base-year dollars	Then-year dollars
Research and development	$2.2	$2.9
Procurement	2.3	3.6
Construction	.7	.9
Total	5.2	7.4

Rail Garrison basing program acquisition cost estimate is not directly comparable to acquisition cost estimates for the Peacekeeper in Minuteman Silo program or the Small Intercontinental Ballistic Missile (ICBM) program. The estimate is for the new basing mode and five basing verification test flight missiles. It does not include procurement costs for the 50 deployment missiles or missiles required for operational test and evaluation (OT&E). All such missile costs are included in the Air Force's plan to deploy Peacekeeper missiles in Minuteman silos and are reported in that program's Selected Acquisition Report. Table I.2 shows the number of missiles planned for procurement under the Peacekeeper in Minuteman silo program.

Table I.2.—Missiles planned for procurement under the Peacekeeper in Minuteman Silo Program

Description	Number
Missiles for development, test, and evaluation	20
Missiles for silo deployment (currently capped at 50 missiles by the Congress)	100
Missiles for OT&E (based on Joint Chiefs of Staff guidance)	108
Missiles for aging and surveillance testing	15
Missiles for Rail Garrison OT&E (added in fiscal year 1988)	[1]12
Total	255

[1]The Rail Garrison basing program includes five basing verification flight test missiles.

As indicated above, the Air Force is currently planning to procure 12 OT&E missiles to support the Rail Garrison basing program. However, if the Rail Garrison mode is approved by Congress, the actual number required for OT&E could range from 0 to 108 depending upon OT&E results and decisions on the number of missiles that may eventually be deployed in the Rail Garrison mode. The following shows the different number of missiles that may be needed.

According to preliminary Strategic Air Command (SAC) calculations, 24 missiles would be needed for the first 3 years of SAC's Rail Garrison OT&E program—12 more missiles than the Air Force is planning to procure. SAC calculated the number of needed OT&E missiles by applying the same methodology used in determining the number of missiles needed for the Peacekeeper in Minuteman Silo OT&E program, which complies with guidelines provided by the Joint Chiefs of Staff.

SAC used the same methodology cited above to calculate that an additional 84 OT&E missiles would be needed for a follow-on 12-year test phase if the first 3 years of testing shows differences in Peacekeeper performance when launched from a rail launch car versus a silo. Current costs are based on deploying 50 missiles in silos and 50 in the Rail Garrison mode. If the Air Force decides to deploy all 100 Peacekeeper missiles in Rail Garrison basing by transferring 50 missiles from silo basing, as suggested by the Secretary of Defense, then the 12 OT&E missiles may not be necessary. According to an Air Force official, under this plan the 108 missiles planned to be procured for the Peacekeeper in Minuteman Silo OT&E program could be used to support the Rail Garrison test program. Under this scenario, however, there would be additional costs associated with deploying 25 additional trains.

Program officials stated that it is up to the Office of the Secretary of Defense to choose the desired OT&E scenario and the corresponding number of test missiles to be procured.

In commenting on a draft of this report, the Department of Defense (DOD) stated that it did not believe that the characteristics of the Rail Garrison program would be sufficiently different from the silo-based program to require a large, separate test program. DOD believes that the 5 development and 12 operational test missiles programmed for Rail Garrison will be sufficient.

In late 1986 the Secretary of Defense recommended and the President directed the development of the Rail Garrison basing concept for Peacekeeper deployment with an initial operational capability (IOC) date of December 1991. (IOC is defined as deployment of one operational train with two missiles and one training train.) According to the program office, achieving the December 1991 IOC date required an ambitious schedule, with 5 years to design, develop, and test the basing system; begin basing system procurement; begin land acquisition and facility construction; and perform all the other activities necessary to support deployment of Peacekeeper missiles on trains. To meet this challenge, the program office has developed an acquisition schedule containing concurrent development and production activities.

In May 1988 the Secretary of Defense recommended the initiation of full-scale development of the Peacekeeper Rail Garrison basing program. According to the program office acquisition plan, the IOC is the primary driver of the overall Rail Garrison program schedule. Cost, performance requirements, and contract delivery schedules have been developed to meet this date, and any trade-offs necessary in the future will be made with the primary objective of maintaining it without degrading mission objectives. Table I.3 shows selected approved program milestones as of May 1988.

TABLE I.3.—APPROVED PROGRAM MILESTONES

Milestone	Date
Start of full-scale development	May 1988.
System design reviews	September 1988.
Preliminary design reviews	February to May 1989.
Critical design reviews	December 1989 to March 1990.
Initial production decision	March 1990.
Basing verification missile tests	June 1991 to May 1992.
Initial operational capability	December 1991.
Full-rate production design	March 1992.
Full operational capability	December 1993.

In our view, the program acquisition schedule for the basing system is optimistic for the following reasons.

The contractually required functional configuration audit intended to validate that the development of a weapon system component has been completed satisfactorily is scheduled to start in January 1991, about 9 months after the initial production decision, and continues through September 1991, about 3 months before the IOC date.

The initial production decision for the basing system is scheduled some 15 to 19 months before the first of five scheduled basing verification flight tests, which are to demonstrate the compatibility of Rail Garrision basing and Peacekeeper missile hardware and software.

The initial production decision is currently scheduled for March 1990. On the basis of a program office plan, at least 30 of the 50 operational missile launch cars could be put on contract and 13 cars delivered before the full rate production decision in March 1992.

It should be noted, however, that in authorizing full-scale development in May 1988, the Secretary of Defense stated that the number of trains to be acquired on the initial production contract had not been decided. He stated that a determination on production rates would be an issue for the Defense Acquisition Board when it meets to authorize the initial production.

CONCURRENCY

The Rail Garrison acquisition strategy provides for the start of production 2 years before the completion of development contracts—the train car development contracts extend into mid-1992, even though a production decision is scheduled for early 1990. This overlap between development and production is referred to as concurrency. Concurrency can be an effective technique to expedite the development and production of weapon systems, provided the practice is well planned and controlled. Although program officials acknowledge that concurrency exists, they believe that Rail Garrison's low technical risk combined with the planned sequential testing and evaluation program represents a reasonable risk approach to achieving the IOC date. Our past reviews, however, have regularly identified concurrency as one cause of cost, schedule, and performance problems in weapon system acquisition programs. Therefore, we believe concurrent Rail Garrison basing development and procurement activities will warrant continued management attention.

Rail garrison testing overlaps production and deployment activities

According to the program office, the results of developmental testing of preliminary designs of individual subsystems will provide adequate information to support an initial production decision scheduled for March 1990. However, at that time only about 2 years of the 4-year test program planned at the beginning of full-scale development will be completed, and most systems integration testing, all weapon systems testing including 5 basing verification missile flight tests, and most of the operational test and evaluation effort will remain to be done. At the outset of full-scale development, the Peacekeeper Rail Garrison test and evaluation effort is a combined development, test and evaluation and operational test and evaluation program. The emphasis at the beginning of full-scale development will be on development testing, with a gradual shift in the emphasis to operational testing after the production decision. The combined test program involves three phases: development testing, integration testing (development integration and system integration testing), and weapon system testing. Most of the operational test and evaluation testing are planned to be conducted during the system integration and weapon system testing phases, during the calendar year period 1990 to 1992.

Development tests and development integration tests will be conducted on preliminary designs of mechanical and electrical hardware subsystems to provide data for Critical Design Reviews and to support the initial production decision planned for March 1990. In general, Critical Design Reviews are formal technical reviews of components or subsystems to determine whether their designs meet specifications before the commitment of those designs to production. The Ballistic Missile Office plans to conduct these reviews from December 1989 through March 1990.

Systems integration testing is scheduled to begin in January 1990. This testing is designed to (1) integrate the electrical, mechanical and software systems in the respective locomotive, missile launch car, launch control car, maintenance car, and security car and (2) evaluate the performance of entire systems. The testing is to continue until July 1992, overlapping operational hardware production.

Weapon system testing to demonstrate and confirm system performance in specified operating environments is to begin in January 1991. This final test phase includes both ground and flight testing to demonstrate and confirm the compatibility of the complete weapon system hardware and software. The first of five basing verification missile flight tests is scheduled for the third quarter of calendar year 1991, about 15 to 19 months after the scheduled initial production decision. The final three flight tests are scheduled after the IOC date of December 1991, and the final flight is scheduled for no later than June 1992.

The program office does not consider the overlap among testing, production, and deployment to be an issue for the Rail Garrison program because it is not developing and testing new technology; rather, it is conducting engineering efforts to integrate proven missile systems into the existing rail industry. Although a considerable amount of testing will be done before the production decision, most of this testing is to be conducted on preliminary designs of individual subsystems and is intended to evaluate the performance of individual subsystems rather than demonstrate weapon system operational effectiveness.[1]

FUNDING

The Congress approved $440 million for the Rail Garrison basing program—$90 million and $350 million in fiscal years 1987 and 1988, respectively, for research and development. The Congress stated that authorization of Rail Garrison research and development funds for fiscal year 1988 did not constitute a commitment or express an intent by the Congress to provide funds to deploy any Peacekeeper missiles in a Rail Garrison basing mode. The Congress appropriated $600 million in fiscal year 1989 for research and development. However, only $250 million can be obligated before February 15, 1989. Furthermore, the Congress requested the President to submit a report to the Committees on Armed Services and Appropriations between January 21, 1989, and February 15, 1989, on how funds for ICBM modernization would be obligated for the remaining amount.

Availability of procurement funds

The availability of sufficient procurement funds to support attainment of initial and full operational capability dates, as currently scheduled, is uncertain because of the following.

DOD stated that all 12 Peacekeeper missiles, for which fiscal year 1989 procurement funds were being requested, would be used for Peacekeeper OT&E and aging and surveillance tests. None was planned for use on the Rail Garrison program. The unavailability of fiscal year 1989 missile procurement

[1] Operational effectiveness is defined as the ability of a system to accomplish its mission when placed in use in the planned operational environment.

funds reduces the time available to procure missiles for Rail Garrison deployment before the IOC date from about 39 to 27 months, assuming fiscal year 1990 missile procurement funds are appropriated for Rail Garrison. Since it takes about 32 months to acquire parts and manufacture a Peacekeeper guidance and control system, achieving the IOC date with missile systems procured specifically for Rail Garrison deployment will be a challenging task.

In 1986, 1987, and 1988, the Congress authorized the procurement of 12 Peacekeeper missiles each year for silo deployment and OT&E—36 missiles in total. During the 3-year period, DOD had requested funds for 90 missiles. In keeping with this pattern, DOD reduced its fiscal year 1989 missile procurement request from 21 to 12. Table I.4 shows current missile procurements, deliveries, and test plans.

TABLE I.4.—MISSILE PROCUREMENTS, DELIVERIES, AND SCHEDULED TESTS

Fiscal year	Actual/planned procurements	Actual/planned deliveries	Scheduled OT&E tests
1986 and before	54	6	
1987	12	24	
1988[1]	12	17	
1989	12	12	3
1990	21	12	8
1991	21	12	8
1992	21	17	8
1993	21	([2])	7
Subtotal	174	100	34
Beyond 1993	61	135	74
Total	235	235	108

[1] Missile procurements and deliveries through fiscal year 1988 are actual.
[2] Unknown.

As indicated in table I.4, DOD plans to request 21 missiles a year in future years. DOD will need 134 missiles by the end of December 1993: 50 missiles for the silo program, 34 missiles for OT&E, and 50 missiles to achieve full operational capability for Rail Garrison. To ensure that the 134 missiles are delivered by December 1993, DOD will have to procure more than the currently planned 21 missiles in fiscal year 1990 and 1991 or use some of the Peacekeeper OT&E missiles for Rail Garrison operations.

All missiles procured through fiscal year 1989 have been for the Peacekeeper in Minuteman Silo Program (50 missiles for deployment and 40 missiles for operational test and evaluation). Since it takes about 3 years to manufacture a Peacekeeper missile, any missile procured after fiscal year 1989 would not be available in time to support Rail Garrison initial deployment planned for December 1991. Therefore, some missiles purchased for the Peacekeeper in Minuteman Silo program will have to used for Rail Garrison. Program officials stated that a sufficient number of Peacekeeper missiles are being acquired to support deployment if congressional approval is provided to use some OT&E missiles for Rail Garrison operations.

PERFORMANCE

Although Rail Garrison invovles requirements uncommon to silo-based ICBM systems, the Air Force believes that the Rail Garrison option offers a low-risk program that is principally an engineering effort taking advantage of existing equipment and technology, existing rail network infrastructure and existing SAC bases and ICBM infrastructure, such as nuclear weapons storage areas and strategic command, control, and communications systems.

The Rail Garrison basing program entered the full-scale development phase in May 1988, and any conclusive assessment of its technical performance must await the results of planned testing. In particular, certain unique operational effectiveness characteristics associated with mobility on the rail network, such as the capability to restore missile accuracy in a specified time frame and to launch from the missile launch car, must be fully evaluated and demonstrated before the effectiveness of the operational concept can be confirmed. In addition, the viability of the Rail Garrison concept is predicated upon sufficient rail availability and establishing acceptable working relationship with the railroads.

Missile accuracy restoration

If Rail Garrison is to place time-urgent, time-sensitive hard targets at risk the Air Force must develop the means to restore the guidance and control system accuracy within specified time frames after the train has been moved. On the basis of studies and analyses and an initial rail test, the Air Force is confident that accuracy can be restored within specified time frames. This test involved moving the guidance and control system's inertial measurement unit in a van on a rail car between El Paso, Texas, and Santa Ana, California, to characterize navigation and accuracy updating associated with rail mobility. The test indicated that guidance and control instruments remained stable, but that navigation aids may be required for launch from non-presurveyed benchmark locations.

The program office plans to continue to define the effects of movement on system accuracy and evaluate the means to restore accuracy from anywhere on the rail network through a series of tests, including the following.

Rail van tests on commerical rail networks scheduled for late 1988, mid-1989, and 1990 will be performed to further define navigation and accuracy updating associated with rail mobility.

Vibration tests planned for late 1988 are being performed to evaluate alignment recovery models for vibration tolerances.

Land navigation sled tests scheduled for early 1989, late 1989, and late 1990 will be performed to evaluate alternative methods for velocity, heading, altitude, and position determination.

Missile launch from a rail car

In analyzing and evaluating the capability to launch a missile from a rail car (as opposed to a silo) and resume mobile operations following launch, the program office has many factors to consider such as the train's ability to withstand the effects of missile launch and subsequent first-stage ignition and the launch effects on commercial railroad trackbeds. The program office believes that the 17 Peacekeeper flight tests have provided confidence that the pressures, shock, heat, and noise of first-stage ignition will not create difficulties. In addition, simulated effects of launch ejection reaction loads on a developmental model of the car, track, and roadbed led the program office to conclude that these elements can sustain launch loads.

These tests were performed in March and July 1988. Information from these tests will also be used to define launch point conditions and to develop the test objectives for a canister assembly launch test program. Additional testing is planned to further evaluate, demonstrate, and confirm the capability to launch from a rail car either from the train alert shelter or while dispersed on the rail network. These tests include the following.

A canister assembly launch test program to be conducted between mid-1989 and early 1990 will continue the development of the launch conditions, define the launch constraints, and refine the test objectives for the final phase of launch capability development during the flight test program.

In April and May 1991 the capability of the missile launch car to perform canister erection through the train alert shelter roof opening will be tested. The capability to actually launch from a train alert shelter will be part of the basing verification flight test program unless other test results prove this launch is not required.

An evaluation of the capability of the missile launch car to reconfigure for mobility will be done as part of basing verification flight test program.

Railroad interface

To ensure the mobility necessary for survivability, the Air Force must be confident that enough track to meet the size requirements of the missile train is available. Survivability also depends upon the ability of the Peacekeeper train to operate safely on the available rail network in conjunction with commercial rail traffic.

To facilitate the planning and evaluation of the Rail Garrison basing concept, the Air Force entered into an interagency agreement with the Federal Railroad Administration in August 1987 to have that agency provide technical assistance and counsel. The Federal Railroad Administration identified the Association of American Railroads, through its member operating rail companies, as the organization best qualified to evaluate railroad network restrictions and requirements that might affect the development of the Rail Garrison basing concept. Consequently, the Federal Railroad Administration contracted with the Association to provide technical assistance in vehicle dynamics, track structure, railroad operations, and an assessment of the available rail network.

Rail Availability for Peacekeeper Operations

Based on the size and weight specifications for Rail Garrison, the Federal Railroad Administration and the Association of American Railroads estimate that at least 120,000 miles of track is available for Rail Garrison deployment. This estimate represents the preliminary results of assessments being done by the railroads under contract to the Association of American Railroads. Further track assessments and analyses are scheduled during full-scale development to determine more precisely what track is available. Table I.5 shows train car size dimensions that were used in calculating the availability of suitable track.

TABLE I.5.—PEACEKEEPER RAIL GARRISON TRAIN CAR DIMENSIONS

Train cars	Weight	Length	Height	Width
Security/personnel car	300,000 lbs	90′	15′9″	9′5″
Launch control car	300,000 lbs	90′	15′9″	9′5″
Maintenance car	200,000 lbs	90′	15′9″	9′5″
Missile launch car	580,800 lbs	90′	15′9″	9′5″

Program officials stated that the rail car dimensions listed in table I.5 meet design

standards established by the Association of American Railroads, and they are confident that rail cars of these dimensions can be developed and manufactured. The Federal Railroad Administration, the Association of American Railroads, and several railroad companies advised us that they believe the Air Force will have no problems in developing Peacekeeper rail cars that meet railroad car dimension standards. Nevertheless, as the Rail Garrison concept matures, the potential for growth does exist, and increases in rail car dimensions could reduce the amount of suitable track mileage available for deployment. In this regard, we noted the following.

The physical characteristics of the rail system constrain missile launch car size, e.g., tunnel and bridge clearances, the distance between parallel tracks, and the degree of track curvature.

Current Air Force specifications require the missile launch car not to exceed 550,000 pounds, including the weight of the missile. Program officials do not expect the launch car weight to exceed specifications. However, past experiences in developing mobile launch vehicles for the Peacekeeper missile and Small ICBM suggest the potential for missile launch car weight growth; for example, the initial design concept for Small ICMB's hard mobile launcher weighed about 120,000 pounds, and, as the design matured, the weight of the launcher grew to between 180,000 and 195,000 pounds. Also, the original design concept of the missile launch car has changed to allow greater weight. The initial concept restricted missile launch car weight to 526,000 pounds, but, by increasing the diameter of the wheels and making other changes to the chassis, a total weight of 630,000 pounds is now allowable.

Joint Operations With Commercial Railroads

The ultimate goal for interface between Rail Garrison and the commercial rail network is a system that will operate under formal agreements with railroad companies in compliance with railroad operations policies and practices and with government regulations already imposed on the railroad industry. Based on preliminary talks with the railroad companies, the Ballistic Missile Office anticipates no problems in defining agreements for track usage. Also, during our discussions with the railroad companies, they indicated that they did not expect problems in negotiating Rail Garrison operations.

An interoperability working group composed of representatives from the Federal Railroad Administration, the Association of American Railroads, Air Force Systems Command, SAC, the Ballistic Missile Office, and Air Force Headquarters has been formed to ensure that (1) smooth system interface takes place with the nations's railroads, (2) the railroad interoperability studies and analyses address the concerns and meet the requirements of all parties involved in eventual system operation, (3) a forum exists for the exchange of ideas between the Air Force and commerical railroad companies, which fosters cooperative efforts, and (4) these ideas are integrated and coordinated with minimum duplication of effort. The Ballistic Missile Office expects to be finalizing formal agreements with the railroad companies between mid-1990 and mid-1991.

SELECTION OF DEPLOYMENT AREAS

F. E. Warren Air Force Base, Wyoming, is the designated main operating base and the first garrison deployment installation for the Peacekeeper Rail Garrison system. The system is planned to be deployed at up to 10 other candidate Air Force installations. The following Air Force installations, listed in alphabetical order, were identified by the Air Force as having the greatest potential to support the Peacekeeper Rail Garrison system.

TABLE I.6.—POTENTIAL PEACEKEEPER RAIL GARRISON INSTALLATIONS

Installation	State
Barksdale Air Force Base	Louisiana.
Eaker Air Force Base	Arkansas.
Dyess Air Force Base	Texas.
Fairchild Air Force Base	Washington.
Grand Forks Air Force Base	North Dakota.
Little Rock Air Force Base	Arkansas.
Malmstrom Air Force Base	Montana.
Minot Air Force Base	North Dakota.
Whiteman Air Force Base	Missouri.
Wurtsmith Air Force Base	Michigan.

The Air Force is preparing an environmental impact statement to aid in the final selection of deployment installations, the siting of facilities, and the development of appropriate mitigation measures. This process formally started in February 1988 with a draft environmental impact statement being issued in June 1988 for public comment and a final statement planned to be filed in December 1988. In early 1989, after the final statement is filed, deployment installations for the Peacekeeper Rail Garrison system, in addition to F.E. Warren Air Force Base, will be selected. In March 1989 the Air Force plans to begin land acquisition for the second, third, and fourth deployment locations. Currently, the Air Force projects that the missile assembly building and the garrison at F.E. Warren Air Force Base and at bases, 2, 3, and 4 will be funded to begin construction in fiscal year 1990. The Air Force is discussing several issues and related mitigating issues in the draft environmental impact statement. Most candidate installations have at least one issue of significance that requires mitigation. The following are examples of these issues.

While the Air Force would have preferred bases where garrison facilities and explosive safety zones could be contained within base boundaries, that was not possible in all instances. Land may need to be acquired adjacent to seven installations (Eaker, Fairchild, F.E. Warren, Grand Forks, Malmstrom, Minot, and Whiteman Air Force Bases) for Rail Garrison facilities or to relocate existing base facilities to accommodate Rail Garrison facilities. The amount of land needed for Rail Garrison or relocated facilities ranges from 31 acres at Malmstrom Air Force Base to 639 acres at F.E. Warren Air Force Base (south site option). At three installations (Eaker/off-base option, Minot, and F.E. Warren/south site option), almost all the garrison facilities would be sited on land to be acquired off base. The acquisition of off-base land for garrison facilities at F.E. Warren and Eaker Air Force Bases would be for alternative siting plans that have been developed to mitigate other environmental issues.

A special area of concern is a 70-acre major archaeological village site at Eaker Air Force Base. This site contains Native American artifacts and remains and is being studied for eligibility of inclusion on the National Register of Historic Places. An alternative site is being considered that would place the entire garrison off base and require the acquisition of 371 acres of agricultural land. There have also been some archaeological finds at this site, but not to the same degree as at the other site.

At Barksdale Air Force Base, long-term impacts of biological resources would be high, according to the Air Force, because the program would affect large areas, cause disturbances in surrounding wetland habitats, affect sensitive wildlife populations, and result in the degradation of local and regional biological communities. The Air Force stated that similar conditions exist at Fairchild, Whiteman, and Wurtsmith Air Force Bases; however, the long-term impacts would be moderate.

The final acceptability of the Air Force's siting proposals and related mitigating measures will not be known until after the public has an opportunity to comment on the draft environmental impact statement.

APPENDIX II—PEACEKEEPER RAIL GARRISON OPERATIONAL CONCEPT AND WEAPONS SYSTEM DESCRIPTION

OPERATIONAL CONCEPT

The principal mission of the Peacekeeper Rail Garrison weapon system is to deter nuclear and conventional attacks against the United States, its allies, and any nation whose security is vital to the U.S.' interests. The weapon system is intended to combine the capabilities of the Peacekeeper missile, such as payload, range, and accuracy, with the survivability and flexibility inherent in the Rail Garrison basing approach. The Air Force believes that the survivability associated with the dispersal of trains over a large geographical area will strongly contribute to Soviet uncertainty in achieving their war aims without receiving unacceptable damage in return.

The Peacekeeper Rail Garrison weapon system consists of Peacekeeper missiles deployed in a Rail Garrison basing mode, together with operational and maintenance support equipment and facilities. A force of 50 missiles will be placed on 25 trains, each carrying 2 Peacekeeper missiles. The trains will be parked inside train alert shelters in secure garrisons at the main operating base at F.E. Warren Air Force Base, Wyoming, and at existing Air Force bases throughout the continental United States, with up to 4 trains at each garrison. About 2,600 SAC personnel will be needed to operate and maintain the system.

Within the garrisons, the trains and missiles will be protected by double fences, perimeter detection systems, and entry control procedures. The missiles will be kept on the trains in continuous strategic alert, and, if necessary, the missiles can be promptly launched from within the train alert shelters.

In the event of national need, the Peacekeeper missiles will move onto the nation's railroad network. One potential Air Force operational scenario calls for the first train to be deployed from each garrison within 15 minutes after receiving and authenticating a dispersal directive. Remaining trains would be deployed at 2-hour intervals and dispersed within 12 hours. Each train would be staffed with a 29-person crew consisting of 1 train commander, 3 train crew members, 4 combat crew personnel, 15 security personnel, and 6 maintenance personnel. According to the program office, Peacekeeper trains from 7 garrisons can be dispersed within 24 hours to any point in the continental United States rail network having suitable track. Once dispersed, the trains will be self-sufficient and can remain oper-

ational indefinitely with resupply and maintenance. Outside the garrisons, the trains will use their own security systems and security personnel to prevent unauthorized access to the missile and its nuclear warheads. Security elements on the train consist of entry control, various electronic sensors, and devices to delay or deny access to the nuclear warhead.

Missiles can be launched from the dispersed rail cars when an execution directive is received and authenticated and all guidance updates have been completed. The rail cars will be stopped and the missile's targets updated while the missile launch cars are stabilized. Then, the missile guidance system will perform the necessary alignment and estimate initial conditions before the system is readied for missile launch. Once a missile is launched, the train can be prepared to resume movement.

MISSILE DESCRIPTION

The Rail Garrison basing mode will use the Peacekeeper missile with no changes except for software. The Peacekeeper is a four-stage ICBM designed to deliver ten Mark 21 reentry vehicles to independent targets. The missile is approximately 71 feet long and 92 inches in diameter and weighs 195,000 pounds. The first three stages are fueled by solid propellants; the fourth stage uses liquid propellant. The missile's guidance and control system keeps the missile on the proper flight path and provides target accuracy.

GARRISON DESCRIPTION

Garrison designs may vary slightly to accommodate base-specific requirements and constraints, but the basic complement of facilities will be standard throughout the system. Each garrison will have up to four train alert shelters that consist of structures about 1,200 feet long and 30 feet high. Each garrison will also have maintenance facilities to provide the capability to remove or replace the missile guidance and control set and the reentry system and to provide other missile and train maintenance. Design of the operational garrison is part of a $236 million contract awarded to the Boeing Aerospace Company in September 1987, which also provides for the design, development, and fabrication of unique transportation and handling equipment, test facilities, test support equipment, maintenance car, and modification to the train locomotive.

TRAIN DESCRIPTION

Each train will consist of two locomotives, two missile launch cars, two security cars, one launch control car, and one maintenance car. The train's external appearance will resemble commercial freight rail equipment as much as possible.

The locomotive and the chassis for each train car will be commercially available equipment, modified as necessary to support the Rail Garrison design.

The Peacekeeper missile, the canister, and the operational support equipment will be housed in the missle launch car. A launch eject gas generator providing pressurized gas below the first stage will eject the missile from the canister, and the first stage will ignite after ejection. This manner of launch is referred to as "cold launch" and is the way in which Peacekeeper missiles are launched from a silo. In May 1988 the program office awarded a $167 million contract to Westinghouse Electric Corporation for development of the missile launch car.

The launch control car will contain all the functional capabilities of a Peacekeeper in Minuteman silo stationary launch control center such as a launch control system and a communication system. Communications between the launch control car and higher authority will be available, and a full complement of communications links is planned between the system and SAC elements. The launch control system performs critical functions of targeting, launch authorization, and launch, as well as status monitoring. Targeting operations and launch control processing will be essentially identical to Peacekeeper in silos. In May 1988 the program office awarded a $162 million contract to Rockwell International for developing the launch control and security cars, as well as the train security system.

APPENDIX III—COMMENTS FROM THE DEPARTMENT OF DEFENSE

DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING,
Washington, DC, December 5, 1988.

Mr. FRANK C. CONAHAN,
Assistant Comptroller General, U.S. General Accounting Office, National Security and International Affairs Division, Washington, DC.

DEAR MR. CONAHAN: This is the Department of Defense (DoD) response to the General Accounting Office (GAO) draft report, "ICBM Modernization: Status of the Peacekeeper Rail Garrison Missile System," dated Oct. 11, 1988 (GAO Code 392364, OSD Case 7795).

The Department has reviewed the report and concurs with the findings. Additional comments on the findings are provided in the enclosure. The Department appreciates the opportunity to comment on this draft report.

Sincerely,

ROBERT C. DUNCAN.

[GAO Draft Report—Dated Oct. 11, 1988, (GAO Code 392364) OSD Case 7795]

"ICBM MODERNIZATION: STATUS OF THE PEACEKEEPER RAIL GARRISON MISSILE SYSTEM"

DEPARTMENT OF DEFENSE COMMENTS

Findings

Finding A: The Peacekeeper Rail Garrison Missile System.—The GAO reported that the Peacekeeper Rail Garrison Weapon System consists of Peacekeeper missiles deployed in a rail garrison basing mode, together with operational and maintenance support equipment and facilities, including a force of 50 missiles to be placed on 25 trains (each carrying two Peacekeeper missiles). According to the GAO, the Air Force estimated the Rail Garrison Basing Program acquisition to cost about $7.4 billion in then-year dollars. The GAO found that, on May 13, 1988, the Secretary of Defense approved the advancement of the Peacekeeper Program into full-scale development. The GAO concluded that an ambitious schedule will be required to meet the initial operational capability (IOC) December 1991 date. The GAO reported that the Congress approved $440 million for the Rail Garrison Basing Program in FY 1987 and FY 1988 and $837.3 million is being requested for FY 1989. The GAO further reported that, although the Rail Garrison Basing Program involves different requirements from those of silo-based ICBM systems, the Air Force has concluded that the Rail Garrison option offers a low risk program, which is principally an engineering effort, taking advantage of existing equipment and technology. According to the GAO, the Peacekeeper missile trains will be deployed initially at F.E. Warren Air Force Base, Wyoming, and eventually at up to ten other Air Force installations, yet to be selected.

DoD Response: Concur.

Finding B: The Cost of the Peacekeeper Rail Garrison Basing Program.—As indicated, the GAO reported that the Air Force estimated that the Rail Garrison Basing Program acquisition will cost about $7.4 billion in then-year dollars, including costs to develop and procure train cars, facility construction, land acquisition and five basing verification flight test missiles. The GAO noted that the estimate does not include costs associated with developing and acquiring Peacekeeper missiles, which were included in the original plan to deploy 100 Peacekeeper missiles in Minuteman silos. The GAO observed that the rail garrison concept has many characteristics that distinguish if from the silo-based programs. According to the GAO, these differences could require as many as 108 additional Peacekeeper missiles for testing in order to provide confidence that the rail-based system is as capable as the silo-based system. The GAO concluded that, in addition to the need to determine the number of operational test and evaluation missiles, the final cost of deploying 100 Peacekeeper missiles—50 in silos and 50 in rail garrison—is dependent on several factors, as follows: the impact of any reduction in the FY 1989 budget request; the congressional funding actions related to annual procurements of Peacekeeper missiles, as they affect economical production rates and operational deployment milestones; and the impact of the planned concurrency between development and production of basing system components.

DoD Response. Concur. It is the DoD view that the characteristics of the silo and rail launches will not be sufficiently different to require a large, separate test program for the rail mode. It is also the DoD view that the five development and twelve operational test missiles programmed for the rail mode will be sufficient.

Finding C: Peacekeeper Program Acquisition Schedule Is Optimistic.—The GAO reported that (as previously noted), on May 13, 1988, the Secretary of Defense approved the advancement of the Peacekeeper Rail Garrison Program into full-scale development. The GAO again observed that developing the system by the initial operational capability (IOC) date will require an ambitious schedule. The GAO observed that all costs, testing, and delivery schedules will need to be developed to meet this date. The GAO concluded that, in order to meet this objective, the program office needs to develop an acquisition schedule with concurrent development and production activities. The GAO reported that, while program officials agree concurrency exists, they maintain that the rail garrison low technical risk, combined with the planned sequential testing and evaluation program, represents a reasonable risk in achieving the December 1991 IOC date. The GAO nevertheless concluded that the program acquisition schedule is optimistic because the acquisition strategy provides for the start of production two years before development contracts are complete. While noting the overlap between development and production (referred to as concurrency) can be an effecitve technique to expedite fielding weapon systems, the GAO concluded that, unless concurrency is well planned and controlled, it can cause cost, schedule, and performance problems.

DoD Response: Concur.

Finding D: Funding For The Peacekeeper Rail Garrison Basing Program.—The GAO reported that the Congress approved $440 million for the Rail Garrison Basing Program in FY 1987 and FY 1988 for research and development; and for FY 1989, about $837.3 million was requested ($792.9 million for research and development and $44.4 million for construction). According to the GAO, the availability of sufficient procurement funds to support the attainment of initial and full operational capability dates, as currently scheduled, is uncertain because the DoD stated that all 12 Peacekeeper missiles, for which FY 1989 procurement funds were being requested, would be used for Peacekeeper operational test and evaluation and for aging and surveillance tests, while none were planned for use in the Rail Garrison Basing Program. Since it takes about 32 months to acquire parts and manufacture a Peacekeeper guidance and control system, the GAO concluded that achieving the IOC date with missile systems procured specifically for rail garrison deployment will be challenging. The GAO also cited another uncertainty—i.e., that in FY 1986, FY 1987, and FY 1988, the Congress authorized the procurement of 12 Peacekeeper missiles each year for silo deployment and OT&E while, at the same time, the DoD requested funds for 90 missiles. The GAO estimated that the DoD will need 134 missiles by the end of December 1993, including 50 missiles for the Rail Garrison Basing Program. The GAO concluded that, to ensure the 134 missiles are delivered by December 1993, the DoD will have to procure more than the currently planned 21 missiles in FY 1990 and FY 1991. The GAO reported, however, that DoD Program Officials were confident that a sufficient number of Peacekeeper missiles are being acquired to support deployment, if Congressional approval is provided to use some OT&E missiles for rail garrison operations.

DoD Response: Concur.

Finding E: Evaluation of Technical Performance Awaits Testing.—The GAO reported that, although the Rail Garrison Basing Program involves requirements different from the silo-based ICBM systems, the Air Force maintains that the rail garrison option offers a low risk program—i.e., principally an engineering effort taking advantage of existing equipment and technology. The GAO observed that the Rail Garrison Basing Program just entered the full-scale development phase in May 1988; therefore, any conclusive assessment of technical performance must await the results of planned testing. The GAO noted that certain unique operational effectiveness characteristics associated with mobility on the rail network (such as the capability to restore missile accuracy in a specified time frame and to launch from the missile launch car) must be fully evaluated and demonstrated before the effectiveness of the operational concept can be confirmed. The GAO also observed that the viability of the rail garrison concept is predicated upon sufficient rail availability and establishing acceptable working relationships with the railroads. The GAO concluded that the Rail Garrison Basing Program is still in the early stages of its technical performance.

DoD Response: Concur.

Finding F: Site Selection Will Determine Land Acquisition Requirements.—The GAO reported that Peacekeeper missile trains will be deployed initially at F.E. Warren Air Force Base, Wyoming, and subsequently at up to ten other candidate Air Force installations. According to the GAO, depending on the siting alternatives selected, the Air Force may need to acquire 32 to 639 acres of land adjacent to seven installations for the rail garrison facilities or relocate existing base facilities to accommodate rail garrison facilities. The GAO found that, for three of the siting alternatives under consideration, almost all the garrison facilities will be located on land to be acquired off base. The GAO observed that the Air Force is preparing an environmental impact statement to aid in the final selection of deployment installations, the siting of facilities, and the development of appropriate mitigation measures. The GAO concluded that the final acceptability of the Air Force siting proposals and related mitigating measures will not be known until after the public has had an opportunity to comment on the draft environmental impact statement.

DoD Response: Concur.

Recommendations

None.

APPENDIX IV—MAJOR CONTRIBUTIONS TO THIS REPORT

NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION, WASHINGTON, D.C.

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[U.S. General Accounting Office, Testimony]

DEFENSE BUDGET AND PROGRAM ISSUES IN THE FISCAL YEAR 1991 BUDGET, March 1, 1990

(Statement of Charles A. Bowsher, Comptroller General, of the United States)

Rail Garrison.—Initial operational capability for the rebased Peacekeeper missiles is planned for 1992, and the full operational capability of all 50 missiles is planned to be achieved in 1994. To meet these milestones, an initial low-rate production decision for the missile launch cars is scheduled for February 1991.

At the time the initial production decision is scheduled to be made, no operational test and evaluation of the complete weapon system (including the missiles and rail launch cars) will have been conducted. Additionally, the Air Force plans to purchase about 73 percent of the launch cars after the initial production decision. Such a large purchase would, in effect, amount to full-rate production without any operational test or evaluation of the complete weapon system.

The Air Force considers the Rail Garrison to be a low technical risk because it views the program as basically an engineering effort to integrate proven missile systems into the existing rail industry. However, the Rail Garrison Test and Evaluation Master Plan identifies unique characteristics of the program that require testing. These include (1) the capability of the train to withstand missile launch, (2) the launch effects on commercial railroad tracks beds and the ability of the train to resume mobile operation after launch, (3) the capability of the guidance and control system to recover specified levels of accuracy following rail transit, and (4) the effects of horizontal basing and rail movement on Peacekeeper missile performance and reliability. We have recommended that the initial production decision be deferred until the Air Force has conducted some operational test and evaluation of the complete weapon system. While the Air Force has delayed the initial production decision from April 1990 to February 1991, the first flight test of the complete weapon system is not scheduled until the third quarter of fiscal year 1992. Therefore, we believe that the $1.62 billion in the fiscal year 1991 budget for the procurement of the rail launch cars ($1.35 billion) and construction of the garrisons ($269 million) should be deferred pending completion of operational tests and evaluation of the test results. We also believe that the $102.6 million in advanced procurement funding and the $104.8 million in military construction funding, which was appropriated in fiscal year 1990, should be rescinded.

[Council for a Livable World]

MX RAIL GARRISON: A MISSILE WHOSE TIME HAS GONE

In 1989, Congress appropriated funds to continue both the MX rail garrison program and Midgetman, the two-missile deal.

This year, support for both systems, and particularly the MX rail garrison, is fading at a pace comparable to the deterioration of communism in Eastern Europe. Key Congressional leaders, high ranking former military leaders and ex-cabinet officials now question whether Congress should or will appropriate $2.2 billion for MX rail garrison and $202 million for Midgetman in the next fiscal year.

Significantly, most officials have been MX supporters in the recent past.

Defense Appropriations Committee Chairman John Murtha predicts two missiles will be placed on hold:

"The influential chairman of the House's military spending panel Thursday identified the MX and Midgetman mobile missile programs as prime targets for cuts, predicting both will be put on hold pending the outcome of arms control talks with the Soviet Union."—Los Angeles Times, February 9, 1990.

Senate Armed Services Chairman Sam Nunn drops support for two-missile deal:

"I sold a lot of people—and there are people on both sides of this issue, no doubt about it—on the basis that I thought a ban on mobile MIRVs was going to be forthcoming from the White House in terms of a proposal. There is no way that I could support two missiles this year with the current position we have, and we are all going to have to think through it together."—Senate Armed Services Committee hearing, February 2, 1990.

Former JCS Chairman David Jones opposes going ahead with both missiles now:

"Within the strategic offensive forces, my lowest priority is in the modernization of the ICBM force. That doesn't mean we ought to go to a dyad, but I just don't see the great need for the modernization of that element right now, particularly with the uncertainty of arms control and so forth. I'm not saying cancel the programs 100 percent, but I would move down more the R&D route, at a very modest level."—Senate Armed Services Committee hearing, February 2, 1990.

Former JCS Chief of Staff John Vessey agrees with Jones:

"I too would cancel the two mobile missiles . . . I think the idea that somebody's going to attack our siloed missile base forces to get around 20 percent of our warheads is

just not reasonable."—Senate Armed Services Committee hearing, February 2, 1990.

So too does former JCS Chief Admiral William Crowe:

"I would associate myself with General Vessey's comments. We have a mobile missile. We have a mobile missile in the field, and that's in the seaborne mobile missile." (N.B. All three former JCS Chiefs agreed with Senator Nunn that they would prefer to trade these missiles at the START talks for Soviet mobile missiles.)—Senate Armed Services Committee hearing, February 2, 1990.

Senate Majority Leader George Mitchell says no chance that both missiles will be funded:

In response to a question from Garrick Utley on "Meet the Press," Mitchell stated: "I don't think there's any chance that the administration proposal to fund both will be enacted. I think that the former Joint Chiefs are right. It's wasteful, unnecessary, and, further, destabilizing."—"Meet the Press," February 4, 1990.

House Speaker Thomas Foley questions the two missiles:

"House Speaker Thomas S. Foley, D-Wash., told reporters the same day that to Democrats, Bush's requests for 'heavy increases in spending for things like star wars and for two new missiles systems, and so on, are highly questionable in today's environment.' "—Congressional Quarterly, February 10, 1990, p. 398.

House Armed Services Chairman Les Aspin questions whether one or both missiles will ever be built:

"Our START position allows the fielding of two mobile missiles—the MX in rail garrison and the small ICBM. It looks increasingly as if we are more likely to have one or none rather than two. In fact, three former chairmen of the Joint Chiefs said last week that they liked the small missile, but basically said they could get by without either."—House Armed Services Committee hearing, February 6, 1990.

Former Defense Secretary Harold Brown opposes rail mobile MX:

"Go ahead and develop Midgetman and deploy it in silos . . . Where I then come out is no rail mobile MX . . . I think that rail mobile MX is not stabilizing simply because it is so vulnerable to a bolt out of the blue attack."—Senate Armed Services Committee hearing, February 6, 1990.

Former Reagan Pentagon official Richard Perle says no to both missiles:

"I would not proceed with either the Midgetman or the rail mobile MX: the current generation of ICBM's should prove adequate and the next generation—for we will need a strategic deterrent as far as the mind can see—will benefit from further research and development if it is delayed for a few years."—Senate Armed Services Committee hearing, January 24, 1990.

Moderate Democratic Congressman John Spratt continues to question MX:

"Our rail mobile system isn't comparable to their's because ours will not be on the rail all the time. It won't be mobile. It will be immobile most of the time, and indeed we'll be clustering missiles in one location, those earthen igloos, and it really creates a vulnerability during the time that they are in those locations."—House Armed Services Committee hearing, February 6, 1990.

FEBRUARY 1990.

Mr. JEFFORDS. Mr. President, I am pleased to join with my colleagues from Michigan in the introduction of legislation to reduce fiscal year 1991 funds for the MX rail garrision system. I also appreciate the comments of the chairman of the Armed Services Committee, the gentleman from Georgia.

Mr. President, debate about the basing modes, merits and purposes of the MX missile has spanned the better part of this decade. There remains considerable disagreement on these issues, even though 50 missiles have been procured and placed in old Minuteman silos. While the majority of my colleagues have disagreed with my stand against the MX missile, I assume most of them would agree that if we are going to proceed with the MX rail garrision system, we must be reasonably sure it's going to work.

After considerable research into alternatives, the Air Force finally settled upon the rail garrision basing mode. Extensive research and development has been conducted over the last few years. The Department of Defense now claims it is ready to move to production of the rail garrision system and has requested $1.6 billion for procurement and related military construction funding for the coming year. Yet the system level operational test and evaluation process is far from complete. According to the General Accounting Office, the rail garrision test plan calls for evaluating the capability of the trains to withstand missile launch effects, the ability of the trains to resume mobile operations after launch, the system's ability to recover its accuracy following transit and the effects of horizontal basing and rail movement on the missile's performance and reliability. These are fundamental questions that have a direct bearing on the performance of the entire system. Yet this request would have us procure 73 percent of the missile launch cars before the test data is even available. This does not seem like a fiscally responsible way to proceed.

The legislation we are introducing today is very straightforward. It simply deletes $1.3 billion in rail garrision procurement funds and $269 million in associated military construction monies. Our legislation would leave intact the $556 million requested for continuation of research, development and testing at current levels. Passage of this legislation would merely ensure that we don't launch into major production until we are sure that the system will work.

Mr. President, I am well aware that there is considerable discussion over the usefulness of the MX as a bargaining chip in the START negotiations with the Soviet Union. I have my own opinion on this issue. However, I would hope that, no matter what my colleagues position on this question, we can agree that prudence dictates a little more patience in moving to production. We have an obligation to our men and women in uniform and to the Nation's taxpayers to ensure that our resources are buying us the strongest defense possible.

UNANIMOUS-CONSENT AGREEMENT—PACKWOOD AMENDMENT TO H.R. 1594

Mr. NUNN. Mr. President, on behalf of the majority leader, I ask unanimous consent that with respect to the Packwood logging amendment to H.R. 1594, on which there is a 1-hour time limitation, that any second-degree amendment thereto be relevant to the first-degree and be limited to 50 minutes of debate, equally divided in the usual form.

The PRESIDING OFFICER (Mr. CONRAD). Is there objection? Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask to speak in morning business for 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection.

EARTH DAY 1990

Mr. WIRTH. Mr. President, I want to spend a few minutes this morning commenting on Earth Day 1990, and what the long-term implications are for us in the U.S. Congress, for our Government, and for the country.

As we all know, Earth Day 1970 set off debate of environmental action by Congress and by our Government. Certainly, I think we all hope that the Earth Day II will start a new decade of environmental action. Never have the challenges been greater.

In addition to the problems of air and water pollution that we addressed in the seventies, we are now facing problems on a global scale, including global warming, destruction of the stratospheric ozone and destruction of the world's biological diversity. We face a world of an ever-growing number of people seeking economic development. The developing world in Eastern Europe and the Soviet Union, now undergoing radical restructuring, need examples of how to build a strong economy with a clean environment. The United States must endeavor to set such an example and to provide world leadership in the effort to protect our environment.

Never has the need for leadership been greater. We, in the United States, need to show the world our determination to provide environmental quality for our people and leadership for the whole of the globe. We need to be a working model for the world of how to integrate environmental protection and economic growth.

It is my hope that Earth Day 1990 will rekindle the United States' resolve to provide this sort of leadership in the area of environmental protection.

It is by setting an example of environmentally responsible action that we can gain that leadership.

That leadership should begin right here in the Senate. This year the Senate will have a number of opportunities to demonstrate its leadership and to provide this kind of model. I wish to discuss several of these opportunities that we have before us.

The first is clean air. We in the Senate have just passed amendments to the Clean Air Act which set up a program to control acid rain, required automobiles to cut their emissions of pollutants and set up new programs to control toxic air pollutants.

These Clean Air Act amendments are a crucial test of our leadership on the environment. They reflect more than a decade of experience with Clean Air Act legislation that we last passed in 1977. They represent our willingness to learn from the successes and failures of that past legislation, our recommitment to the important environmental goal of providing healthy air for all of our citizens, and our willingness to move off the status quo in order to achieve our goals.

The strengthening of the Clean Air Act is of crucial importance to the health of our citizens, the majority of whom live in cities where the air is a threat to healthy productivity. It is also of critical importance to the health of our natural environment which more and more is subject to damage from these same pollutants.

But the Clean Air Act also represents an important watershed in the Congress' approach to environmental problems. The amendments passed by the Senate include an acid rain control program that is revolutionarily different from the pollution control program that we instituted in the seventies.

Rather than dictating uniform application of a particular control technology, the so-called "command and control" regulatory scheme on which most of our environmental programs have been built in the past, the Senate's clean air bill creates a market for pollution permits.

In the market created by the legislation, the same strong forces which drive our competitive economy motivate utilities to find the most cost effective mix of different technologies, and also motivates them to find strategies for pollution reduction that are going to be the cheapest for the consumer.

This system provides the maximum of flexibility for those utilities to find ways to meet the pollution reduction goals set by the Senate. At the same time, it meets those goals at the least overall cost to the Nation. This permit trading system was championed by President Bush, who was kind enough to give credit to Senator HEINZ and me for setting forth this idea in Project '88, a study we commissioned to examine ways to put economic forces to work in greater levels of environmental protection.

As we face a future full of new and even more daunting environmental challenges than we dealt with in the 1970's, and as we look at old problems that have persisted despite legislative solutions we put into place in the last decade, we need to rethink our approaches to solving these problems. We are going to have to be open to new ways of thinking like in Project '88 and the acid rain solution, which it seems to me is a good first step for us in taking a fresh look at how to solve many of these vexing problems.

Obtaining final passage of the strong Clean Air Act which retains this bold new approach to environmental abuse, as well as including needed improvements in many other areas, should be one of our highest priorities for this year.

Going beyond air pollution to global warming links us to this other monumental challenge, perhaps the greatest environmental threat of them all, global warming. As we have seen in this week's newspaper, people around the world believe that we need to act with greater urgency to slow emissions of so-called "greenhouse gases." Despite the lack of urgency demonstrated by the current administration, we in the Senate must be leaders in the effort to reduce the risks of runaway global warming.

Again, this process will be a major test of our leadership. Global warming is a complicated scientific issue. It presents enormous political and economic challenges. And most dauntingly, the global warming issue will require us to take the long view, to think less about tomorrow's headline and more about fundamental health, about the life-support systems we leave to our children and grandchildren.

On the global warming issue, we cannot wait for the crisis to develop before we act. If we do, the costs of our inaction will be enormous. Instead, taking the long view, we should be taking out an international insurance policy to hedge against global warming, and the components of this insurance policy should be based on policies that make sense for other reasons.

First, and foremost, we should be searching out and realizing energy efficiency opportunities in every sector of our economy. Energy efficiency is good energy policy, good economic policy, good environmental policy and good trade policy.

We should be marching out more smartly in the quest for new alternative sources of energy, ranging from more extensive programs on solar energy, hydrogen and more familiar resources, to a more focused program on the potential of nuclear power. We currently have a kind of nuclear neuralgia in this country for good reason. Are we going to be able to jump a generation or two and again see if nuclear power can be made to work?

We should be developing legislative initiatives to seek to expand markets for our abundant, and the cleanest domestic resource, natural gas. Natural gas has enormous benefits for clean air and produces significantly less carbon dioxide than its sister fuels.

Earlier in this session I introduced legislation, S. 324, to do many of these things. That legislation, the so-called global warming bill, has been cosponsored by 34 of our colleagues in the Senate and was referred to the Committee on Energy and Natural Resources, which held a number of hearings on the legislation in this Congress, in addition to having had extensive hearings on the topic of global warming and our Nation's energy policy in the 100th Congress.

I am very hopeful that the Energy Committee will soon markup and report this bill to the Senate for debate and vote, so that we will all have an opportunity to address the challenge presented by global warming, and to act on it.

Finally, I must bring up an important element of the global warming problem that which, while it was addressed in S. 324, will probably not be part of the bill reported to the Senate. That is the accelerating growth of the world's population.

Any insurance policy we create to protect us against global climate change has to address the basic issue of population. All of the world's environmental problems are going to be exacerbated by the soaring global population. It took all of human history for the global population to grow to 1 billion people early in the 1800's. It took just a century and some to reach the 2 billion mark, in the 1930's. But we reached 3 billion in the 1960's, 4 billion in the 1970's, and we just recently topped 5 billion people.

The pace of this population growth is overwhelming our capacity to understand and manage the effects on the global commons. We simply must recommit ourselves to a position of world leadership on population. It is unquestionably the single environmental issue that threatens to undo all of our best intentions.

We used to be leaders in the population field—developng the first international program, contributing to the foundation of important multilateral agencies. But we have abdicated our responsibilities in this area during the past decade. We are contributing less to population programs now than we did in 1973, more than 17 years ago, when population was established as a separate line item in the Federal budget. It is my hope that we will reestablish our leadership and help the

nations of the world help themselves to slow the growth of the world's population.

The global warming issue, Mr. President, is severe and important. It is not appropriate for the White House and this administration to drag its feet on this to say that the only thing that we have to do is more research. The overwhelming scientific evidence is that the world is going to get warmer. The question is not if, it is how much, how fast. And even the doubters in this area say that there is at least a 15-percent chance that the world is going to warm. Mr. President, 25 percent odds are pretty great. If you made a reservation at a restaurant and knew that there was a 25-percent chance that you would get botulism by going to that restaurant what would you do? We have changed our way of thinking. That is absolutely imperative.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. WIRTH. Mr. President, I ask unanimous consent to proceed for an additional 8 minutes.

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

PUBLIC LANDS

Mr. WIRTH. Mr. President, a more local but just as important challenge involves how we use the public lands managed by the Federal Government. How can I say that this is just as important as global warming legislation? Because the world is watching us, and how we manage our public lands is an important test of our environmental credibility, and an important example to the developing nations which own most of the world's forest resources.

We know that how Brazil and other tropical nations manage and conserve their tropical forests can significantly affect the climate of the globe, even to the point of affecting the weather on which our own farmers depend. These tropical forests are also the greatest reservoir of biological diversity on our planet. The vast majority of all the species of animals and plants that exist live in these rain forests.

But how can we expect to influence these nations to pursue conservation, to take a long-term view of the environmental consequences of their policies, and not to simply attempt to maximize economic uses in the short-term, if we do not do so ourselves?

The use of America's national forests is now a matter of great controversy. We face real choices between different paths of development.

Nowhere is there a greater need to restructure our attitudes and our policies toward our forests than in the Tongass National Forest in southeast Alaska.

In that forest, the United States has subsidizing logging that is quickly destroying environmental resources that are also important economic assets for this region. For in Alaska, the salmon fishing industry is a major employer and a major contributor to the economy. But this industry depends salmon spawing streams in the forest that can be and have been significantly harmed by logging activities. In Alaska, hunting and fishing are also an important part of local economies—both in terms of providing fish and game for local residents, and in terms of promoting tourism and recreation, another major element in the economy of southeast Alaska. These resources, too, have been compromised by logging activities.

Does this logging of public trees return dollars to the U.S. Treasury? No. Adding insult to injury, this logging costs the taxpayer. This logging, which is endangering southeast Alaska's salmon fishing industry, fish and game resources, and recreation and tourism industry, cost U.S. taxpayers $350 million over the past decade.

This is bad economics and bad environmental policy. Early last year, I introduced legislation to change this situation. I am gratified that 52 Senators have joined me in cosponsoring that bill, S. 346.

A version of that bill was reported by the Senate Energy Committee several weeks ago. The bill will cancel the permanent appropriation which now funds the Tongass Timber Program, modifies the 50-year timber contracts which are unique to this forest, cancels the unrealistically high and inflexible legislated timber harvest goal Congress set for this forest in 1980, and prohibits timber harvest in certain key fish and wildlife areas in the forest.

It is my belief that these sorts of reforms are needed to correct what is now an unbalanced, timber-only approach to the management of this forest, an approach which by focusing too tightly on one industry has threatened the sustainability of other resources of this forest which are important to the local economy as well as to the local environment.

I am hopeful that very shortly the Senate will have an opportunity to debate this bill, to vote for it, and to vote for amendments to strengthen it.

It is imperative that we in the United States address our own public lands, our own timber program. How in the world can we say to the Brazilians, "take care of your rain forest when they are turning and pointing the finger to us saying how can you wantonly destroy a last great rain forest in North America and turn around and tell us to tend to our backyard?"

RECYCLING AND A NEW ECONOMICS

Congress will soon turn its attention to the reauthorization of the Resource Conservation and Recovery Act [RCRA]—the Federal statute regulating waste disposal.

We are currently facing a crisis in waste management. A simple fact that makes clear the scope of the problem is that 74 percent of existing landfills will close by the end of the decade. To replace them, we will have to site new landfills and incinerators—but the siting of these facilities will be far more expensive than it has been in the past, and far more politically difficult as well.

An important part of the solution to this problem is to reduce the amount of waste we produce, and to recycle as much of our waste as possible. Two fundamental obstacles stand in the way of these objectives. First, while the cost of disposal has risen, those costs are not paid by those who sell these materials—they are paid by the taxpayer, the consumer. The result is that the producers and sellers of these materials have no stake in whether the materials are recycled, or simply thrown away.

Second, the market for recycled materials has been both weak and unstable. Recycled materials, still cost more than virgin materials—depressing demand for them.

Senator HEINZ and I recently introduced three bills aimed at overcoming these obstacles for significant segments of the waste we are now producing. To do this, we have proposed going beyond Congress dictating what people must do with waste. Instead, these bills create a market for recycled materials which will put the strong economic forces of the marketplace to work to overcome the obstacles to waste reduction and recycling.

Our legislation will require producers or importers of motor oil (S. 1181), newsprint (S. 1763), and tires (S. 2462) to utilize recycled materials. Rather than requiring each producer or importer to comply in the same manner, however, the bills require only that each producer or importer accumulate "recycling credits."

This is a rather ingenious and again Project '88 model for using the marketplace, Mr. President, and we think this is just the beginning of a number of opportunities that we have to realize in rethinking the way in which we approach a number of environmental problems and use economic forces which can be used not just for the destruction of the environment but can be used positively to conserve the environment.

A producer can generate credits by using recycled materials as part of their products or they can buy credits from other firms that recycle more than their share. These bills allow producers to find their own ways to recycle, or to pay others to recycle for them. This creates strong financial incentives for people to find new and more cost-efficient ways to recycle materials, and allows producers maxi-

mum flexibility in meeting the goal—getting used materials reused, rather than disposed of.

Most important to the success of recycling, this approach provides a steady and stable base market for recycled commodities.

Used lubricating oil, newsprint, and tires all enter the waste stream in enormous amounts. In the case of used oil, more than 35 *Exxon Valdez* oil-spills are every year poured into sewers or placed in landfills. Because this occurs just a few quarts at a time it escapes media attention. This oil is being disposed simply because it is cheaper and easier to throw it away than to recycle. We can change this—and we must.

Newsprint comprises 6 percent of the solid waste generated in America—28 pounds per household per month, which adds up to an astonishing 9.5 million tons a year. It costs taxpayers at least $250 million a year to bury that paper in landfills.

Tires comprise 1 percent of the solid waste generated in our country. We throw away 279 million tires a year.

For each of these products, using virgin materials is less expensive than using recycled materials. But that cost advantage fails to factor in the cost of the disposal of the unrecycled materials. The real product cost should include the fast-rising cost of landfill space, the costs to the environment, and even to the public health. Our bills shift part of the cost of recycling of these materials back to their producers, and that is only fair, given that without recycling, society as a whole would be paying a high and rising price for throwing these materials away.

In the spirit of Earth Day, we have to commit to look at initiatives like these—initiatives to change the way things are done, and to substitute a better way.

I noted in some detail a few initiatives we have to undertake and there are many others.

For example, we are going to have to explore the relationship between tax policy, energy, and the environment.

For example, in a few days the Congressional Budget Office will be completing a first study of a carbon tax, a study I requested in order to open the debate on changing our thinking on the way we reward or punish various strategies through the Tax Code.

Second, arms control, while viewed exclusively as a defense priority, obviously has enormous importance for our environment, with implications ranging from global security to proliferation to control technologies to cleanup. The environmental consequences of our nuclear commitment, now just beginning to be understood, certainly will be pursued in this coming decade even more carefully.

Debt relief in relationship to the developing world is emerging I believe of great importance particularly to the Western Hemisphere. It is imperative that we understand the relationship between the economics of our relationship with developing countries and the power of our debt to depress area economies and to depress their capability to deal with their environmental issues.

We are going to see a great commitment to international cooperation, Mr. President. The best example of this is focusing on energy issues with China and India. If we were to go through the most complete energy conservation program and stop, almost stop, producing carbon dioxide altogether, Mr. President, we would still find the burgeoning economies of India and China moving right past us and increasing more dramatically the movement of carbon dioxide in the atmosphere. It is imperative we develop control technologies with the developing countries, for example, with Central and Eastern Europe, where I hope we will find ourselves thinking about an environmental Marshall plan.

Soil, water, ozone depletion, ocean dumping, pesticides, all of these will be on the list of environmental issues moving to the top of the agenda here in the U.S. Senate, in the Government, and across the country.

In conclusion, Mr. President, some have portrayed environmental issues as a special interest. The most cynical among us have labeled concern about the environment as a luxury, a fad that we in the developed world can ponder, but which most of the world—and perhaps not even we—cannot afford.

Mr. President, the environment is neither a fad nor a luxury. In my view protecting our environment is a necessity and how we do it comprises the most fundamental and important set of issues for our future. As my colleague, Senator BENNETT JOHNSTON, succinctly stated in a hearing 2 years ago—"we only have one planet, if we screw it up, we have no where else to go." That blunt message summarizes the concern that is being expressed as we approach Earth Day 1990.

Fundamental questions are being raised about the health and integrity of our most important environmental systems. Can any nation afford not to strive to protect the Earth's environment? What is the cost of not acting? The human race undoubtedly now has the power to utterly destroy our planet, to make the air unfit to breathe, to remove the marvels of the natural heritage we have inherited from the Earth, and to change the basic environmental parameters on which our culture, our society and our economic systems are based—the weather, our climate, the level of the seas, and the ability of our atmosphere to provide a filter to protect life on Earth from harmful radiation.

On the local, regional, and global levels, environmental issues are emerging as central to our security. In fact, the redefinition of what comprises our national and international security is now unfolding in front of our eyes. The Berlin Wall has come down—and taking the place of that shameful image are new ones: images of the rampant destruction of rain forests; of the pall of pollution that hangs over cities around the world; of forests dying in the United States, Germany, Canada, and the Soviet Union; of rising temperatures and rising seas; and of a giant hole in the ozone layer over Antarctica and being found in the Arctic as well.

Our constituents are worried—and they should be. We are blindly testing the limits of the Earth's natural systems. Will we exercise caution, and demonstrate that we care about leaving our children and theirs a livable world?

Mr. President, I think we must. We must live up to our responsibility to the future, and to do that we in the United States must take on the responsibility to lend this effort. The world is looking to us for leadership. We must sow the seeds of change and make our Nation the pioneer on a global frontier.

America has accomplished great things in its short history, Mr. President. The winds of change now sweeping the world are a testament to the power of America's example in changing the world. We should not let the size of the challenge to the Earth's environment daunt us. Ten years ago, who would have predicted the dismantling of the Berlin Wall, or the radical reform of politics and economics now taking place in the Soviet Union and Eastern Europe.

America's leadership must now take on this challenge of protecting a threatened environment. I have laid out some of the opportunities before us. There will be many more. It is my hope, Mr. President, that all of my colleagues in the Senate will join in embracing the challenge of defending our planet, for our own sakes, for our children's sake, and for the benefit of all of us who share this planet Earth.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

SOCIAL SECURITY

Mr. MOYNIHAN. Mr. President, I rise as the chairman of the Subcommittee on Social Security of the Committee on Finance to discuss a development reported in this morning's Washington Post, regarding a letter to the chairman of the Appropriations Committee from a group of us—my distinguished colleagues, the Senator from Michigan [Mr. RIEGLE]; the Senator from Arkansas [Mr. PRYOR]; the Senator from Michigan [Mr. LEVIN]; the chairman of the Budget Committee, Mr. SASSER of Tennessee; Senator MIKULSKI of Maryland; Mr. SARBANES of Maryland; and myself.

It is a request for additional funds for the Social Security Administration in 1991. It is not the first time the request has been made, but it was accompanied by a memorandum written last month by the then Deputy Social Security Commissioner for Operations, Hebert A. Doggette, Jr., a distinguished public servant, one of those in the long line of public servants who have dedicated themselves to the Social Security Administration and made it in so many ways, at one point, a model agency of the Federal Government.

It is no longer that, sir. Indeed, Mr. Doggette warned, in a departing memorandum, about the serious deterioration in levels of service in that giant Social Security System caused by the loss of 17,000 workers who were cut from the agency during the Reagan administration, under the orders of the Office of Management and Budget—nearly a quarter of the roster.

I would like to discuss this in a general context. Some time ago, the first day of the present session of the Congress, I introduced legislation calling for a return of the Social Security System to a pay-as-you-go basis, on the grounds that the trust funds, rising in extraordinary numbers, are not being saved but, rather, are being used as if they were general revenues. This, I said, was a violation of trust. The proposal was a result of a well-documented series of developments including GAO and National Economic Commission reports, public hearings, and statements over the preceding year, 1989, in which we said that if this money will not be saved we should return it to the contributors, go back to pay-as-you-go, and restore the integrity of the system.

There has been much attention paid to this matter. Support has been found in various circles, but not wide support in the Congress.

There have been huge, quite fierce denunciations from the executive branch, which, seeing these funds rising at $1 billion a week, soon to be $2 billion, and by the end of this decade, sir, $4 billion a week, has clearly planned to use the money to finance Government, to maintain its "read my lips" rule about new revenues, although these are clearly new revenues and a new rate of contribution. The new rate of contribution commenced on January 1.

In the memorable words of Mr. George Will, they have decided "to use the Social Security surpluses to rent the White House for Republicans for the rest of the century and beyond." I cannot blame them if they are allowed to do it. It would come under the rules of the game of politics, but not under the rules of responsibility and trust, which Social Security requires.

Having said that, let me move now for a moment to a continuation of the same subject. Just as the Social Security trust funds are being plundered, the Social Security Administration is being degraded. That is a strong term, sir, and I would hope I am sparing enough in such terms. But I will give an example.

In the early 1980's, the Social Security Administration wrongfully terminated the benefits of hundreds of thousands of disability recipients. Disability benefits are paid by the trust fund. The pensions of a half-million disabled workers were cut off and those disabled Americans who had the resources and the access to information took the Social Security Administration to court.

The time came, Mr. President, when grounds for rejection had become so flagrant that U.S. attorneys across this land ceased to defend the Government. They would not take the Government's case. It was indefensible.

It was an extraordinary event. I do not know in the history of public administration where all of a sudden this U.S. attorney, then that U.S. attorney, becoming familiar with the egregious nature of the case, would say "Sorry, I willl not defend the Government. It is my professional judgment there is no case here and this event involves Government wrongdoing and not an excessive claim by the petitioner."

I do not wish to characterize the precise legal judgments of these U.S. attorneys, but the outcome is clear.

The pattern has been to use Social Security revenues as a source for the payment of general Government expenses, thereby masking the deficit and avoiding any movement toward more progressive taxation. This payroll contribution is by definition the most regressive we would have.

We had an example of that, Mr. President, yesterday. The trustees of the Social Security trust funds, the managing trustee, the Secretary of the Treasury—the others are the Secretary of Labor and the Secretary of Health and Human Services—issued the annual report of trustees. Three names were there. Two names were missing: the public trustees, not appointed. By statute they are required. We created them by statute, but we cannot make the President send us names. And in consequence of which—although Senator BENTSEN, chairman of the Finance Committee, and I, and Mr. ROSTENKOWSKI, the chairman of the Ways and Means Committee, all recommended a most able person, by letter, to the President, in our case in June, a year ago—no nomination, no real response.

I have asked on this floor before, are they worried that public trustees might go public about the plundering of the trust funds?

I recall the statement of my friend from Pennsylvania, Senator HEINZ, when asked did he agree with an editorial characterization in the Rochester Democrat & Chronicle, that what was going on was thievery; he said, "Certainly not. It is not thievery. It is embezzlement."

Well, embezzlement might be called to the attention of the public by public trustees, but there are no public trustees.

I was offering a sense-of-the-Senate resolution just before we went out for the Easter recess to ask the President to send us names. I regret to say that there was an objection on the other side of the aisle. It was a fair-minded one. They had been informed names were forthcoming. Here we are back in session, Mr. President. We have no names.

Then we go on to the subject of the internal management. Morale in the Social Security Administration has never been worse. At the time, the Doggette memorandum, a parting cry of the heart from someone who cared, said the viability of this organization is at risk. Mr. Spencer Rich, who follows these matters as no other figure in American journalism, notes that the number of persons was cut from 80,000 to about 63,000. We feel a minimum of 70,000 is necessary.

I should mention in this respect the U.S. Supreme Court's decision last February in the Zebley case. The Court struck down the agency's overly restrictive regulations for determining supplemental security income for poor disabled children. Happily, the decision obviated the need for legislation I introduced last year, S. 1718, to clarify this matter. As a result of the Court's decision, the agency will have to reexamine the cases of 250,000 disabled children, and will need the resources to do so.

As chairman of the subcommittee, I have introduced a comprehensive piece of legislation that would create an independent Social Security Administration. It would bring it back to the condition in which it began.

In the 1930's, under President Roosevelt, it seemed self-evident that this should be an independent agency; that

a three-person board would be the trustees of the system.

President Roosevelt was determined that everybody have their own Social Security account, just as you have a bank account. You would know what was in it; keep it; it was yours. Your name was on it. It was your contribution that entitled you to your benefits. He was very explicit on that matter.

We need to restore the independence of the agency; make it bipartisan; make it such that someone can say no to the Office of Management and Budget when it says we will get some money for whatever program over here by denying benefits to disabled people over there. We need to get an agency that can say no to slashing employment. Overall government employment went up during the 1950's, but not in the Social Security Administration. We need an agency that can get back the legendary energy and innovativeness of the past.

I call the attention of the Chair to the fact that a very ominous and worrisome charge is being made that Social Security discriminates against minorities in this country by virtue of birth rates, death rates, and such like. I do not think that is the case. I find my friend Robert Ball does not think it is the case. I cannot prove it. If it were the case, I certainly would want to do something about it.

But I will tell you why we will never learn whether it is so or is not. The Social Security Administration will never find out. An institution once fabled for research capacity has near to none. What you do not know will not bother you. Just as the public trustees not appointed will not challenge you. The disabled who do not know their rights will not cost you any money. Their money, their benefits, but your money if you use it as general revenue.

Mr. President, I have offered this legislation, and I hope the Finance Committee will address it. I would like to close with one observation. If the Democratic Party has so lost interest in the workings of Government that we cannot find time to attend to the workings of this agency, then we are something other than what we have been. We created this agency. It has full support of both bodies.

There is no man who knows more about the subject and cares more about it and who is more responsible for its preservation in the Social Security Amendments of 1983 than Senator DOLE of Kansas. Over on the House side, Barbera Conable of New York, formerly the ranking Republican member of Ways and Means, was incomparably informed and concerned.

But it is on our side where the first responsibility resides. Do we not care about half a million disabled, rejected under instructions from OMB to save money such that U.S. attorneys would not even defend the Government.

When the Deputy Commissioner of the organization leaves, saying morale is in a crisis; do we not care? The money is being used to debauch through general revenue the trust funds; do we not care? Research capacity disappears; do we not care? Public trustees not appointed; do we not care?

The very able chief actuary Harry Ballantyne reported in the report that came out yesterday that income patterns are changing. They had to cut back the future revenue estimates because more and more of the growth of income is taking place in wages above $51,300 where you do not tax for Social Security purposes. You tax the first dollar, not, after that point, the last dollar.

At least we have the actuaries, and their projections—the actuary's office is still sacred. Robert J. Myers left that intact, God bless him. A fine Republican, a fine man.

Would we not like to know what is happening to our country? Do we care about this agency? If we do not, why should anybody care about us, I say to the Chair? If we who brought about Social Security cannot bother to find the energy to say, "What have they done to the agency we created," then irrelevancy awaits us.

Social Security is very important to the 40 million people who now receive benefits and to the 132 million who pay contributions. We used to care. We did create and we did nurture and we did find bipartisan support.

You will not find a stronger supporter of Social Security than my colleague, the distinguished junior Senator, Mr. D'AMATO. But it is over here, in the majority, if we will not govern, that judgment will be made about us.

Mr. President, I thank you for your great courtesy for allowing me more time in morning business than would be necessary. I see my colleague on the floor.

I ask unanimous consent to print in the RECORD a set of excerpts from the documents which I have mentioned.

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

[From the Washington Post, Apr. 20, 1990]

WARNING SIGNS AT SOCIAL SECURITY

(By Spencer Rich)

A memorandum drafted last month by retiring Deputy Social Security Commissioner Herbert R. Doggette Jr. warned that there are signs of a serious "deterioration in levels of service" and that the giant Social Security system could be "overwhelmed" because 17,000 agency workers were cut during the Reagan administration.

Doggette said the time it takes to process many types of Social Security claims increased during 1989 and the number of pending claims also rose. "The possibility clearly exists that at some point workload growth could overwhelm our ability to respond, given our limited resources," he said.

A number of senators who saw Doggette's memorandum wrote the Senate Appropriations Committee recently asking $120 million in fiscal 1991 for "an additional 4,000 staff for the Social Security Administration." The House Aging Committee earlier sent a similar request to the House Appropriations Committee.

Doggette, who declined to discuss his memo, recently told associates he believes at least 70,000 full-time workers are needed to guarantee good service.

Doggette's memo said longer processing times and a buildup of unsettled cases is a standard pattern when service begins to decline, and "there are signs of this early warning pattern developing in all areas of SSA's basic operations. Key service delivery indicators now show these symptoms in each area of our basic operations."

Social Security Commissioner Gwendolyn S. King, to whom Doggette's memo was addressed, said in an interview that she is "grateful" to Doggette "for candidly assessing the situation in March." Now that a hiring freeze is over, she said, she is moving "aggressively" to fill crucial jobs with $50 million from a contingency fund.

"We must get these backlogs under control," King said.

But she said there is no need for another $120 million, because the $4.2 billion administration request for Social Security administration for fiscal 1991 will provide an adequate work force of about 63,500, one that is slightly bigger than the current work force. "If I find we need more people, I will be the first to ask for them," she said.

Among the senators signing the letter requesting an additional $120 million in 1991 for Social Security were Donald W. Riegle Jr. (D-Mich.), David Pryor (D-Ark.), Carl Levin (D-Mich.), Senate Budget Committee Chairman Jim Sasser (D-Tenn.), Barbara Mikulski (D-Md.), Paul S. Sarbanes (D-Md.), and Daniel Patrick Moynihan (D-N.Y.), chairman of the Senate Finance Social Security subcommittee.

In their letter, the senators said a deterioration in service "can be devastating to our most vulnerable citizens, such as poverty-stricken elderly, blind and disabled" persons for whom every day of delay on an application means a day without income.

There has been a long-running dialogue over the "downsizing" of the Social Security Administration that was insisted upon by the Reagan administration. The work force has declined from 80,000 full-time employees in 1984 to 63,000 today. Reagan officials argued that new computer systems would permit employee cuts without hurting service to the 40 million people who receive monthly Social Security checks or the 4 million low-income, aged and blind persons who receive monthly Supplemental Security Income welfare benefits.

To: Ms. Gwendolyn S. King.

Subject: Trends in SSA's Operational Workloads—Information.

DOWNSIZING AND SERVICE DELIVERY

Throughout the course of SSA's downsizing, Operations has been able to maintain steady levels of service in all our basic service-delivery indicators. We have been able to maintain steady levels of service by hard work, skillful management, systems modernization and the judicious use of the limited resources available (such as overtime).

Frankly, the effort to maintain service levels despite dwindling resources has not been easy, and the possibility clearly exists that at some point workload growth could overwhelm our ability to respond, given our limited resources. As I discussed with you during the preparations for the 3/8/90 congressional hearing, we may be seeing early signs that this point has been reached.

EARLY WARNINGS

When workloads begin to be out of control this is indicated by a standard pattern:

The volume of pending workloads begins to grow

The processing time for items cleared from pendings increases

The age of items in the pendings increases, which in turn, leads to even greater increases in processing times once these items clear

When this pattern appears, it is an early warning of deterioration in levels of service. This is followed by a decline in client satisfaction and by unfavorable scrutiny from our higher monitoring authorities, including Capitol Hill.

There are signs of this early warning pattern developing in all areas of SSA's basic operations. Key service delivery indicators now show these symptoms in each area of our basic operations. Since the beginning of this Fiscal Year we have seen increases in pendings and increases in processing times in many areas as well, compared to where we were on these measures at the comparable time last year. (Some sample measures are attached from the most recent month for which we have complete data.)

TRENDS AND WORKLOAD REPORTING

These figures provide a current snapshot of our workloads, revealing trends which may continue to worsen during the course of the Fiscal Year. For example, prior to the contingency tap, our projection for PSC workloads was that total pending would exceed 1.6 million items by June—which would cause corresponding increases in processing times and in the age of pending items. Due to the outreach effort, our SSI workloads are also up (7% over last year) and we expect this growth to continue throughout the remainder of the year.

SSA is also reporting these basic workload indicators to the Congress through regular reports to the House and Senate Appropriations Committees. The next report will be delivered to the Committees this month and it will be the first one to indicate a noticeable decline in the key service delivery indicators.

I am sending you these data as an alert to suggest we may be heading for difficulty in some of SSA's basic workloads.

The recent release of a portion of the contingency reserve, and the allocation of workpower to process the Catastrophic Medicare workloads, will certainly help. And the efforts of the Strike Teams should alleviate acute problems in a limited number of offices. But the broad, systematic growth in workloads may continue. I believe we will most likely need to secure the remaining $50 million in contingency funds, and we will need to consider the possibility of additional resources for Operations.

HERBERT R. DOGGETTE, Jr.

WORKLOAD FACTSHEET

FIELD OFFICES

The volume of claims pending in field offices is about 4% higher this year than last, and this has led to increased processing times for three out of four of our claims workloads. Our SSI claims have shown the largest increase in processing times.

	December 1988	December 1989	Change
Field Offices			
Total pending claims	471,941	485,872	[1] +3.9
Claims processing times (days):			
RSHI	18.6	14.8	−3.8
DI	79.0	80.9	+1.9
SSI Aged	12.9	16.4	+3.5
SSI blind/disabled	83.3	89.1	+5.8

[1] Percent.

PSC'S

The Program Service Centers (PSCs) have been particularly hardhit. Overall pendings are up almost 15%, which has led to the full pattern of problems, including older pendings and increased processing times.

	December 1988	December 1989	Change
PSC's			
Total pending items	932,733	1,088,207	[1] 14.3
Average age of pending	[2] 17.6	25.6	[1] +32
Items 30 days old or older	[1] 18.6	[1] 32.4	[1] +13.8
Average processing time	[2] 15.7	16.7	+1.0

[1] Percent. [2] Days.

ODO AND OCRO

In the Office of Disability Operations (ODO), claims processing times have almost doubled and in the Office of Central Records Operations (OCRO) pendings are up by 12.

	December 1988	December 1989	Change
ODO processing times	[1] 6.2	12.0	+5.8
OCRO total pending items	465,569	527,504	[2] +12

[1] Days. [2] Percent.

[From the New York Times, Apr. 5, 1990]

HIDDEN CRISIS IN SOCIAL SECURITY

(By Walter F. Wouk)

CENTRAL BRIDGE, N.Y.—The Social Security Administration is in crisis. The needy are being penalized. Only Congress can solve the problem.

An agency study that found that thousands of Social Security recipients were mistakenly dropped from the rolls last year uncovered only a fraction of the problems. The public can expect service to deteriorate further.

The study found that benefits should not have been suspended for 84 percent of the poor aged, blind and disabled who were dropped from the rolls. It concluded that the problem was related to a diminishing staff and increasing workload.

The Social Security Administration has gone downhill since 1981, when Ronald Reagan became President. He endorsed a plan to reduce the staff from 80,000 to 65,000 by 1990. While his Administration promised that benefits were sacrosanct, President Reagan, Congress and Social Security Commissioner Dorcas Hardy reduced services as part of the policy to balance the Federal budget.

Ms. Hardy dictated that the agency's operations become more "business-orientated." Beneficiaries and claimants became "customers." Face-to-face services were dramatically reduced, and some were eliminated.

Ms. Hardy said the public "preferred to do business by telephone"; in fact, the public did not, but she did. Contact stations, which serviced rural areas, were shut. Field representatives, who traveled to meet with individuals too ill or infirm to visit a Social Security office, were phased out.

Computers were purchased to perform duties handled by employees, and a toll-free number was installed to accommodate those who could not visit an office. Ms. Hardy insisted that these technological advances would compensate for staff reductions and improve overall service. But a Government Accounting Office study concluded that the agency's computer capacity was overestimated by 75 percent.

The toll-free service has damaged the agency's credibility. Phone-service centers replaced, rather than complemented, local call-in service. In most cities, the public cannot reach a local office by phone; calls are routed to a service center often hundreds of miles away.

The agency assigned untrained, inexperienced personnel to handle the phones during busy periods. The phones get answered, but the quality of the answers leaves a lot to be desired.

An agency study indicated that callers who asked about the Supplemental Security Income program had only a 20 percent chance of getting a correct answer. A question about Social Security benefits was answered correctly only 60 percent of the time.

Employee morale has plunged. The agency admits that its employees are underpaid by 30 percent. In most offices, labor-management relations are bitter. Employees who cannot keep up with the increased workload are harassed by supervisors and subject to financial penalties or dismissal. More than 87 percent of the work force believes the agency doesn't have enough staff to provide proper service.

Gwendolyn King, the new commissioner, has neither the power nor funding to breathe life back into the moribund agency. It is up to Congress to fund the personnel and resources it requires to provide the service Americans deserve—service they have paid for.

S. RES. 267

SEC. 1. FINDINGS.—The Senate finds that—

(1) In the Social Security Amendments of 1983, Public Law 98-21, Congress made provision for two members of the public, one Democrat and one Republican, to serve on the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds for four-year terms;

(2) In September 1984, President Reagan nominated the first public trustees, and these nominees were confirmed by the Senate the same month. The statutory terms of the first public trustees expired in September 1988, and subsequent recess appointments by President Reagan of the same individuals to the same posts expired on November 22, 1989;

(3) President Bush has not so far nominated any individuals to fill the posts of public trustees, and the posts remain vacant;

(4) The Social Security Act requires the Social Security Board of Trustees to report to the Congress not later than the first day of April of each year on the operation and status of the Trust Funds; and

(5) April 1 has passed and the Board of Trustees has not submitted the required report on the status of the Trust Funds by the required due date.

SEC. 2. SENSE OF THE SENATE.—It is the sense of the Senate that the President

should send to the Senate nomination for two public trustees to fill the current vacancies on the Social Security Board of Trustees, and upon confirmation such Trustees should be afforded full participation in the preparation of this year's Trustee Report.

LETTER OF TRANSMITTAL

BOARD OF TRUSTEES OF THE FEDERAL OLD-AGE AND SURVIVORS INSURANCE AND DISABILITY INSURANCE TRUST FUNDS.

Washington, DC, April 18, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.
Hon. DAN QUAYLE,
President of the Senate Washington, DC.

GENTLEMEN: We have the honor of transmitting to you the 1990 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (the 50th such report), in compliance with section 201(c)(2) of the Social Security Act.

Respectfully,

NICHOLAS F. BRADY
Secretary of the Treasury and Managing Trustee of the Trust Funds.
ELIZABETH DOLE,
Secretary of Labor, and Trustee.
LOUIS W. SULLIVAN, M.D.,
Secretary of Health and Human Services, and Trustee.
GWENDOLYN S. KING,
Commissioner of Social Security, and Secretary, Board of Trustees.

[From the Washington Post, Mar. 22, 1990]

IT'S A MATTER OF TRUST, ROSTY

(By Daniel Patrick Moynihan)

There are two words missing from Dan Rostenkowski's March 11 article, "Cold Turkey: How to End the Deficit in 5 Years" [Outlook]. The words are: Trust Funds. Social Security Trust Funds, now being used as general revenue. It is my view that if this keeps up, the one thing missing from American government will be trust.

I raised this issue in January by proposing to return to pay-as-you-go financing for Social Security. There are obvious attractions to such a measure. Take-home pay rises by as much as $1,200 a year in many households. A fierce excise tax on labor is cut for employers. The rate remains fixed for a quarter-century. The tax code bcomes more progressive. But it happens, and you'll just have to take my word for this, that what concerned me most was the integrity of the Trust Funds. I was not alone. When I quoted the view of the Rochester Democrat & Chronicle that what is now going on is "thievery," Sen. John Heinz (R-Pa.) was asked if he agreed. "Certainly not," he replied. "What is going on is not thievery. It is embezzlement." (Of note: The American Academy of Actuaries has endorsed the proposal.)

My view is not widely held—here in Washington—and just possibly not generally understood. When I broached it, the director of the Office of Management and Budget said it was "the most irresponsible idea of the decade." With enviable economy, the Secretary of the Treasury dismissed it as "goofy."

It is hard to blame them. They had a good thing going. The Social Security Trust Fund surplus, now at $1 billion a week and shortly rising to $3 billion, would enable them to grow out of the federal deficit by the end of the decade. No new taxes. A few less aircraft carriers. Presto.

Which ensured a welcome by them of Mr. Rostenkowski's proposal, which essentially does the same. Over five years he raises $200 billion in revenue, cuts $250 billion in outlays, but mostly he takes from the Trust Funds. All told some $553 billion. This includes $48 billion from a proposed Social Security benefit cut that would cost the average retired couple $3,200 over five years. The cut would also push 400,000 Social Security recipients into poverty.

I am chairman of the subcommittee on Social Security. We have oversight responsibility. And this is the sort of thing we have been looking at for the past five years. The deliberate misappropriation of the Trust Funds; a sustained practice of Treasury abuse. At one point in 1985, $28 billion (sic) in Trust Fund securities were secretly "disinvested" to obtain cash for the rest of government. No apologies. For the most part denials.

This got us going. Our case—if we have one—is about as follows. Contrary to a general impression, Social Security has been quite a stable system. Current benefit rates were set in 1972. Current contribution rates were set in 1977. Granted, in the 1970s we did not foresee the budget deficits of the 1980s and 1990s that would make the surplus an irresistible object of prey on the part of the treasury. But in almost half a century the integrity of the Trust Funds had never been breached. Perhaps we were too trusting. Well, I, for one, am no longer so.

The dirty little secret in Washington just now is that we are using the surpluses as general revenue. I argue that the Funds are not the government's money. The Funds belong to the contributors. Is that so "goofy"?

The secretary of the Treasury, incidentally, is the managing trustee for the Funds. There are also two other Cabinet officials and two public trustees. The public trustee positions, one Republican, one Democrat, are vacant. Last June Sen. Lloyd Bentsen (D-Tex.) and I wrote to the president asking that he nominate Alicia Munnell, senior vice president and director of research at the Federal Reserve Bank of Boston, to the Democratic slot. We have not heard a word.

Obviously, if we take away the Social Security surplus, new revenues will have to be found. And why not? Not hard. Chairman Rostenkowski has pointed to the most obvious. But to continue to debauch the Trust Funds is to put in peril the single most important domestic program we have.

In all truth, Social Security is already an endangered operation. Efficient in its way, earnest, unassuming, the Social Security Administration has become just too unassuming. Originally independent, it no longer is and has got lost in the bureaucracy. On its own, the SSA would have a budget second only to that of the Department of Defense. But it scarcely ranks in the Department of Health and Human Services. In the current Congressional Directory the name of the commissioner comes 318 names after that of the secretary. (Actually, the former commissioner. There have been 10 in the 14 years I have been on the Finance Committee.)

Absent status, the agency is simply minded by Treasury and OMB. In the last decade the number of employees was cut by almost a quarter. Disability benefits were denied to the point where U.S. Attorneys started refusing to defend the government when challenges were made. The idea began to get around that the system is unfair to minorities. (I cannot believe this, but cannot disprove it. SSA doesn't ask such questions about its 132 million contributors and 39 million beneficiaries.)

I have a bill: The Social Security Restoration Act of 1990. Restore the original status of an independent agency. Three-member bipartisan board. Restore the reserve to 1½ year's outlays. Send an annual personal earning and benefits statement to every contributor. (Banks do it monthly!) Issue a permanent Social Security card. Restore staff levels. Resume a research program. Get due process back into the appeals process.

There is no federal program that in any way touches the lives of so many Americans in so fundamental a matter. If the people can't trust us on this, then what? FDR understood this. In the summer of 1941, Columbia professor Luther H. Gulick advised President Roosevelt that it might be time to give up the separate payroll levy that financed Social Security, then as now, FDR replied:

"I guess you are right on the economics, but those taxes were never a problem of economics. . . . We put those payroll contributions there so as to give the contributors a legal, moral and political right to collect their pension . . . benefits. With those taxes in there, no damn politician can ever scrap my Social Security program."

Rosty, don't let them slide you into that slot!

Mr. MOYNIHAN. I thank the Chair, and I yield the floor.

Mr. D'AMATO. Mr. President, it is always a great honor and pleasure to hear from my distinguished senior Senator. Certainly no one, in the area of Social Security, I think, has a greater breadth of experience and is more caring.

I certainly think that the issue he raises is one that commands our attention and our energies, hopefully in a manner that would be most beneficial to this country, whether it be a commission—and I know sometimes that is a way of moving things in an area that escapes our responsibility. But oftentimes, or at least sometimes, these commissions have resulted in some rather positive work.

I think we should focus on this area as it relates to Social Security and the so-called trust funds and how we should deal with them, because this is certainly something that is important, not only to the future beneficiaries, but I think the very health and economic vibrance of this Nation.

I think we can do better and can define in such a manner that does not lead to misconceptions as to what we are doing or where we are traveling.

I want to commend Senator MOYNIHAN for his leadership in this area. He deserves accolades from us as a body, and even those who may disagree with the proposition.

But we certainly should study it and look into it. If we follow a path, it

should be because we understand the complexities we are dealing with and it is well charted. I want to commend my colleague.

Mr. MOYNIHAN. I thank my friend.

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

Mr. D'AMATO. I thank the Chair.

(The remarks of Mr. D'AMATO pertaining to the introduction of S. 2480 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. D'AMATO. Thank you Mr. President. I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

THE MIDDLE EAST

Mr. METZENBAUM. Mr. President, I had the pleasure of joining the minority leader and other colleagues on a recent trip to the Middle East. It was a good trip. We worked well together, and I think each of us learned from our experiences. We came back even more convinced than before we left that there is hope for peace in the Middle East. We met with leaders of five key countries in the Middle East, and our exchanges were frank and forthright.

Mr. President, I return from the Middle East as an optimist on some areas of current concern. But I must admit, that my discussions with Middle East leaders left me with a deep sense of fear and foreboding on a majority of pressing issues.

On terrorism, on arms proliferation, on regional stability, and with some exceptions, on human rights, the picture is grim. I would say that on the peace process, there is some hope. I say this not because of a particular statement or commitment from the leaders with whom we met. I say this because of the general recognition in Middle East capitals of the need for regional stability.

The Middle East probably needs peace more than any other area, and it could mean so much to the people there. They all sacrifice too much for military preparedness. They have nothing left with which to address basic human needs.

But frankly this is not the first time that belligerent states like Iraq and Syria have made pronouncements about peace. More than once, they have called for peace while planning for war. Hopefully, times may be changing. In the past, some Middle East countries counted on political and material support for making war from the Soviet bloc. This may no longer be the case.

Mr. President, it is my hope that, with the Soviet bankroll shrinking, leaders in hostile Arab states will recognize once and for all the futility of destroying Israel. Since the former Egyptian leader, Gamal Abdel Nasser, issued a call to "drive the Jews into the sea," over 25 years ago, this has been the refrain in Arab capitals. I should note that the single exception to this policy is Egypt itself from whence Nasser came. Nasser's successor, Anwar Sadat, had a vision of peace for his region, a vision which could do much if others in the Middle East would adopt it.

This source of conflict, the Arab expectation that Israel can be destroyed, continues to be the single greatest stumbling block on the road to peace. Israel has waged wars for survival, not for conquest: It has never called for the destruction of its neighbors. We should not forget that Israel, not its neighbors, is the only Middle East state which gave up territory for the sake of peace.

You cannot expect a nation to make peace with enemies who continue to oppose its very existence. But Israel seeks that peace, and so do millions of Americans, as well as millions of others throughout the world.

Mr. President, it is ironic that at a time when the potential for peace is great, the potential for war may also be increasing.

Like others, I have been particularly concerned about the spread of chemical, nuclear, and biological weapons in the Middle East. The missiles which carry these weapons are of equal concern. I must confess that this trip did not allay my concerns.

There have been numerous reports about Iraq's drive to acquire an unconventional arsenal of weapons, weapons of mass destruction. We met with Iraqi President Saddam Hussein. We met with him for nearly 3 hours.

Mr. President, I am frank to tell my colleagues that this meeting left me deeply troubled. Saddam Hussein, like the other leaders we met with, expressed a desire for peace in the region. However, unlike the others, he has been aggressively stockpiling new weapons, and has engaged in vicious anti-Western and anti-Israel rhetoric.

President Hussein flatly denied that his government is stockpiling biological weapons. He said there is only scientific research in Iraq. As my colleagues know, President Hussein admitted to possessing chemical weapons and threatened to use them against Israel if attacked. Mr. President, it seems to me that the difference between chemical and biological weapons is, in reality, a distinction without difference as far as war is concerned. He made similar denials regarding nuclear weapons, and regarding the alleged super cannon confiscated by Great Britain. Yesterday, British authorities said they were convinced that the tubes they seized were intended to be assembled as a gigantic gun. As we all know, Iraq already possesses medium-range missiles.

Our discussions left me feeling that Saddam Hussein's emphasis as a leader is on military readiness rather than on going to the peace table.

Saddam Hussein clearly continues to harbor a passionate antipathy toward the State of Israel. Hussein may say that his intentions are peaceful, and that his laboratories conduct only scientific research. But I believe that Hussein's thoughts are vastly different from his words, and I think that we need to take this possibility more seriously. Simply repeating the assurances of a man who gassed to death 5,000 of his own citizens is not an adequate way to approach Middle East stability.

My colleagues and I were appreciative that President Hussein agreed to meet with us, and on short notice. However, our visit to Iraq must not be interpreted as a gesture of reconciliation. The purpose of our visit was to express the deep concern that American people have about war in the Middle East. This Senator is not opposed to regular, earnest dialog with President Hussein. Nothing gets accomplished when opposing parties do not even talk to one another. But good relations with the United States have a price tag: Continued belligerence and contempt for the peace process will be an impediment to continued Iraqi-United States relations. In order that there be no question about our message, we left a letter with President Hussein which I ask unanimous consent be printed in the RECORD at this point.

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

U.S. SENATE DELEGATION,
April 12, 1990.

His Excellency Saddam Hussein,
President of the Republic of Iraq, Baghdad.

DEAR MR. PRESIDENT: We appreciate your willingness to receive us during your holy month of Ramadan, particularly on such short notice.

We come to Baghdad, as a bipartisan delegation of the United States Senate, because of our belief that Iraq plays a key role in the Middle East. We would also like to see improved bilateral relations between our nations.

It is clear to us that we can never resolve the serious differences between our nations if we ignore them, or fail to take advantage of opportunities to communicate with each other clearly and candidly. For that reason, we believe it is important that you hear our very deep concerns about certain policies and activities of your Government, which stand as a major barrier to improved relations.

Your nation has just emerged from a long and costly war, which has generated concerns about your own security. But we cannot stress too firmly our conviction that your efforts to develop a nuclear, chemical and biological capability seriously jeopardize—rather than enhance—your security, potentially threaten other nations of the region, and provoke dangerous tensions

throughout the Middle East. Your recent statements threatening to use chemical weapons against Israel have created anxiety among nations throughout the world. In your own interest and in the interest of peace in the Middle East, we urge you to reconsider pursuit of these dangerous programs and provocative assertions.

We must also express our profound distress at the alleged activities which led to the expulsion of an official of your diplomatic mission in the United States on charges that he was involved in a conspiracy to murder. We repeat: if our two nations are to have better relations, such activities as those alleged to have occurred must never happen again.

Finally, we urge you to become actively and constructively engaged in the peace process now underway involving Egypt, Israel, representatives of the Palestinian people, and the United States.

Mr. President, we thank you again for receiving us. We look forward to our exchange of views.

Sincerely yours,

JAMES A. MCCLURE.
BOB DOLE.
ALAN K. SIMPSON.
HOWARD M. METZENBAUM.
FRANK H. MURKOWSKI.

Mr. METZENBAUM. Mr. President, it has often been said that the peace treaty between Israel and Egypt ended the possibility that the Arabs would seek to destroy Israel ever again. One could not destroy Israel, the experts said, without an Egyptian front. There is something my colleagues must know in this regard. A so-called Egyptian front may be necessary to conquer Israel. But the weapons and missiles spreading across the Middle East now make it possible to devastate Israel, without the involvement of Egypt.

Mr. President, I offer this observation to illustrate the contradictory situation we found on our trip. A solid new potential for peace alongside the ever-present hair trigger threat of war.

I felt that the potential for peace was greatest in Egypt, and in Israel.

Egyptian President Hosni Mubarak made clear his desire to work closely with the United States to facilitate peace. Mubarak has devoted much of his time and energy to the peace process, and I believe I speak for all in our delegation when I commend him for it. There is one point which I hope President Mubarak will consider.

I think that many of us were taken aback by Mubarak's unwillingness to meet with Prime Minister Shamir. Shamir has made clear his willingness to meet Mubarak at any time, and in any place. In fact, when Shamir and Mubarak were in Washington at the same time last year, I personally urged President Mubarak to meet Shamir, if only briefly. Mubarak declined. This is one area of the peace process where Mubarak could easily do more, and I urge him, to reconsider his position.

Mr. President, in Israel, so much time and energy has been expended on peace in recent months that the Government collapsed under the weight of the issue. Israel is a democracy, and as we know here in the United States, democracy can be paralyzing. No one questions Israel's right to choose its own government through whatever system Israelis choose. However, the increasing frequency of Israeli Government paralysis certainly would suggest the urgent need for reform.

Mr. President, peace is the single most important issue on the agenda of Israeli officials, and of every individual Israeli citizen. Let's face it, Israel is more in need of peaceful security than just about any other nation on Earth. Amidst all the noise surrounding the Palestinian uprising, people have forgotten the simple military situation in which Israel must exist: One diplomatic or strategic mistake, and the end will be in sight. For those who need an update on the balance of power in the Middle East—and how much Israel remains outweighed.

Mr. President, I ask unanimous consent that a table containing information from London's International Institute for Strategic Studies be printed at this point in the RECORD.

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

THE MILITARY BALANCE IN THE MIDDLE EAST 1988–89

Country	Population (millions)	GNP 1987 (billions)	Defense 1987 (billions)	Armed Forces		Planes	Tanks
				Active	Reserves		
Syria	11.35	$20.05	$3.95	404,000	272,500	600	4,050
Jordan	2.43	$4.1	0.83	85,250	35,000	140	980
Iraq	16.28	17.7	11.58	1,000,000	650,000	500	6,250
Saudi Arabia	13.1	82.4	16.23	72,300	.....	182	550
Libya	4.3	18.8	1.29	71,500	40,000	525	1,980
Algeria	23.76	69.1	1.24	139,000	150,000	320	950
Total	71.22	212.6	35.12	1,772,050	1,147,500	2,267	14,760
Israel	4.46	33.5	5.14	141,000	504,000	650	3,850
Ratio	1:16	1:6.4	1:7	1:12.6	1:2.3	1:3.5	1:4

Sources: The Military Balance 1988–1989, International Institute for Strategic Studies, London.

Mr. METZENBAUM. We know that Israel's defense forces are well-equipped, and highly motivated. But the fact of the matter is that Israel is not the Middle East superpower that some say it is. The numbers tell the story. Wars are won these days with planes and tanks. Israel has slightly less than 700 modern combat aircraft; five of the more bellicose Arab nations possess nearly 2,000 such aircraft. In main battle tanks, Israel can field 3,850. These same Arab armies, on the other hand, have 13,810 combat tanks. That is better than a 3.5 to 1 ratio.

Israelis want peace, but they cannot ignore growing Arab arsenals of modern tanks, planes, and more exotic weapons.

Mr. President, our delegation discussed the peace process at length with Israel leaders, and we emphasized the importance of moving forward once a new government is formed. Israelis have paid a high toll over the years for their security, and no one wants peace more than they do. They continue to pay a high toll today. The Palestinian uprising is exacting a severe price from Israel in resources, in political consensus, and in casualties. The Israelis, as much as anyone else, want an equitable end to the uprising.

Obviously, Palestinians are also paying a price, and also want an end to the uprising. We met with Palestinian leaders during our trip, and they made their case for Palestinian statehood, and against Israel's occupation.

Mr. President, I listened patiently to what the Palestinians had to say, and I appreciate the depth of their views. While I share their desire for peace, I was concerned about their willingness to ignore the history of their struggle.

After all, it was not the Israelis who rejected the U.N.'s partition plan for Palestine, it was the Arab world. It was not the Israelis who precipitated six wars in less than 50 years. And it was not the Israelis who waged a relentless campaign of terrorism against innocent civilians.

I shared a personal experience with the Palestinians with whom we met, and it bears repeating now.

In 1972, the Black September Palestinian terror organization took hostages, and eventually murdered, the Israeli Olympic team during the Munich Olympic Games. Among the murdered Israelis was a young man, originally from Cleveland, OH, my hometown. I knew him well. He grew up two doors from my own home. He

was a friend of my children. My wife and I were watching the crisis unfold on television with his parents, our neighbors and good friends, at the point the gunmen killed—I should say "executed"—their son, and the rest of the Israeli athletes.

This is my personal experience with terrorism. Fortunately for Americans, there are few like me who have had such intimate exposure to this horror.

The situation is different in Israel. Without exception, every single Israeli family has paid the price of continued war. I am sure there are many stories such as mine.

I do not suggest that we become hung up on the past—if everyone in the Middle East focuses on past crimes we will get nowhere with peace. Nevertheless, the past shapes our views of the future. Our meetings with Palestinian representatives left me concerned about the way they expect Israelis to sit down with them amicably with no peaceful gesture on their own part.

I raised a point with the Palestinians and I will repeat it here today. Throughout the long campaign of terror against Israeli civilians by Palestinian and Arab groups, there has never once been a word of genuine criticism from Palestinian or Arab officials about to that terrorism. The world has been ready and willing to criticize Israeli soldiers in the West Bank. In fact, Jewish groups and distinguished Jewish leaders have been among the strongest critics of human rights problems in Israel and elsewhere. I am proud to count myself among them.

Yet, we are still waiting for some acknowledgment of past crimes from the Palestinian and Arab leadership. Parenthetically, I should note that increasingly, the few Palestinians with courage enough to speak out find themselves the victims of brutal assassination. To date, nearly 200 Palestinians have been killed by fellow Palestinians. Some simply had the temerity to advocate a less extreme attitude toward peace than that held by the PLO.

Palestinians need to make their own peace with Israel, regardless of what other Arab nations want, and regardless of PLO machinations. Our meeting left me less-than-encouraged about the chances for free and fair elections in the West Bank, but I hope that obstacles in this area can be overcome.

I thought it important that the Palestinians made clear their desire for peace, regardless of the seperate agendas and concerns of Arab nations. They want peace for themselves with the Israelis, and I hope the day will not be too distant when it is achieved.

Mr. President, during our trip disturbing alleged evidence of the PLO's negative attitude toward peace came to light. I want to state for the record that the evidence that I am submitting for the RECORD has not yet been confirmed and is thought by some to be of questionable reliability. The item I am talking about is a report of a secret speech delivered by Yasir Arafat to a group of intifada and PLO leaders. The speech raises concern even before its authenticity can be confirmed.

Arafat is quoted as saying:

> I want you to shoot from the ground or the air on every immigrant that believes that immigrating to our country is a picnic trip.

Continuing on, he said:

> Don't say that the political process prevents us from carrying out military activity against the immigrants, whether they live in Jaffa or Jericho. My words are a direct command to you to open fire in order to stop the swarm of immigrants. * * *

Mr. President, I ask unanimous consent that the entire article from the Arabic-language publication Al-Muharar be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. METZENBAUM. Mr. President, I want my colleagues to understand, and I emphasize this point that this Arafat speech cannot be considered completely reliable at this time. I cannot vouch for it, but it has been published and I believe the American people are entitled to know about it. I think my colleagues are entitled to know about it.

Mr. President, I have one final observation about my meetings in the Middle East. It is news to no one that Palestinian-Israeli and that Arab-Israeli relations are at a critical juncture. The coming year could hold great changes for the better in the Middle East. In the past, the United States has been a catalyst for positive change in the Middle East. Until recently, I believe that the United States has continued to play a positive role.

However, Members of Congress and the administration have recently raised the U.S. profile in Middle East politics. The moment calls for patience and understanding, not criticism. Leaders all over the Middle East have varying sensitivities. Israel's leaders must maintain the confidence of Israeli voters. Anyone in Washington certainly knows about the sensitivities created by this situation.

Mr. President, the time has come for U.S. officials to pursue America's role as a facilitator of peace in a more subtle way. This statement is a criticism of no one, and I state this categorically. I am not looking to stir up another battle; I have no intention of starting another public dispute over policy. My goal is to promote progress, to see that the United States does everything possible to further the Middle East peace process.

At this sensitive point in the process, let us lower the volume, and let events develop without injecting our commentary every step of the way.

Mr. President, our trip was a good one. I do not know whether we helped the peace process. I hope we did. I am one who believes that getting people to sit down and negotiate, head to head, can prove beneficial even if they start off in total disagreement. But I know of no place in the world that calls more urgently for a peace settlement. I hope that it will not be long in coming.

I yield the floor.

EXHIBIT 1

ARAFAT SPEECH TO A SECRET MEETING OF THE PALESTINIAN UPRISING LEADERSHIP, BAGHDAD, IRAQ, LATE MARCH 1990

(Source: "Al Muharar" Lebanon/Paris, October 4, 1990)

The Lebanese weekly "Al Muharar" reported on a speech given by Arafat in a secret working meeting of uprising leaders of the Fatah organization and the cadres of the Western sector. The meeting was held under Arafat's chairmanship about a fortnight ago.

In this meeting, Arafat revealed serious political facts after having given definite orders for the escalation of the military activity in the occupied lands.

The tone of Arafat's speech from the start of the meetings until the end shocked the participants, who numbered over 150 leaders and cadres who arrived to Baghdad from the various Western arenas. The most significant were three members of the PLO Central Committee, Abu Al Houl, in charge of the Palestinian National Security, Abass Zaki, the controller of the uprising leadership and Mohammed Jihad, the military leader of the Western sector.

Also present were Zouhir Menasra, Mahmoud El Aloul and other members from the Fatah Revolutionary Council who have been activists on the subject of the occupied territories for many years.

The reporter of "Al Muharar" was present at the meeting and reported the following:

Arafat criticized the majority of the participants and said: "I want a working meeting and not an assembly of speeches. I asked to meet with a small number of leaders and not with all the cadres dealing with the uprising and the Western sector apparatus. The purpose of the meeting as I wanted, was to discuss the best method of strengthening the uprising and increasing the efficiency of the uprisers in order for them to be able to reach a new quality phase. I would like to state before I begin my main speech, you must open fire on the new Jewish immigrants whether they are Russians or Falashas. It is shameful for us to see these immigrants taking over our country and settling our lands without us interfering.

I want you to shoot from the ground or the air on every immigrant that believes that immigrating to our country is a picnic or a trip. From today onwards, the ball is in your court and don't say that the political process prevents us from carrying out military activity against the immigrants, whether they live in Jaffa or Jericho.

My words today are a direct command to you to open fire in order to stop the swarm of immigrants which a resolution of the security council or any political activity on

our part with the Americans, Soviets and Europeans will not stop this swarming to our lands.

I instruct you today as the successors of the Palestinian revolution, I have turned into an old man, I have another year or two of activity left and then my day will arrive and you will receive the flag after me.

The Palestinian problem is still complicated. The discussions and negotiations will not result in one inch of land. Your revolution does not derive from a decision of the powers so that it can be ended by another decision of those powers. Your revolution derived from a Palestinian decision and popular demand that should not be stopped until the realization of victory.

Today I present to you my orders to use violence against the immigrants and whoever fails, I will put him in prison. Do not treat my words as a mere threat, it is the truth. From now onwards, I will settle accounts with you and I will put in prison anyone who fails to carry out my orders. I have already put in prison Palestinian Ambassadors, revolutionary council members and religious leaders who erred in their ways.

My decision and that of the Fatah to use violence must be conducted in a real manner in order that the immigrants will know, and also the Americans and Soviets who stand behind them, that our political and military policy depends on our will and not that of others.

Our chance to get our lands back and establish our independent Palestinian state, with Jerusalem as its capital is not dependent on the coming or going of Shamir or Peres, the desire of the Soviets and the anger of the Americans.

Note this down: May my right hand be cut off if I will sign any peace treaty which does not include Jerusalem, as Jerusalem is our glory and the capital of our state, without it there will be no peace however long it takes and however many sacrifices it takes.

We know that the Americans are liars and our talks have reached a deadlock, mainly due to their arrogance following the reduction in the Soviet position and Washington's control of the world arena. We know very well the hostile policy of the Americans towards us, and their support of Israel, but it seems that you do not know that the reduction of Soviet support towards us did not begin with Gorbachev and the perestroika game, but at the end of Brezhnev's rule and more precisely during the Israeli invasion of Lebanon and the blockade of Beirut in 1982.

In those days, we were shocked by the Soviet defeatist attitude to the invasion and the blockade. Moscow gave us nothing during the invasion and did not condemn the aggression and U.S. connection to this action.

At the end of the blockade, friendly international elements revealed to us that Alexander Haig, the U.S. Secretary of State at the time, promised the Soviet Union modern technology for renewing the Soviet gas pipeline to Western Europe in exchange for the assurance of Moscow's silence regarding the massacre against us in Lebanon.

When Andropov assumed power, we were optimistic since he promised to change the Soviet policy, but he died. His successors conducted an undercover strategy which was openly implemented by Gorbachev who replaced interests with principles and surrounded himself or was surrounded by a group who were in favor of closer relations with the United States and Zionism, and the opening of the gates of Jewish immigration to occupied Palestine. Generally, the withdrawal in the Soviet position and the U.S. attack effected us and our struggle. However, we are a revolution which was established so that it should remain and depend on itself, its people and nation.

We do not function by an electronic remote control like the fighters in Afghanistan, who were used by the United States during the period of the cold war to counter the Soviets in Afghanistan. The U.S. gave the Afghan fighters the most modern weapons and urged Pakistan to stand alongside the Afghans and provide them with a geographical base. They also hinted to a number of Arab States on the importance of their financial aid which reached 18.5 billion dollars whereas the Arab financial aid to the PLO since its establishment reached only 2.5 billion dollars. However, the Americans will now abandon the Afghan fighters as they no longer needs them strategically. See how the American press and political elements in Washington are describing them as drug merchants and gang leaders whose function is to kill and rape (here Arafat looked at the of the female members of Fatah and apologised for his words and stated that due to his anger he forgot that they were present)."

Arafat continued "even Nizrat Bhutto (the mother of the Pakistani Prime Minister) told me in our last meeting that these Afghan fighters are wild men who have lost the initiative and are out of control.

The lady here reminded me of the results of the negotiations which I held over a year ago between the fighters and the Kabul government.

Kabul gave me a proposal for the fighters which stated that an Afghan national unity government should be established with 80 percent of the seats going to the fighters and only 20 percent to the Communists. The fighters rejected the proposal according to American advice. Thus they lost a golden historical opportunity since they were dependent on a U.S. decision and not on their own free will.

I wish to reiterate that our political and military policy depends on our own will and not on anybody elses. In this respect I would like to ask: what is the purpose of those who "inflate" the "Hamas" movement so that it can compete with Fatah and the PLO?

This is only a question and I leave the answer for the future when it will be revealed what is hidden from us today. I don't want you to understand from my words that we wish to take a rival stand against "Hamas". This is not our goal and it never will be, since we only seek unity inside the occupied lands and the rallying round of the uprising population there.

I am holding continuous contacts with the leaders of the Moslem Brotherhood in the Arab world in order to strengthen the friendly ties with "Hamas" so that we shouldn't cause the enemy to realize its hope of dividing the ranks of the uprising.

I will soon be visiting Jordan and I will try to meet the leaders of the brotherhood for renewed discussions regarding our relations with "Hamas".

By the way, I wish to warn the Jordanian brotherhood members of the plot to cause friction between the Jordanians and the Palestinians.

I have received copies of secret pamphlets signed by fictional Palestinian organizations and factions which attack the Jordanian Government and people.

I am certain that the mossad is responsible for this in order to damage the regional sensitivity and national unity and to interfere with the democratic experience.

You must understand very well that Fatah's decision not to interfere in Jordanian affairs whether regarding the parliamentary elections or the establishment of political parties is still in effect. We did not become involved in the elections and Fatah will not be a party inside Jordan, I directed the Fatah members in Jordan to curtail their public activity including in the Palestinian camps, and to desist from carrying out assemblies or lectures there in order not to create any friction between the Jordanians and Palestinians or to transfer the inter-palestinian conflicts to the Jordanian arena.

Our relations with Jordan are excellent and are based on a joint perception of the Israeli danger. We are very satisfied with the democratic attempt in Jordan and are interested in its enhancement since it will assist our problems and our people's revolution as to the future of the Jordanian people. We know well that this rapprochement is dislike by the Israels and they will try to stop it either by threatening Jordan or by damaging the national unity pricniples there. Prior to the Parliamentary elections, Ali Abed Alrazark Al Hihye (the PLO representative in Jordan) asked me to state my position regarding participation in the elections. I told him that we have no interest to become involved positively nor negatively.

It appears that Abed Alrazak misunderstood me and returned to Amman and published together with Abu Samach a number of declarations which could be interpreted as calling to people in Jordan not to participate in the elections, a fact which angered our friends. The truth is that non-interference does not mean that we opposed the participation of Palestinians in the Jordanian elections but we permitted them to feel free in their position according to their understanding.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from Connecticut.

EXTENSION OF MORNING BUSINESS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the time for morning business be extended until 11 a.m., under the same conditions as previously ordered.

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

EARTH DAY 1990

Mr. LIEBERMAN. Mr. President, I rise to say a few words about Earth Day which we will all be celebrating this Sunday. Earth Day is a day in part of celebration but also really more a day of recognition. It is a day of celebrating the good Earth which God gave us, and of recognizing the fact that if we continue to degrade it and dishonor it it will not be what we want it to be for our children.

Mr. President, I cannot honestly recall how I spent Earth Day in 1970. I suspect I share that lack of memory with most of my fellow Americans.

The truth is that most of us were not genuinely concerned about environmental protection in 1970. Those who organized and participated in Earth Day activities around the country 20 years ago were in the vanguard of what has become a remarkable, widespread grass roots movement that has gone on to transform the very nature of the world around us.

Twenty years ago environmentalists were dismissed as hippies, as tree huggers. They were a loose coalition of students and good old Teddy Roosevelt conservationists. Today there is no more genuinely grass roots political movement than the environmental movement. If there is anything to celebrate it is that on this Earth Day 1990. We are unfortunately, however, in many ways a dirtier planet than we were in 1970, but we are not nearly so dirty as we would have been had environmental protection not emerged as a priority of citizens and their Government.

Mr. President, while there is a remarkable consensus today among many people about the need for strong controls on pollution, there still exists a vocal minority out of step with the majority that expresses doubt about the links between chemicals and health, between waste and destruction, between our own behavior and the future of our planet. Unfortunately, some members of that dissident minority occupy important positions of authority in our Government. Some are even in the White House. They put on the brakes when they should be going forward. They talk when they should be acting.

I think it is important for us to remind them that they will not have to live with the consequences of their indifference. My 2-year-old granddaughter, and her children, and all of our children, and their grandchildren will have to live with the consequences of our action or inaction on the environment today.

Mr. President, this year amidst all the hype and hoopla of Earth Day we have to find ways not to talk about but to act to achieve our goal of a cleaner and healthier planet. The will of the people is with us and that is the good news.

The people, in fact, are ahead of the politicians when it comes to environmental protection. In my opinion they are willing to go much farther than we have been willing to take them. So I say we must commit ourselves on this Earth Day 1990 to exercise the leadership and the power with which we are entrusted by moving out boldly in new directions and taking protection of the environment down paths we have never gone before.

For example, we must use Government's role as a consumer of energy to promote the development of model energy conservation measures; we must use Government's role as a purchaser and a venture capitalist to promote the testing and marketing of fuel cells; we have to use the tax system to encourage businesses to adopt innovative pollution prevention measures, to reduce the amount of waste that gets into their smokestacks and pipelines in the first place, rather than worrying about how we are going to handle it and who we are going to punish once it gets out.

We are going to encourage the development of a "green" market of products that are better for our environment, so consumers can use their dollars and their ideals in tandem to make the market work for a cleaner world; which is just what most of the people in America want to do.

Mr. President, Government, business, consumers, citizens, we have all to work together as we have rarely done before to promote cleanliness in our homes, in our economy, and in our environment conserving resources, protecting the natural world around us. These are not unnatural actions for us; these are traditional American values. They are a way of living to which we must now urgently return.

The truth is that all of us are responsible for the degradation of our environment. All of us have been irresponsible and all of that must change. I believe it is changing, as I go through the neighborhoods of my State and see people so willing to bring their newspapers out, to stack them, to separate the garbage, as I see people willing to pick up litter, as people understand that their actions are what results in an a dirtier environment.

I have been heartened by a series of steps that I have seen recently from the business community, a recognition that change must come. A week ago, I held a hearing in Hartford, CT, on pollution prevention. We had some executives there from Connecticut businesses, one of which was Union Carbide. They described the measures that that company is taking to reduce pollution. I asked the gentleman:

> Why are you doing this? All of this runs against the conventional logic that business will continue to do what is least expensive and most convenient unless they are forced to do otherwise.

He said to me:

> Senator, the truth is that we only do well in our business so long as we enjoy the respect and support of our community. And if we are identified as a polluter, that will not happen and our business will suffer.

We have seen Conoco, a major shipping line, announce that it voluntarily is going to build double-hulled oil tankers. We have seen the largest manufactureres and sellers of tuna fish in our country say that they are not going to buy tuna fish from companies that use the purse seine method which has destroyed and killed literally thousands of precious dolphins in our world.

So an environmental ethic is being adopted by individuals and businesses. Now it is up to us to adopt that ethic in the laws that we put forward. The law ideally exists as an expression of the best values of our society. People in America are looking for us to lead through the law to a better world so that when we celebrate Earth Day 2010, we will not wring our hands in remorse at the filth of the planet but we will be able to genuinely celebrate what we have accomplished in preserving and protecting and advancing the good Earth which God has given us.

EARTH DAY EVERY DAY

Mr. PELL. Mr. President, it has been said that the most important objective of our worldwide celebration of Earth Day 1990 is a public demonstration so overwhelming that it literally moves people everywhere to join a cooperative effort to stop the deterioration of the planet and begin the restoration.

I share the hope that, as we celebrate on the 20th anniversary of the original Earth Day, we will motivate millions of people across the country and around the world to devote every day to reversing the environmental degradation that we have caused through shortsighted management practices.

As chairman of the Foreign Relations Committee and as a former chairman of its Subcommittee on Arms Control, Oceans and International Environment, I have consistently pushed for environmental issues to occupy a central place on the committee's agenda. My own environmental work dates back beyond the Stockholm Conference, to which I was a delegate, and includes my active role in supporting the formation of the U.N. Environment Programme.

Speaking as one who has been working to promote environmental protection, long before the issue became popular, I am gratified to see public support growing along with the opportunities to accomplish real gains for the environment. Public support is essential if we are to meet the very real needs highlighted by Earth Day 1990.

I recently addressed the Global Forum on Environment and Development for Survival in Moscow. In that address, I focused on the catastrophic threats to the world's environment—including global warming, ozone depletion, and a host of problems that require international cooperation.

What I would like to share with my colleagues today, as we approach the 20th anniversary of Earth Day, is a proposal that I made in my address for a method of paying the heavy costs of correcting the environmental problems that we have created over dec-

ades of despoiling our Earth, water, and air on a global scale.

We must be prepared to come forward with the resources to protect our environment, because the consequences of failure would be comparable in scope—if not in immediacy—to global war. We should keep that analogy in mind when we review current expenditures. The United States spends $296.6 billion on defense and $5.6 billion at the Federal level, or about one-fifteenth as much, on protecting our environment.

It is not realistic to expect these proportions to be reversed, but they must be changed. The end of the cold war is already leading to cuts in military spending. This trend should be accelerated as we conclude agreements to reduce strategic and conventional arms. These will save substantial money for both the countries of NATO and those linked to the Warsaw Pact.

I suggested in Moscow, and I repeat my suggestion here, that a meaningful percentage—perhaps 15 percent—of our prospective peace dividend be dedicated to the environment. And I would propose that the upcoming agreements on strategic and conventional forces explicitly earmark 15 percent of the resultant savings for additional environmental protection to be expended either within the country where the savings are made or internationally.

Some political commentators have ridiculed, with some merit, the concept of politicians spending far more than the savings from a peace dividend long before we have received it. My proposal, however, addressed both the need for resources and the method of capturing them from the peace dividend by making the expenditures part of international agreements.

Under our domestic law such funds would have to be appropriated under our constitutional process. I am sure that the same would be true for other countries that would participate in such an agreement. However, the inclusion of an environmental peace dividend in an arms control treaty will create an obligation and a goal for both East and West.

It would also set an important precedent for future East-West agreements, one where we agree not only on measures to reduce the risk of mutual destruction but also on major measures of mutual cooperation.

I also proposed that we direct the earmarked environmental expenditures largely to those problems which are international or global in nature. In Europe this would mean spending to clean up shared rivers, to prevent air pollution, and to neutralize acid rain, which is destroying the forests, lakes, and monuments of Europe.

Under my proposal, I would recommend that a great part of our environmental dividend in North America be used to develop energy conservation technologies as well as alternatives to fossil fuels. As a bonus, the effort would help reduce emission of pollutants linked to acid rain.

I cannot state the amount of new environmental funds that would be generated by my proposal, but it is possible to make some projections. Experts have predicted that the end of the cold war might lead to a 50-percent reduction in U.S. defense spending by the end of this century.

If 15 percent of this saving went to the environmental peace dividend, the annual new environmental expenditure in the United States would equal $22 billion, or four times our present Federal effort. Comparable sums should be generated by reductions in European and Soviet defense expenditures.

With this level of financial commitment, we might truly begin to have an impact on the mammoth environmental problems before us.

After we celebrate Earth Day 1990—including the soaring rhetoric of speakers calling for a unified attack on global problems—I hope we will join in a concerted effort to secure the financial resources to provide what we all want: a safer, healthier world for ourselves and for future generations.

FOREST PRODUCT TRADE NEGOTIATIONS WITH JAPAN AND SUPER 301

Mr. BAUCUS. Mr. President, as we debate the trade legislation today, our trade negotiators are preparing to leave for Japan. One hour ago, I spoke with Ambassador Lynn Williams, the chief negotiator of the United States in the pending trade negotiations, to get an update on the progress of those negotiations. Next week, Ambassador Williams and his team will attempt to convince the Japanese Government to open its markets to United States forest product exports.

These negotiations are an attempt to resolve the last of the three Super 301 cases initiated against Japan in 1989.

The objective of this Super 301 case is to eliminate the many trade barriers that Japan imposes to block United States forest product exports to Japan. The trade barriers involved include tariffs, tariff misclassification, discriminatory standards and building codes, and subsidies.

The forest products case has been the most difficult of the three Super 301 cases to resolve; the other two being supercomputer sales and satellite technology sales. The forest products case involves a very complex set of barriers. If the barriers are removed, that is if Japan were to knock down those barriers so the United States would have free and fair access to Japan, the United States exports to Japan of processed forest products would expand by $1 billion to $2 billion each year. That would create about 10,000 to 20,000 new jobs in the United States, as well.

In other words, the issues are complex and the stakes are quite high.

The trade barriers involved are designed to block exports of finished forest products to Japan and at the same time encourage export of raw forest products.

The barriers have worked. About 70 percent of United States forest product exports to Japan are unprocessed products. For comparison, only about 10 percent of U.S. forest product exports to Europe are raw products.

In other words, these barriers not only deprive the United States of billions of dollars in lost exports they also have the effect of taking jobs from United States lumber mills and transferring them to Japanese lumber mills.

This is clearly unfair and clearly unacceptable. The United States forest products industry is the most efficient in the world—far more advanced than the Japanese industry.

We Americans sometimes are criticized for producing products that are not sufficient in high quality. Some people think that Japanese products are of high quality and American products sometimes are not as good as their products.

Mr. President, I have visited Japanese auto plants. I have visited Japanese semiconductor plants. It is true they are very efficient and they produce very high quality products. I have visited American semiconductor plants and American automobile plants. Although our American plants are not as efficient, do not have quite the mechanization, it is clear that our American plants are getting much better. In fact, they are quite good.

I have also visited Japanese forest products mills, plywood plants, and I have visited American plywood plants. Just as Japanese automobile plants and semiconductor plants are very efficient and highly mechanized, the Japanese forest products plants are equally inefficient. They are dirty and have very low productivity. It is amazing to me how inefficient they are. American plants in American plywood and American process forest products are undeniably the best in the world and highest quality in the world and yet still Japan does not take our products.

So in the face of a $50 billion annual trade deficit, these Japanese barriers are simply inexcusable.

I have great faith in our trade negotiators, particularly in Ambassador Williams—the leader of our delegation.

But I hope there is no doubt in the minds of the Japanese that we in Con-

gress will demand real results from these negotiations.

If the negotiations are not successful I will continue to press for sanctions against Japan in retaliation for its unfair trade practices.

Certainly, if the forest product negotiations are not successfully resolved there should be no doubt that Japan will be identified as a target of the super 301 provision of the 1988 Trade Act. In fact, if the administration failed to take this step I would immediately press for legislation to require it.

Beyond that, the United States will not continue to serve as a raw material colony for Japan. I understand Senator PACKWOOD is preparing to offer some limits on exports of logs from Federal and State land to keep jobs in the United States.

But if the Japanese barriers remain in place, that will be only a first step.

I do not approve of trade negotiations yielding half solutions. And in this case, that is dealing with the processed forest products in Japan, a half solution would not be enough. We have to get more than half of what we deserve.

The United States forest products industry deserves real access to the Japanese forest products market. I will do everything in my power to see that they get it.

Mr. President, I yield the floor.

A TRIBUTE TO JIM SCOGGINS, JR., BUILDER OF BLUEBIRD HOMES, DEFENDER OF THE ENVIRONMENT

Mr. FOWLER. Mr. President, I bring to your attention today the work of a young man in Bremen, GA, who has shown how one person can make a difference in preserving our environment. Jim Scoggins, Jr., a 12-year-old Boy Scout pursuing an Eagle Scout badge, originally set a goal to build 100 bluebird boxes. After building almost 600 bluebird boxes, he has set a new goal of 1,000. In further evidence of this exemplary young man's selfless attitude and concern for the environment, he has spent a significant amount of his time talking about bluebirds to people in almost every civic and age group in his area.

Mr. President, Jim Scoggins, Jr., is the kind of Georgian we are especially proud of. Please join me in recognizing this outstanding American for his steadfast concern for the preservation of the environment.

I submit to you an article from the Atlanta Journal-Constitution that details more fully this fine young man's outstanding accomplishments, and ask unanimous consent that it be printed in the RECORD.

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

[From the Atlanta Journal and Constitution, Apr. 17, 1990]

BREMEN YOUTH GIVES BLUEBIRDS FRESH REASON TO SING

(By Bob Harrell)

BREMEN, GA.—Some residents of this Haralson County town are betting that bluebirds by the hundreds will soon be winging here, where they will find the housing situation something to sing about.

And the bird songs should be dedicated to 12-year-old Jim Scoggins.

Jim began building bluebird nesting boxes in January, as part of requirements to become an Eagle Scout. He planned to build 100. At last check, he was sawing and nailing on No. 572. His revised goal is 1,000.

"If you think Jim's project is affecting the lifestyle of bluebirds, you ought to look in on his family sometime," said his father, also Jim Scoggins. "Our phone rings off the hook, his mother keeps his public speaking schedule up to date, and me and my car have a difficult time finding room to rest in the carport and living room because of the Western cedar packed all over the place. My radial-arm saw is worn out, too."

Jim gives the birdhouses away—no charge. The recipient has only to show an interest in bluebirds.

Bluebird box building has not been without costs. Jim's father estimates that he has spent $1,000 so far on materials.

Minister Sanford Willard approved a bluebird fund-raising breakfast at First United Methodist Church, the home base for Boy Scout Troop 259.

"We didn't know what would happen with the breakfast," Jim said. "I was going to stop building boxes if I couldn't get more money somehow." The event raised $1,500 toward his birdhouse project.

Though he's an acknowledged bluebird expert now, Jim didn't know one from a buzzard last December.

"I was in John Tanner State Park, working on my Eagle Scout requirements, when I saw this bird and asked my dad what it was," he said.

Jim asked scoutmaster Glenn Hoobler whether a 100-bluebird-box-building project might meet Eagle Scout requirements. It would.

He began by reading all he could on bluebirds and then he heard about Darrell Rush, superintendent of James H. Floyd State Park, near Summerville.

Mr. Rush, sometimes called "Mr. Bluebird," started the Department of Natural Resources' year-old "Save the Bluebird" program, building more than 4,000 nesting boxes himself.

"Mr. Rush showed me how to build a box and wished me good luck with my 100 boxes," Jim said. "After 100 boxes, the project sort of got out of hand because everybody wanted one."

Jim goes before his Board of Review soon to be judged on his Eagle Scout requirements. He has given his memorized, 15-minute bluebird talk to more than 600 people in almost every civic and age group in the area and, in several instances, remained 30 more minutes to answer questions on the bird.

"Jim gave the Rotary Club a professional talk on bluebirds and all 36 of us left with bluebird boxes," club member and Chamber of Commerce director Bill Nunis said.

RHODE ISLAND'S DEM DIRECTOR BOB BENDICK—AN ENVIRONMENTAL PROFESSIONAL

Mr. PELL. Mr. President, Bob Bendick recently announced his resignation as director of Rhode Island's Department of Environmental Management—a position he has held for 8 years as he served under both Republican and Democratic administrations.

Bob will be leaving in mid-May for New York State, where he will supervise more than 3 million acres of State-owned land as deputy commissioner of the Department of Environmental Conservation.

I have known and worked with Bob for many years. In fact, I am proud to say that my executive assistant, former Mayor John A. Cummings, Jr., of Woonsocket, recognized Bob's potential and brought him from New York to head the city's Department of Planning and Development nearly 20 years ago.

In this case, clearly our loss will be New York's gain and I wish Bob and his family all the best. He has left Rhode Island with a legacy of new and beautiful parks and conservation areas, as well as a heightened awareness and commitment to environmental protection.

We owe him congratulations for a job that has been truly well done.

Mr. President, I ask unanimous consent that an article from the Providence Journal of April 17 and an editorial from the Woonsocket Call of April 17 be printed in the RECORD.

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

[From the Providence (RI) Journal, Apr. 17, 1990]

DEM CHIEF RESIGNS FOR NEW YORK JOB

PROVIDENCE.—Robert I. Bendick Jr. resigned yesterday after heading the state Department of Environmental Management for eight years and playing a key role in molding and shaping Rhode Island's environment, from its northern woodlands to its southern beaches.

Bendick is leaving for New York State, where he will supervise more than 3 million acres of state-owned land as deputy commissioner of the Department of Environmental Conservation.

Governor DiPrete announced that Michael Annarummo, DEM deputy director, will take over as acting director when Bendick leaves in mid-May.

Bendick said yesterday that he is sad to be leaving Rhode Island, where he has served for 20 years in local and state government. It's especially tough, he said, because Rhode Island's environment is faring better than ever.

"The biggest second thoughts I had were why are you doing this now when things seem to be getting better," he said. But the New York job appeared "perfect for me at this time in my life," he said. "It allows me to focus on a narrower range of opportunities that are of interest to me."

DiPrete praised Bendick for helping Rhode Island become a national leader in

waste recycling, open space preservation and ground-water protection.

Bendick's tenure at DEM is one of the longest of art department director in the state or of any environmental chief nationally. He has drawn high marks from environmentalists but grumbling from some business interest.

BUSINESS GROUPS PLEASED

One of them, developer Richard Baccari, president of the Downing Corporation, said yesterday that he is delighted Bendick is leaving.

He said: "I think it's about time they get someone who can really manage the agency; someone who can be more objective in carrying out the laws and not be of the obstructionist attitude that Mr. Bendick had."

Told of those remarks, Bendick replied, "I'm not embarrassed about that. My job is to protect the environment of the state."

He added that despite his reputation, he does not believe he is as anti-business as some critics would portray him.

Business groups have complained of unacceptable delays at DEM.

Developers who wanted to build in wetlands had to wait so long for a DEM ruling that last year they won a court decision ordering the agency to speed its review. The Quonset Point trash incinerator took more than a year to review and ended with an environmental permit so tough the developers aren't sure they can build the plant.

Developers of the Newbay power plant in East Providence accused Bendick last year of bias after he criticized them for trying to influence a DEM staff decision.

HELPED SAVE OPEN SPACE

But Bendick's biggest achievement may have been in helping to save open space and scenic sites throughout Rhode Island.

During his tenure the state upgraded several state parks, created the new Bay Island Park in Narragansett Bay, and acquired hundreds of acres on Block Island, two major beaches and thousands of acres of woodlands. He has also been a leader in creating a 40-mile linear park along the Blackstone River in Rhode Island and Massachusetts.

He also created a tough new investigative unit that has brought thousands of charges against alleged environmental polluters. And a staff is continuing to study and learn how to keep Narragansett Bay clean.

Environmentalists, while supportive, criticized Bendick for not working harder to build up his staff and not being tougher on polluters.

For instance, one of the biggest criminal investigations centered two-years ago on illegal dumping of PCB-contaminated waste at a Cranston landfill by two trash haulers, Jack and Daniel Capuano. The problem occurred because DEM failed between 1985 and 1988 to conduct routine inspections of the dump.

WORRIES FOR STATE'S FUTURE

Bendick said yesterday that his biggest concern is how the state is going to solve its future solid waste problems. "I stay awake at night thinking about it", he said.

As he leaves DEM, the state is studying a plan to reorganize the department and split its duties between the two departments, one to oversee resources and one to oversee regulation and enforcement. Bendick was among the plan's early advocates, maintaining that the job has become too big for one person.

Annarummo, who takes over as acting director, headed the study commission that recommended the reorganization.

Bendick currently makes $82,764 a year. His new position will pay $90,000 a year.

In his new position he will be one of five deputies answering to an executive director and he will be responsible for all state-owned lands in New York, including the Adirondack and Catskill State Parks. Other duties will include land acquisition, marine resources, fish and game responsibilities and mineral resources.

Bendick has indicated in the past that he far prefers the natural resources duties at DEM to the regulatory responsibilities.

A native of New York, Bendick, 43, was director of the Woonsocket Department of Planning and Development from 1971 to 1978. He also was a member of the city Planning Board for several years.

He came to DEM in 1978 as assistant director for administration and planning and was named director by Gov. J. Joseph Garrahy in May 1982. He lives in Woonsocket with his wife and three children.

He said he plans to retain a summer home in Jamestown and help on a volunteer basis with projects affecting Narragansett Bay and the Blackstone River park.

[From the Woonsocket (RI) Call, Apr. 17, 1990]

ROBERT BENDICK: A NATURAL RESOURCE

In his nearly 20 years in Woonsocket, Robert L. Bendick Jr. has made an impact like few others. When he returns to his native state of New York this summer, he will be sorely missed in this city and certainly in all of Rhode Island.

Bendick, as was speculated in Saturday's Call and was confirmed yesterday, has been named to the position of New York deputy commissioner of natural resources. The Woonsocket resident will leave his job as director of the Rhode Island Department of Environmental Management next month.

Besides the nearly $20,000 raise he will receive, the $90,000 job was too good for Bendick to pass up. It is perfectly suited to his conservational interests—he will be responsible for the vast land and forests of the state, as well as fish and wildlife, marine resources and minerals. He will oversee the beautiful state parks in the Adirondacks and Catskills.

Bendick will also be involved in pushing for passage of the most ambitious state open space bond issue in the nation's history. One of the proudest accomplishments of his eight-year reign as DEM director was the open space he has preserved for this state through bond issues and programs.

Bendick can also boast of many other fine feats, including helping to establish the Blackstone Valley National Heritage Corridor, which will be tremendously important to Greater Woonsocket communities in years to come, and the Narragansett Bay Project, which will protect the state's water quality well into the 21st century.

To his credit, Bendick has told Gov. Edward D. DiPrete he would like to offer long-distance help on the two projects.

Bendick ruled over DEM in a difficult period, with a building boom taking place for several years. But he skillfully used all available resources as he fought for preservation of the land while keeping developers from running rampant.

He tried to stay away from the political game and in so doing, earned the respect of his bosses. He was appointed by a Democratic governor and then served for the past six years under a Republican head of state.

Bendick's job has grown into such an enormous undertaking that in the future, the DEM will likely be restructured. Besides land conservation and air and water quality, Bendick oversaw the state's parks and recreational facilities and programs. All of those tasks together are too much for any one person.

But then, hard work never bothered Bendick, who came to Rhode Island in 1971 to serve as Woonsocket's city planner. He then headed the city's planning department until 1978, displaying great vision and establishing an outstanding reputation.

Even while working in Providence, he has continued to contribute immeasurably to his home city. Until a year ago when he stepped down, his expertise was invaluable on the Planning Board. And he has helped the city behind the scenes in ways that aren't obvious to most.

We wish Bendick and his family the best of luck as they head to Albany in the coming months. He has been one of Woonsocket's and Rhode Island's greatest natural resources.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. 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. LAUTENBERG. Mr. President, I ask unanimous consent to speak as in morning business for a time not to exceed 7 minutes.

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

EARTH DAY'S 20TH ANNIVERSARY

Mr. LAUTENBERG. Mr. President, as we prepare for Earth Day's 20th anniversary, it is important to consider what it is we are talking about when we look at this auspicious anniversary. If I had to sum up Earth Day's meaning with a few words I would say it is about action, it is about empowering and motivating citizens, and those in government, to work for a cleaner environment.

That is also what the right to know data released by EPA just yesterday is all about. Yesterday marked the second annual release by EPA of the national emissions data required by the law.

When I worked to put the right to know provisions into the 1986 Superfund amendments, I had a simple goal in mind and that goal was to give citizens the truth and knowledge about the environmental condition of this country. And, as it is said, knowledge is power: Power to work for and power to demand a cleaner environment.

That is the mandate of this information.

Like last year's data, the new information from EPA tells us we are continuing to suffocate in pollution. We see air emissions of 2.3 billion pounds of pollutants including, in my own State, 36.5 million pounds of noxious material in the State of New Jersey. We see water releases of 361 million pounds of pollutants including, in my own State of New Jersey, 1 million pounds of material.

We see land disposal of 561 million pounds of contaminants including, in the State of New Jersey, 2.9 million pounds.

These numbers continue to show unacceptable amounts of pollution. The data continues to cry out for action.

As a result of a new awareness across the country and across the globe, it is obvious that we need to enact tough environmental legislation. We just passed a clean air bill in the U.S. Senate that would do much to reduce air toxics emissions. I would like to make it even tougher in conference with the House.

Over a 20-year period, we have regulated only seven air toxics and the right to know data shows us the consequences of this action. It is time for a tough new law.

These emissions also cry out for the passage of pollution prevention legislation. We have to stop pollution from being created. We need to make use of our current prevention technologies and develop new ones.

I have introduced a bill that would get prevention techniques into the hands of businesses that need them. It is time to make pollution prevention programs a top national priority, and this bill would attempt to do that.

The right to know data also shows the need for action on coastal pollution. I introduced legislation to create programs to reduce coastal pollution from industrial plants, storm water pollution, nonpoint and other sources. It is time to get tougher with coastal pollution, and this bill will do that.

It is worth noting that EPA has reported that new data shows some decreases in emissions. If these decreases show real prevention of emissions by industry, we ought to be happy. It would mean that right to know, through public disclosure, has created incentives to reduce pollution. Public disclosure and the new information can motivate industry to come clean.

But it is not clear yet what these lower emissions figures mean. EPA indicates that these decreases could reflect new techniques to estimate emissions. The agency also suggests the decreases could be due to companies changing from a toxic chemical on the right to know list to a toxic chemical not on the list.

These could be real reductions in pollution or they could be caused by other factors. The point is we do not yet know.

More importantly, these decreases only scratch the surface of what we must achieve. If we can get emissions down somewhat without a strong, clean air program, think of what we can achieve with a tough new air bill. Think of what we can do with a new coastal pollution and pollution prevention effort. Right to know is getting the truth out.

It may be providing an incentive to reduce pollution but the bottom line is right to know gives us more information, and the more we know, the more we can do.

The environment, as everyone knows, is in deep trouble and it is up to us to lead that rescue attempt.

I hope, after 20 more years of Earth Days, we, our children, and our grandchildren, will look back and know that we fought the good fight, that we won the battle to save the environment of the Nation and the world.

Mr. President, I hope that will be the legacy of Earth Day and the public's right to know.

TRIBUTE TO RHODE ISLAND LETTER CARRIER PATRICK COYLE

Mr. PELL. Mr. President, I would like to pay tribute today to Rhode Island letter carrier Patrick Coyle who on a biting cold day this winter with the wind chill factor below zero, averted a potential tragedy by assisting an elderly man who had fallen outside his home and was unable to get back on his feet.

I would like to share with my colleagues an article which appeared in the February issue of the Postal Record, the monthly magazine of the National Association of Letter Carriers, describing the quick action of Patrick Coyle, a Wakefield, RI, branch 3662 member.

Our Nation's army of letter carriers provides services which go far beyond the delivery of mail. Letter carriers take an active interest in the individuals encountered on their daily routes—an interest which can often lead to saved lives.

Letter carriers regularly check on elderly and disabled patrons along their routes. Often, a letter carrier is the only daily contact these individuals have with the outside world. Letter carriers also perform an important public service by being on the constant lookout for missing children. There are many stories that I could recount which have happy endings because of the action of a letter carrier like Patrick Coyle. Patrick Coyle examplifies the fine letter carrier tradition of outstanding service to the public and I am proud to recognize his efforts here today.

Mr. President, I ask that the text of the article be printed in the RECORD at this point.

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

LUCKY TIMING AVERTS WINTER TRAGEDY

It was a bitter cold day, with a wind chill below zero degrees—so letter carrier Patrick Coyle was startled to see an elderly patron kneeling on the ground outside his house, dressed only in a t-shirt.

About ten minutes before, Mr. Nichols had fallen while taking out the garbage and was unable to get back on his feet or crawl into the house.

When the Wakefield, Rhode Island Branch 3662 member reached his customer, Nichols was pale and cold. The 150-lb. Coyle was unable to lift the burly Nichols, but unfortunately no one else was around to assist him.

Coyle finally was able to carefully pull Nichols back into his home. He placed his customer in a chair in front of a heater and waited for the color to return to his face and hands. He also dialed 911 for assistance.

Since Nichols lives alone and has no local relatives, Coyle checks on him daily when he delivers the mail.

Nichols is doing fine now, and, Coyle said, "I was glad to assist. I've made a new friend."

The PRESIDING OFFICER (Mr. SHELBY). The Senator from South Carolina.

Mr. THURMOND. Mr. President, I would like to introduce a bill and I need about 6 minutes. I ask unanimous consent to extend morning business for 6 minutes.

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

(The remarks of Mr. THURMOND pertaining to the introduction of S. 2481 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

EARTH DAY

Mr. DASCHLE. Mr. President, I rise today to add my voice to those of my colleagues in recognition of Earth Day 1990. Sunday, April 22, is as significant a day as any the Senate has ever recognized. It represents a renewed commitment to our planet, and a chance to reflect on past successes and failures, as well as new opportunities.

In the 20 years since Earth Day in 1970, tremendous progress has been made. Many major pieces of legislation, including the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the Superfund amendments, the Federal Land Management Planning Act, and the Marine Mammal Protection Act, among others, have been enacted. Cars have been made cleaner; many rivers that were once open sewers now thrive with life; and some wildlife species, like the bald eagle, have been pulled from the brink of extinction.

But for every step forward we took, too often there was another step back.

Cecil Andrus was replaced by James Watt at the Department of the Interior. Lead was phased out of gasoline, only to be replaced by toxic benzene. Renewable energy and conservation programs that looked so promising in the late 1970's had the rug pulled out from under them, and there have been attempts to decrease the automobile efficiency standards. The bald eagle recovers, while the dusky seaside sparrow goes extinct and worldwide elephant populations plummet. The ravages of acid rain are finally recognized, while America retreats on action to stem global climate change.

We cannot afford to backslide any more. The longer we avoid action, and forget the lessons of the past, the more difficult the future will be. The cost of prevention pale in comparison to the costs of remedial action.

The Congress has before it both opportunities and obstacles. The Clean Air Act, recently passed by the Senate, marks a significant strengthening of current law. But the legislation will face many attempts to weaken it in the House of Representatives. Such attempts must be defeated. The Resources Conservation and Recovery Act, the Nation's principal law governing waste management and recycling, will soon come before Congress for reauthorization, and it will affect the lives of every American. Several pieces of legislation governing global climate change are before the Congress and deserve prompt consideration.

One of the themes of Earth Day is that the actions of every person make a difference. America, and Americans, must lead the fight and set an example for the rest of the world. From actions as simple as switching off a light or the recycling of newspapers, individual citizens help their environment send a signal to policymakers who must meet the environmental challenges facing us.

In South Dakota, there is a recycling drive going on in the State's capital of Pierre, and in Sioux Falls, students from Sioux Falls College are trying to clean up litter along the Big Sioux River. Students from Befesford are challenging other students across the country in matching them in planting trees. Similar efforts are occurring all over South Dakota and America. These are not major steps in the overall global environmental scene, but the collective small actions of many make a huge difference, and everyone who makes an effort deserves credit.

The Earth and the environmental issues facing the planet have received a great deal of attention in the last year. This attention, while welcome and long overdue, means nothing if it cannot penetrate the apathy of the citizenship and their policymakers. This is what Earth Day is all about—individuals making an effort to make life better for all of us, and for our grandchildren. We can no longer wait for problems to correct themselves; we must effect that change every day.

ANNIVERSARY OF EARTH DAY—1990

Mr. KERRY. Mr. President, 20 years ago, 20 million of us took to the streets to tell anyone who would listen that we were outraged at what was happening to our environment.

As a veteran having just returned from the Vietnam war, I was sensitive to how modern technology was effecting our lives. From the other side of the globe I had witnessed how man and his technology could turn Asian farm land into wasteland. There I saw soldiers exposed to toxic chemicals like agent orange. And when I traveled back home what I found was millions of Americans being exposed to filth in our air—carcinogenic wastes in our waters—and radioactive toxins in our earth.

When I came home, I joined thousands of veterans in asking our Government to stop the mistake of the war in Vietnam. And I joined millions of Americans asking their Government to put an end to the environmental disaster resulting from a decade of industrialization without recognition of the environmental consequences. It was time to put an end to this great environmental mistake of 100 years of pollution and waste—and to start cleaning it up.

On Earth Day, 1970, together all around the country we stood up to say we had had enough. We declared then that we were going to take back our air—take back our water—and take back our land—from those who were polluting them.

Nature walks, lectures, parades and cleanup efforts were carried out nationwide. The U.S. Congress stood in recess so that Members could devote the day to discussing environmental issues with their constituents at home. The wave of environmental support from the first Earth Day is credited with raising people's consciousness about the environment. That celebration resulted in the creation of the Environmental Protection Agency and brought us new laws such as the Clean Air Act and the Clean Water Act.

Now it is time to renew that commitment. It is clear that today we face increase international environmental challenges that demand the attention not only of Americans, but of citizens of every nation.

Consider for a moment the following:

It took 130 years for the world population to grow from one billion to two billion, and today we have reached a world population of over five billion. It will take a mere decade to climb from 5 to 6 billion, thus placing undue stress on our already fragile planet.

Despite what the administration thinks, the preponderance of the worlds scientist believe that the average temperature of the globe is expected to increase between 3 and 8 degrees by the middle of the next century, causing sea levels to rise and fertile farm land to become arid dessert.

In 1983, 10 percent of Germany's forests were damaged from acid rain, today a short 6 years later, the estimate is over 50 percent.

In Krakow, Poland the lead contamination in locally grown apples and lettuce is 10 times higher than the limit set by the world health organization.

In Hungary 5 million tons of hazardous waste materials are improperly disposed of each year.

Every night Taiwanese, Japanese and South Korean fishing boats set out more than 30,000 miles of nearly invisible driftnets, left to ensnare and kill dolphins, sea birds and any other suspecting marine life.

But we do not have to look overseas. Each year Americans throw away 16 billion disposable diapers, 16 billion pens, 2 billion razors, and 220 million tires.

Each year Americans throw away enough aluminum to completely rebuild the U.S. commerical airline fleet every 3 months.

From nuclear war to acid rain to global warming to radioactive wastes, the Earth—our Earth—is threatened by nightmares undreamed of by early conservationists.

Alone no country can stem the tide of ocean pollution, put at end to acid rain or protect the Earth's ozone layer. For that reason, Earth Day 1990 transcends international boundaries and seeks to build alliances across the globe.

Today here and now we are presented with stark choices. And any further delay will only make the decisions that ultimately must be made that much harder.

Consider for a moment that we have a depleting upper ozone level caused primarily by chlorofluorocarbons being emitted into the air. The upper ozone level acts as a protective shield which reduces harmful ultraviolet rays from the sun from reaching the earth. If this depletion continues a visit to the beach will not mean bathing suits and tan but moon suits to prevent skin cancer.

Problems of water pollution are also widespread. Pesticides and fertilizers from agricultural lands poison ground water, rivers, and estuaries. Oil, plastics, and litter foul our oceans and coasts. Sewage pours into our rivers and harbors carrying waterborne diseases such as typhoid, cholera, and hepatitis. In less developed nations inadequate sewage treatment has led to millions of deaths.

One thing we learned very clearly from the *Exxon Valdez* and other recent events is that the best way to protect waters resources is to keep pollutants from ever entering waters. Once present, treatment is difficult, if not impossible.

In many areas around the world, freshwater is an increasingly scarce resource due to population growth and the increasing demands of urbanization, industrialization, and irrigation. In the arid regions of the Middle East competition for water has strained relations between neighboring countries.

Examples of water mismanagement are numerous and too easy to find. Perhaps, the most dramatic example is that of the disappearing Aral Sea in Russia. Or the Vistula River in Poland, once a haven for fishermen, it is now so polluted from coal runoff that in many areas, it is not even fit for industrial use.

But we can look right here in America where acid rain has destroyed life in many of New England's rivers, lakes and streams, the Ogalla Aquifer, a vast ground water reserve that stretches from South Dakota to Texas has been depleted by half in some areas due to excessive withdrawals for irrigation to crops.

Faced with problems of pollution and decreasing supplies, nations must work together toward better management and conservation of the world's existing resources. It is shared responsibility to preserve our planet and keep it at peace. And that is why Earth Day 1990 is so important. What we need is a clear message to our world's leadership.

Here in the United States our own Presidential leadership needs to be reached. The opportunities have presented themself to President Bush, but sadly they have too often been missed.

Just recently, half of the National Academy of Science members joined with 49 Nobel Laureates to urge President Bush to take the threat of global climate change seriously and begin to take action. Some of the President's own policy advisers have suggested a greater need for action. Unfortunately, however, President Bush hosting his own international global warming conference just this week called for more studies and continuing debate instead of action. By doing so, he missed an opportunity to reassert our Nations leadership in this vital area so critical to the whole world. By doing so, the President fell far short of his campaign promise to use the "White House effect" to deal with the "green house effect."

When it really comes to protecting the environment the President offers proposals that sound good rhetorically yet fall short in reality. They are more often symbolic than really getting at the root causes degrading our Earth.

For example, the President talks about global warming, but what he proposes are more studies and tree planting—great symbols but short on substance, short on action. He does not talk about capping CO_2 emissions or ending subsidies for logging—in fact, he fights against such efforts.

While the President talks about clean air, he fails to provide proper funding or steadfast leadership. Instead his White House emissaries came to Capitol Hill and sat in negotiations attempting to whittle away at a strong Clean Air Act proposal.

During the Presidential campaign, then Vice President Bush visited Boston Harbor and made it a symbol of environmental neglect, but now President Bush provides zero funding to help in the cleanup effort—powerful symbolism, little or no substance.

President Bush failed yet another test to really become the environment President when he backed off his "no net loss" promise for wetlands. Like global warming, the President talked tough during the campaign, only to retreat when it came time to implement his promises. Once again, the losers are the public and the environment.

Fortunately, in the U. S. Senate we do have environmental leadership that is willing to stand up to the administration and bring environmental issues to the Senate floor for debate. We have passed a clean air bill, are close to sending a tough oilspill bill to the President, have passed a global warming research bill, and will soon take up automobile fuel efficiency legislation.

It is critical that the Congress and the President break new ground in the area of environmental safety not only here in America, but throughout the world. The United States and other western nations must realize that in order to provide credibility, we must not only clean up our own mess but also may have to compensate developing nations for preserving environmental resources to the benefit of all of us. We cannot forget that developing nations want nothing more than to prosper like the first world.

Private businesses must also do their part. Today we are witnessing a "greening" of American businesses. As we enter the nineties which have quickly garnered the label as the "decade of the environment" we see a new kind of work ethic, with a new kind of businessperson—the eco-entrepreneur.

Corporate responsibility toward the environment no longer carries with it the stigma of fiscal irresponsibility. Many companies trying to use environmental ethic are finding that consumers are prepared to put their money where their philosophy is. And a growing number of polls show that ecology is on the minds of American consumers.

Consider for a moment a recent Gallup survey: When consumers were asked "Would you make a special effort to buy products from companies trying to protect the environment" 94 percent answered affirmatively. When they were asked. "Would you give up some convenience, such as disposibility of items in return for environmentally safer products or packaging?", 95 percent said that they would. And when asked "Would you be willing to pay more for products or packaging made environmentally safer", 89 percent said yes they would. In essence if 90 percent of consumers are encouraging eco-responsibility, then companies would be crazy not to participate in this new environmental opportunity.

Richard Mahoney the chairman of the Monsanto Chemical Co. expressed the situation accurately when he recently said: "The torch of environmentalism—if not yet bursting into flame is at least being lit in corporate America."

And underscoring that point we can look to a number of companies. 3M for example, has gained national recognition by encouraging employees to not only develop programs that prevent pollution, but that save money too, and they have been successful. In the past several years the company has backed roughly 2,500 environmental projects worldwide. They have involved such efforts as recycling the trimmings from their "post it" pads to changing from chemical- to water-based coatings for adhesive tape.

Polaroid Corp. in my home State of Massachusetts is another example. They have a program to deal with toxic use and waste reduction, recycling, as well as product and packaging design to enhance recyclability. Each division in the company is encouraged to come up with environmental ideas and incorporate them into the daily operation of the plant.

Another Massachusetts company, Veryfine uses 100 percent recyclable materials such as glass, aluminum and paper. 98 percent of the solid waste they generate is recycled and put to use. They transport their organic waste to nearby farms. In 1986 Veryfine won the Associated Industries of Massachusetts' ecology award for outstanding achievement in environmental protection and conservation.

Procter and Gamble is spending millions on earth friendly consumer products. They are trying to halve the weight of disposable diapers, and are testing recycling programs to turn plastic products into park benches, insulation and other reusable items.

In Leominster, MA, Mobil Corp. and Gen-Pak are doing their part. They have established a recycling center that collects styrofoam trays and cups from school cafeterias and McDonalds and recycles it back into reusable plas-

tic being used to make Rubbermaid trays and combs for your hair.

Corporate environmentalism goes far beyond the actual manufacturing companies themselves. Banks and mutual funds are stepping into the environmental arena, too. Wary lenders concerned about responsibility if companies are not environmentally sound, are requiring environmental audits before making loans.

The Securities and Exchange Commission now requires corporations to list potential environmental liabilities in annual reports.

Numerous mutual funds are basing their investment decisions on a company's social and environmental ethic. In Boston for example, the Franklin Research and Development Corp. stays away from companies who are not environmentally sound.

In fact the newly formed Coalition for Environmentally Responsible Economies, a group of institutional investors with control over $150 billion in pension funds, and other assets, claims that they may withdraw money from companies that do not adhere to the so-called Valdez Principles. The Valdez principles named after the Exxon oil disaster last year in Alaska, adopts guidelines in which companies are asked to reduce waste, use resources prudently, market environmentally safe products, and take responsibility for their past damage.

In addition to companies doing better environmentally, we are also witnessing companies becoming more environmentally responsible and aware. There is a growing need for the technology and equipment necessary to solve the environmental crisis.

New eco-businesses will flourish with the need to meet new regulations from the recently passed Clean Air Act, or the demands to dispose of toxic waste, the race to search for viable energy alternatives and the quest to come up with a land fill solution.

As industries seek solutions, new technologies can and must be on hand. Throughout the Clean Air debate, industries complained that they could not achieve the toxic air reductions, could not build automobiles that were fuel efficient and utilities would go bankrupt because they could not afford technologies to reduce acid rain.

This nay sayer attitude is unacceptable when we are talking about what's at stake. The globe and our human health are nothing to give up on, particularly when the price of inaction is so high.

America's businesses are not alone in the effort to find answers to environmental problems. Japan is leading the way on a number of energy projects worldwide.

In West Germany private industry is also doing its part. Companies have agreed to invest in new technologies to end the damage caused by acid rain which has literally destroyed their nation's heritage—the Black Forest.

And in Canada, industries are doing their part. They have made a financial commitment to ending the pollution being emitted from smelters which cause acid rain.

Although there is much to do overseas, we can and simply must do far more at home. We should start with a simple proposition that industry will save enormous financial resources if they adhere to the following: that the air coming out of our factories must be air we can breath—that the water we expel from our factories and our homes must again become water we can use. These are not only our birthright—which no one has the right to deny, but they also represent the fiscally sound response to the "greening" of corporate America.

But sometimes, rights must be fought for. Rights are not self-protecting. Just as our Nation has fought for freedom, we must fight for our environment. And each of us must be a soldier in this war. We must all get our hands dirty in order to clean up the environment.

Earth Day 1990 gives us the chance. I am a member of the board of Earth 1990 and cochair New England's Earth Day. As I travel across the Nation I feel and hear about the current renaissance to protect our planet earth and know that we can achieve even more of a success than was accomplished in 1970.

Through massive educational efforts, activities, and events; Earth Day will both teach citizen's what they can do to save our planet, as well as put pressure on governments around the globe to enact responsible and necessary policies.

What can be done? Industries and businesses can use their networks to encourage education and environmental awareness. Environmental curricula can be institutionalized in our schools. Businesses can provide choices to their consumers who depend on their products and services. But in addition individuals are really the ones who can make a difference.:

In Massachusetts several individuals have and continue to make a difference.

Isabella Halstead from Cambridge, MA, convinced the Metropolitan Government to close Memorial Drive in Cambridge on Sundays from April through September so that urban families can use the space for recreation. In essence she helped create a traffic-free river front.

And Russell Smith from Martha's Vineyard has made a difference, he works with local companies particularly small businesses to help them understand how to dispose of their hazardous waste properly.

Mary Toomey, a retired school teacher has made a difference. She is chairperson of the Back River Committee in Weymouth and Hingham, MA, and has been responsible for 1,000 acres of park land being established along the Back River, where now we have bird sanctuaries and walking trails.

And we also can point to Ed Cooper, the president of the Urban Gardners in Boston. He is a committed individual who has worked to turn ghetto areas into urban gardens.

And one final individual I would like to highlight who has made a difference is Novella Taylor, a jazz vocalist from Roxbury who has been using public transit as her primary source of transportation since 1930. By using transit for 60 years Novella saved the environment over 2,000 pounds of dirty automobile emissions.

So individuals can and do make a difference in saving our environment. What can be done?

We can start with energy audits and take the steps to lessen our dependence on fossil fuels, by promoting energy efficiency in our work place and in our homes, in our schools and government buildings.

It is estimated that 50 to 70 percent of the energy use in the average American home is devoted to heating and cooling. We can take the steps to weatherize our homes through adequate insulation.

We can take public transportation when we can leave our cars at home.

We can take shorter showers and conserve water in our homes.

We can stop buying nonrecycled packaging materials.

We can become more aware of the environmental impact of using chemical fertilizers on our lawns, some of which emit the greenhouse gas nitrous oxide.

We can participate in recycling in our homes and businesses and encourage recycling drives in our towns and cities.

We can stop pollution at the source by convincing our policymakers to enact tough laws.

When you go to the grocery store ask for your food to be packed in paper bags not plastic bags. Try to buy items that are packaged in reusable materials like glass and paper.

If you are buying an automobile buy a fuel efficient car. Aim for 35 miles per gallon, and remember heavier cars use more fuel.

Hold neighborhood cleanups of parks and streets.

All of these are things that individuals can do. But of equal importance, we as individuals must let our concern for the environment be known to the politicians. Because politicians react to the felt need of their constituents. We can begin today as we start to cele-

brate Earth Day 1990. The need today for an environmental grassroots effort is more important than ever. Like the grassroots effort that halted the Vietnam war, we need a new grassroots effort to combat the toxics war, the air pollution war, the waste war, and the global warming war.

In the 1990's we must redefine what the terms "citizen" and "patriot" mean. For in this day and age these terms can only be applied with meaning to those in their everyday lives recognize and fulfill their responsibility to the earth which we all share and which sustains our very lives.

The single most important element to saving our future planet, for future generations is for us all to become involved, involved with Earth Day 1990, involved with daily environmentally sensitive activities, and involved with educating others on what they too can do.

EARTH DAY 1990

Mr. GLENN. Mr. President, I rise today to commemorate the first Earth Day of 1970 and to call attention to Earth Day, April 22, 1990.

Twenty-eight years ago it was my privilege to be the first American to orbit the Earth and see it as a beautiful blue-green ball silhouetted against the vastness of space. I have never forgotten that sight nor the experience of seeing our planet as a delicately balanced spacecraft Earth which must be kept healthy, whole, and unharmed if we are to have a future in the universe.

We have come a long way since the first Earth Day in 1970. The environmental movement has grown in stature, scope, and public support during those years, but the greatest challenge still lies ahead. With our advanced technologies and information management systems we command enormous power for altering the soil, forests, water, atmosphere, and ecosystems of the planet. These powers can be used either to preserve or destroy our Earth—and the choices are ours.

The great value of Earth Day celebrations is that they prepare us to make those choices. Across my State of Ohio, individuals, students, businesses, environmental groups, and others are participating in a range of activities to highlight ways to find solutions for the environmental problems we face and to make the choices that will preserve our environment for future generations.

Mr. President, 20 years ago Congress created the Environmental Protection Agency as a response to what was perceived as a serious and growing pollution problem that threatened the health and well-being of the American people. On January 23 of this year, I introduced legislation to transform the Environmental Protection Agency into a new Cabinet-level department, the Department of the Environment. I believe that this measure, like the thousands of Earth Day participants in Ohio and across the land, affirms our commitment to the environment.

I believe that our commemoration of Earth Day 1990 demonstrates that we have the energy and the resources to imagine—and the determination to achieve—new and better ways of living on and caring for our priceless legacy, Planet Earth.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,861st day that Terry Anderson has been held in captivity in Beirut.

I would also ask unanimous consent that a New York Times article concerning the Islamic Jihad for the Liberation of Palestine's reported pledge to free one of the hostages be reprinted at this point in the RECORD.

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

[From the New York Times, Apr. 20, 1990]

MILITANTS DELAY HOSTAGE'S RELEASE

(By Thomas L. Friedman)

WASHINGTON, April 19.—Pro-Iranian kidnappers in Beirut announced today that they had postponed the freeing of an American hostage because the Bush Administration refused to meet their demand to dispatch a senior Middle East policymaker to Syria to coordinate the release.

The kidnappers, who had promised to free one captive by Friday, did not set a new deadline. But Foreign Minister Farouk al-Sharaa of Syria, which has been involved in negotiations to free the hostages, said after the postponement that he was confident that the release will be completed by Sunday.

President Bush justified his decision not to send the Assistant Secretary of State for Near Eastern Affairs, John Kelly, to the Middle East by saying that that would have been tantamount to giving in to the demands of kidnappers and could have enmeshed the United States in a negotiation with hostage takers, which his Administration has categorically prohibited.

"The United States does not knuckle under to demands," said Mr. Bush, speaking with reporters at a news conference in Florida after his talks with President François Mitterrand, whose Government bargained with Libya last week for the freedom of three French nationals held captive in Beirut. "We have a perfectly capable, accredited diplomat on the scene in Syria to work toward the release if it comes to that."

The American Ambassador to Syria, Edward Djerejian, was ordered back to Damascus on Wednesday from Bonn, where he was attending a meeting with the American diplomats, including Mr. Kelly.

In a statement on Wednesday, the group, the Islamic Holy War for the Liberation of Palestine, demanded that Mr. Kelly fly to Damascus "to coordinate some final steps to guarantee success" of the handing over of one of the three Americans it holds hostage.

STATEMENT AND CAPTIVE'S PICTURE

The group did not specify what kind of coordination it had in mind or identify which hostage would be released. Officials said those too were important factors in the Administration's decision on Wednesday not to dispatch Mr. Kelly.

In its statement today, the kidnappers said: "All arrangements to free the American hostage were set to be finalized. But Kelly's failure to respond has so far frustrated the release, which made us postpone this operation until the picture is cleared."

Reports from Beirut said the statement, handwritten in Arabic and delivered to a Beirut newspaper, was accompanied by a Polaroid picture of Robert Polhill, 55 years old, who along with Jesse Turner, 42 and Alann Steen, 50, was abducted from the grounds of Beirut University College on Jan. 24, 1987. Wednesday's statement, declaring that a hostage would be released as a "good will" gesture and in response to appeals from Iran, was accompanied by a picture of Mr. Turner.

The postponement by the kidnappers raised the question of whether in its effort to avoid even the appearance of negotiating with terrorists, the Administration was missing an opportunity to free one of the eight Americans believed held hostage in Lebanon.

WE DO NOT MEET DEMANDS

As top officials in the Reagan Administration during the arms-for-hostages Iran-contra scandal, President Bush and Secretary of State James A. Baker 3d were made well aware of the political costs of negotiating with hostage takers.

Yet, last month, it was disclosed that the President took a phone call from a man asserting to be President Hashemi Rafsanjani of Iran, even though he knew it might be a hoax, because he thought it might lead to the release of hostages. It is possible that lingering embarrassment over that hoax has left the Administration twice as reluctant to be drawn into another encounter with kidnappers.

"We shouldn't be put on the defensive, the kidnappers should be," an Administration official said. "They are holding human beings against their will. They could let them go at any time. Who knows, we could have sent Kelly and the minute he gets over there, they would say, 'Sorry, you don't have on green shoes.' Whether it is Kelly or ammunition, you don't negotiate with hostage takers."

In his remarks in Florida today, President Bush said: "I think the U.S. position is clear. We do not meet demands. We've been disappointed before—hopes raised—only to have them dashed by excessive speculation. I would add that we are not talking to the hostage holders."

Some analysts said they believed that it is quite possible that the hostage takers never intended to release a captive—at least not without conditions—and may have intended from the beginning to embarrass the Bush Administration or simply bring the hostage issue back into the headlines in order to increase public pressure on the White House to negotiate.

There may have also been a dispute among the kidnappers in the last 24 hours, or between the hostage takers and Iran, over the decision to free a captive.

SYRIA EXPECTS A SHORT DELAY

DAMASCUS, SYRIA, April 19.—Senior Syrian officials acknowledged today that the prom-

ised release of an American hostage had been postponed by "a day or two," but the Syrian Foreign Minister expressed confidence that at least one American hostage will be freed by Sunday.

"We have been exerting a great deal of effort with the Iranians to secure the release of the American hostages by Saturday or Sunday," Mr. Sharaa said tonight after meeting with the American Ambassador here, Mr. Djerejian.

Mr. Djerejian declined to comment on the meeting, or on assertions by a Palestinian official that American officials met here secretly this month with the brother of President Rafsanjani of Iran and agreed on the release of the hostages.

The assertions were made earlier today in Amman by a senior Palestinian official who asked not to be identified. They were carried by several news agencies.

The official said the deal includes the release of Palestinian prisoners held in Israel from the Islamic fundamentalist movement known as Hamas.

Syrian officials, who asked not to be identified, described the assertions as baseless.

EARTH DAY CELEBRATIONS

Mr. SANFORD. Mr. President, I rise today in the spirit of Earth Day to make some brief comments about the progress we have made in protecting the health and the environment in the 20 years since the first Earth Day, and more importantly about the progress that will be needed in the next 20 years. I wanted to touch briefly on the critical importance of scientific information both in setting proper environmental policies and in helping to implement them. I also wanted to thank all of the individuals who are making this Earth Day a success. Their work helps us recognize threats, set priorities to meet threats, and go about solving problems once priorities have been set.

On Sunday, millions of people will be joining together, not only in Washington, but in cities and towns all over the country—in fact, all over the world—to reflect on, celebrate, and advocate a simple proposition: That each and every one of us must help serve as a steward for the natural environment of the Earth.

Earth Day is both a celebration and a time for somber reflection. It represents both the spiritual and the practical. More than anything, it is a call to action. This 20th anniversary of the first momentous Earth Day is both an observance of the great strides we have made in awareness of the natural environment, and a reminder that our work has only barely begun.

Mr. President, there is a great idea embodied in the spirit of Earth Day: The idea that we have an absolute obligation to protect the natural environment of our fragile planet, and to pass on to our children and grandchildren an environment that is as healthy as that which we inherited. Sadly, we are falling short of that obligation in many ways.

But there is even more to Earth Day than that proposition. Earth Day is a call to action, because we are learning that the responsibility for good stewardship cannot fall on any one set of shoulders. That responsibility cannot be borne by government alone; it cannot be borne by industry alone; it cannot be borne by the scientific community alone; and it cannot be borne by any nation alone. We all live together on this planet, and more than ever before, we must all do out part to instill an ethic of environmental sustainability, and to live by that ethic. That is the message of Earth Day, and that is the challenge before us.

Mr. President, it is true that considerable progress has been made in environmental protection since 1970. We now have major laws in the United States covering nearly every area of environmental policy, and most of those laws have been strengthened and fine tuned since their original enactment. Most of the developed world has followed suit.

We no longer see rivers catching fire; we have a pretty good idea of what downtown Pittsburgh looks like; and for the most part, we are no longer simply putting hazardous chemicals in a hole in the ground when we grow tired of using them. Great progress has been made in restoring the health of our Nation's waters. Emissions of some air pollutants, such as lead, have decreased dramatically. Pollution control technology has grown by leaps and bounds. And progress has been made in removing certain chemicals, at least some of the really bad actors, from the environment.

We have learned the value of proper environmental planning through the National Environmental Policy Act and other procedural statutes. And we have learned the value of setting aside wilderness areas, parks, and forests for future generations.

Finally, our scientific knowledge has advanced considerably so that we know a great deal more about the mechanisms by which manmade chemicals can harm health and the environment; about which types of pollution pose the greatest risks; and about how that pollution can be reduced.

Fine, you say. So what's the bad news? With all this progress, what is the big deal that may require new sacrifices?

Well, put simply, the bad news is that the same science that has helped us begin to solve the old problems has discovered new ones. And it is quite possible that, for all the strides we have made, the environmental health of our planet may be threatened as never before.

Mr. President, we have discovered that many environmental problems do not fit neatly within international borders. And, looking at the planet as a whole, here is what we see:

Biological diversity is being depleted at an unprecedented, with species becoming extinct at a record pace.

We are committed to several decades of severe ozone depletion, which could pose very serious risks to both human and ecological health.

We are threatened by the specter of global climate change, which could result in very profound problems affecting health and the environment—and we do not even know all the questions to ask, much less the answers.

World population if growing in absolute terms at an unprecedented rate, and there is legitimate concern that we may be sacrificing the natural resources that will be needed to feed, clothe, and house the next generation.

Clean water is in short and diminishing supply in many areas of the world; valuable topsoil is being lost; and forest resources are being lost both from forest clearing and from intensive pollution.

Mr. President, in this country, we still have nearly half the population living where the air does not meet Federal health standards; toxic air pollution is still virtually unregulated; new and massive threats to groundwater supplies are discovered every day; and more and more coastal waters are being closed to fishing and swimming.

The point is that there is no room for complacency. That there are many environmental threats to human health, and ecological health, is abundantly clear. And we must redouble our efforts in public policy, in scientific research, and in individual lifestyles, to address these problems. That is the call to action.

Mr. President, the Government must continue to do its part, both with respect to the domestic environmental problems that have been recognized for some time and the relatively new international issues. Industry must do much more, especially in the area of pollution prevention. Industry is also beginning to recognize that simple compliance with the laws is no longer adequate, and it is encouraging to see many companies beginning to take voluntary actions to go beyond the letter of the law.

Individuals can make a difference, and must make a difference. I will not dwell on this at great length today, but will make a few brief points:

The United States uses an enormous amount of the world's natural resources, especially in terms of energy. We probably waste more energy than any other nation uses. In fact, we manage somehow to use twice as much energy to produce a dollar of national product as the Japanese and the Europeans. That energy use has enormous environmental consequences. Every

American can take action to reduce unnecessary energy consumption, whether by weatherizing their home, minimizing driving, installing more efficient lighting and appliances, or even turning lights off and turning the thermostat a notch or two.

The Japanese manage to recycle almost half their solid waste. We are still down around 10 percent. There has been a recent explosion of community-based recycling programs in the United States, and nearly every American will soon have the opportunity to recycle.

Mr. President, these are just two of many areas where we will need individuals to act along with Government and industry if we are to make the kind of progress we need. It will do little good, for example, to ban offshore oil drilling as long as Americans insist on driving big cars and driving them often. If we don't get the oil from this country, we will continue to import more and more, and the net result will be just as much air pollution from motor vehicles, and just as much—probably more—damage from oilspills from tankers.

It will likewise do little good to ban landfills and promote recycling if Americans are not willing to take a little time to separate their trash and ensure that it goes to the recyclers.

Mr. President, I happen to believe that Americans will be willing to make these kind of modest changes, and that they will respond to the message of Earth Day. There are many skeptics, but we can work together to prove them wrong.

There are some out there who blame science for the mess that we are in in the first place. Science created all these chemcials that we worry about, and all these technologies that exploit our natural resources. And some would say that we cannot trust the scientists to fix the problems that result as technology advances, so we ought to stop spending so much time trying to advance technology.

Well, I am here to tell you that genie is not going back in the bottle. Technology will continue to advance, economies will continue to grow, and most Americans will continue to insist on that progress. Most of us cannot go back to a simpler time, if there ever was such a thing. And, while there are many things we can do for the environment that do not depend on science and technology, we will be relying on science more than ever before to help us return to good stewardship for our planet.

Mr. President, we are making great progress in understanding the risks associated with various chemicals and pollutants; the mechanisms by which those substances may cause harm; the best means of helping to obviate risk; and even the science, or art, of risk assessment itself. All those areas are critical as a foundation for public policy. Without the kind of information that science provides, the agencies and the Congress cannot possibly set proper priorities and direct limited resources where they are most needed. Without this kind of information, we could not even recognize some threats to health, much less begin to address them.

I might want to finish up here by touching on a topic that the Senate has recently spent much time on, and which may serve to illustrate some of the things we are talking about. That is the clean air legislation. It is now pending in the House.

Mr. President, the clean air bill passed by the Senate was the first rewrite of that law in 13 years. The clean air legislation obviously will have important health consequences. It is an enormously complex bill, some 700 pages long, and it was and may continue to be enormously controversial. We had over 100 floor amendments on some of the most technical subject matter you can imagine. The task was to figure out why the old bill had failed in many areas and fix those flaws; set very tough environmental and health standards and try to make sure they will be achieved; and do all that at the least possible cost to the economy. That is obviously no simple matter.

One area that was particularly controversial was air toxics. The current law has failed almost completely in that area. There are literally hundreds of toxic chemicals emitted into the air in sufficient quantities to pose health risks. EPA has been able to regulate just eight of them in 20 years, and a great many sources are still virtually uncontrolled.

Mr. President, as you probably know well, the basic problem is that the old law is somewhat vague in its requirements. That is not a problem if you happen to be a lawyer. The language, which is very simple and quite noble, says EPA must "protect public health with an adequate margin of safety." Those nine words have made fortunes for an awful lot of lawyers. But if you are interested in protecting public health, those nine words haven't done much for you.

It has proven very difficult to determine what those words mean in the real world, especially when carcinogens are involved. If they mean elimination of all risk, that may mean zero emissions since we cannot establish a threshold for many chemicals below which no harm will result. But zero emissions is often impractical in the real world, so EPA has been reluctant to take action that might shut down whole industries—especially when risk could be reduced to a very small level with feasible controls.

Mr. President, even if EPA was not reluctant to make such decisions, the experience has been that almost anything they do will get them sued from one side or the other. So public health has to wait on the sidelines until the lawyers get done. And even from a congressional perspective, lawyers can take a long time.

The Senate chose to address the problem by mandating stringent technology-based standards for nearly 200 substances taken from a list provided by EPA. These standards are expected to greatly reduce risks from air toxics, and to reduce emissions from industrial sources by about 90 percent. Other provisions require reductions in toxic emissions from motor vehicles.

However, we did not want to make the level of health protection contingent on whatever control technology happened to be available. So we needed a second round of health-based standards, which will generally be issued about 5 years after the first round. This second phase is residual risk. This section of the bill, which started out to be just a few pages, turned out to be one of the two or three most controversial areas of the bill.

Mr. President, the Environment Committee thought we ought to guarantee that no individual would be exposed to a risk of greater than 1 in 1 million, although 1 in 10,000 would be temporarily allowed in limited cases. The President thought we ought to leave things to the EPA to decide if risks were unreasonable.

The debate was protracted and heated on this very technical matter. The White House said these provisions were among the most costly in the bill, and that we would expend enormous resources on minimal risks. Numerous industries claimed they would be shut down for little environmental benefit, and there was convincing evidence to back some of the claims that shutdowns would be likely.

Mr. President, some said that we should be trying to reduce overall population risks—the number of expected cancers—rather than the risk to a "most exposed individual." Others argued that EPA, and I suppose by reference others, use unrealistic assumptions in assessing risks. This would include high-dose to low-dose extrapolation and assumptions about the relative sensitivity to pollutants of humans and test animals.

It was also argued that unrealistic exposure assumptions were used, such as the assumption that a most exposed individual lived at a fence line, 24 hours a day, for 70 years. In the real world, they said, we know no one is ever exposed to such conditions. On the other hand, environmentalists argued that such assumptions were minimally necessary to help guard against the combined effects of multiple pollutants. These may be questions

that some of you grapple with every day, but they were highly complex issues that Congress had to learn to address with a great deal at stake.

We finally arrived at a consensus position. It may not be the best solution, but everyone seemed to be willing to live with it. First, we recognized that there are still great uncertainties and differences of opinion about risk assessment, so we asked the National Academy of Sciences to do a comprehensive review to EPA's risk assessment procedures for air toxics. Second, we provided for a blue-ribbon panel to take a broader, more policy-oriented look at the whole risk assessment and management issue for air pollution. Both these groups will report back to Congress before residual risk regulations must be issued.

Mr. President, Congress would be given an opportunity to revisit the issue under expedited floor procedures. But if Congress does not act, there is a fallback procedure. EPA must set the new standards based on a 1-in-1-million or 1-in-10,000 individual risk. The more stringent standard will be the goal, but it will be somewhat easier to qualify for the 1-in-10,000 standard. EPA's current assumptions on risk would be required in the areas where there is most uncertainty—meaning the "unit risk factors" must be used. But, with respect to exposure assumptions only, sources would have an opportunity to prove that the most exposed actual person was further away than the fence line, or that the person would be exposed less than 24 hours a day.

So what we basically did was took three steps back and punted to the Commissions, recognizing that more information might be important. But we ensured that there would be a fallback position in place if the new information did not result in changes. The fallback position includes fairly stringent standards, certainly in comparison with the current situation. It also attempts to come as close as possible to actual risks, while using conservative assumptions where there is uncertainty.

Mr. President, this legislation is an example of the influence and importance of the issues of Earth Day. As Earth Day approaches, I want to encourage everyone to keep up the good work and to say that we are fortunate to have dedicated people like the individuals behind Earth Day. However, there is still an enormous task in front of us, but I hope that the next 20 years will be remembered not as the time when the Earth's natural resources were destroyed, but the time when people drew together to protect them.

SENATOR SPARK MATSUNAGA

Mr. BIDEN. Mr. President, it has often been said that the individual who has known war will work the hardest to achieve peace. Our colleague Spark Matsunaga epitomized that idea.

During his 28 years in the Congress, Spark Matsunaga was not only our good friend and respected colleague; he was often our conscience. For in so many ways, he reminded us of what America is all about.

At the end of 1941, when war passions were running high and the loyalties of Japanese-Americans were being unfairly questioned, Spark, along with DAN INOUYE and hundreds of others, volunteered to fight for this country on the battlefields of Europe. Their unit, the famed 442d Infantry, was the most decorated military unit in American history, and Spark Matsunaga brought back a Bronze Star, two Purple Hearts, and numerous other commendations for his gallantry.

After the war, Spark played an important role in the Hawaiian statehood effort, and in 1962, the people of Hawaii sent him to the House of Representatives when his friend DAN INOUYE moved over to the Senate. From the beginning, Spark was the war hero working tirelessly for peace. For 22 years, both in the House and later in the Senate, Spark lobbied tirelessly for the creation of a Federal institution dedicated to teaching our future leaders strategies for peace, just as our military academies teach them the strategies of war. In 1984, Congress established the U.S. Peace Institute, a lasting legacy to Spark's efforts.

While Spark Matsunaga and DAN INOUYE were putting their lives on the line for this country, too many American citizens of Japanese descent were unfairly rounded up and kept in concentration camps for the duration of the war. For four decades those actions were a blight upon our heritage as a nation that values freedom and equality under the law. But while everyone talked about how terrible those incarcerations were, few were willing to make an attempt at amends.

It was the kind of cause that perhaps only a Spark Matsunaga would be willing to take up, not because he was a Japanese-American, but because the concentration camps were such a miscarriage of all those principles for which he had fought. In 1988, after another long struggle that required all of Spark's legislative skills, the Congress passed legislation that not only compensated the victims for that miscarriage of justice, but told the America people and the people of the world that those actions were not in the spirit of America's heritage, and that neither we nor future generations of Americans will ever tolerate that again.

Having played an important role at a time of crisis in America's history, Spark Matsunaga went on to provide us with a legacy of peace and justice for generations to come.

We will all miss him very much.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

FAVORED-NATION STATUS FOR HUNGARY

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m. having passed, the Senate will resume consideration of H.R. 1594, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1594) to extend nondiscriminatory treatment to the products of the Peoples' Republic of Hungary for 3 years.

The Senate resumed consideration of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. 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. PACKWOOD. Mr. President, are we on the trade bill at the moment?

The PRESIDING OFFICER. We are.

UNANIMOUS-CONSENT AGREEMENT VITIATED

Mr. PACKWOOD. There was a unanimous-consent agreement entered into yesterday and I, perhaps unwisely, have taken some people by surprise. I certainly did not intend that because I had been in meetings and had been telling them I thought I was going to do this.

So I ask unanimous consent that the unanimous-consent agreement entered into yesterday on an amendment that I was going to offer on log exports and any second-degree amendments that would be offered to it be vitiated.

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

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

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

AMENDMENT NO. 1491

(Purpose: To correct the Harmonized Tariff Schedule of the United States as it applies to parts of ionization smoke detectors)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposes an amendment numbered 1491.

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

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

The amendment is as follows:

On page 71, after line 12, insert the following new section:

SEC. . PARTS OF IONIZATION SMOKE DETECTORS.

(a) IN GENERAL.—Chapter 90 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by inserting in numerical sequence the following new subheading with the article description having the same degree of indentation as the article description in subheading 9022.90.60:

"9022.90.70	Of smoke detectors, ionization type.	2.7%	Free (A, B, E, IL) 2.1% (CA).	35%".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(2) RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law to the contrary, upon a request filed with the appropriate customs officer after September 30, 1990 and before April 1, 1991, any entry or withdrawal from warehouse for consumption of goods to which the amendment made by this section applies and that was made—

(A) after December 31, 1988; and

(B) before October 1, 1990;

and with respect to which there would have been a lower duty if the amendment made by this section had applied to such entry or withdrawal, shall be liquidated or reliquidated as though such entry or withdrawal had occurred on October 1, 1990.

Mr. DIXON. Mr. President, this is a very simple amendment. It merely corrects an inequity created by the new harmonized tariff schedule. Until recently, ionization smoke detectors and ionization smoke detector components were classified at the same rate of duty. The new harmonized tariff schedule, however, neglected to include a separate provision for smoke detector components. The result is that now ionization smoke detector components are placed in a classification that carries a higher rate of duty.

This oversight results in a sigificant handicap for American producers of ionization smoke detectors. If a U.S. firm wants to do the bulk of the work here in the United States, using some imported parts, they have to pay more duty on those parts than for the duty on fully assembled ionization smoke detectors.

Preliminary reports from the International Trade Commission, the agency responsible for converting the old tariff schedules to our present harmonized tariff schedules of the United States, and the Department of Commerce show that this amendment is noncontroversial and is simply redressing an omission.

This legislation simply maintains the status quo to provide an opportunity to pursue administrative relief through the U.S. Trade Representative and the Department of Commerce.

Mr. President, this is a meritorious amendment. I urge its adoption by the Senate.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I make the following statement on behalf of Senator BENTSEN, chairman of the Finance Committee and the manager of the bill.

The amendment offered by the Senator from Illinois would correct a tariff problem on smoke detector parts resulting from the conversion of the harmonized tariff system. While this provision has not been the subject of public comment in the Finance Committee, I am willing to accept it on the understanding that if we learn that it is controversial, I would be inclined to drop it in conference with the House; but with that understanding, I would accept the amendment.

Mr. PACKWOOD. The amendment is cleared on this side, Mr. President.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 1491) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, it is my intention later to offer an amendment on the subject of log exports, which we have vitiated the unanimous consent on. So there is no limit on debate and no limit on amendments at this stage.

I want to lay a little background, and then to make sure no one feels badly, I am not trying to inordinately rush this, but I advised people yesterday that I was going to put it on the Caribbean Basin bill. I laid some other groundwork that I will explain.

The bill that I will introduce would prohibit the export of logs off of Federal public lands, U.S. Forest Service, Bureau of Land Management, Department of Defense. It does not prohibit or touch exports off of State lands. It does not in any way affect private lands.

I want to thank initially both Senator RIEGLE and Senator SARBANES, who were very generous. There was a hearing held in the Banking Committee, specifically the Subcommittee on International Finance and Monetary Affairs that Senator SARBANES chairs, on November 7, and it was a very full and fair hearing. He conducted it impartially, and I think he found the subject of much greater interest and more controversial than he thought.

I talked with him, and he indicated that he preferred not to add the issue of log exports to the markup on the Export Control Act, and I am perfectly willing to observe that. I might read a letter that I sent to him first on February 28:

DEAR PAUL: Can you tell me if you think it likely you will go to mark up at some stage in the near future and consider the Log Export Limitation Bills, S. 754 and S. 755, I introduced. Paul, I ask this because the problem of timber supply is becoming increasingly critical in my state and log exports are a portion of that problem. If you could let me know soon what your plans are, I would greatly appreciate it. I would like to hear from you even if the answer is, "Bob, I don't think we're going to move on these bills this year."

I sent that February 28. Subsequently, Jonathan Stephens of my staff talked with Marty Gruenberg of Senator SARBANES' staff, and that is when Mr. Gruenberg indicated they would prefer not to put these on the markup of the Export Control Act, and that markup is somewhat, not problematical, but it is in the future, and our timber supply situation is getting worse.

I sent the following letter to Senator SARBANES.

DEAR PAUL: Jon Stephens of my staff talked with Marty Gruenberg of your staff about S. 754 and S. 755—my log export bills. He told Jon that you would prefer that we not make an effort to have these bills added in markup in committee, but would rather have them offered as amendments on the floor. That's fine with me. Lord knows I don't want to complicate your work, plus I don't want to do anything to jeopardize the Export Control Act. It's too important.

Therefore, assuming what my staff member told me Marty Gruenberg told him is accurate, I'll look around for some other vehicle to attach the log export bills to on the floor.

Thanks for all of your consideration and help. I deeply appreciate it.

I ask unanimous consent that these letters be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, February 28, 1990.
Hon. PAUL SARBANES,
U.S. Senate, Washington, DC.

DEAR PAUL: Can you tell me if you think it likely you will go to mark up at some stage in the near future and considrer the Log Export Limitation Bills, S. 754 and S. 755, I introduced. Paul, I ask this because the problem of timber supply is becoming increasingly critical in my state and log exports are a portion of that problem. If you could let me know soon what your plans are, I would greatly appreciate it. I would like to hear from you even if the answer is, "Bob, I don't think we're going to move on these bills this year."

Sincerely,

BOB PACKWOOD.

U.S. SENATE,
Washington, DC April 6, 1990.
Hon. PAUL SARBANES,
U.S. Senate, Washington, DC.

DEAR PAUL: Jon Stephens of my staff talked with Marty Gruenberg of your staff about S. 754 and S. 755—my log export bills. He told Jon that you would prefer that we not make an effort to have these bills added in markup in committee, but would rather have them offered as amendments on the floor. That's fine with me. Lord knows I don't want to complicate your work, plus I don't want to do anything to jeopardize the Export Control Act. It's too important.

Therefore, assuming what my staff member told me Marty Gruenberg told him is accurate, I'll look around for some other vehicle to attach the log export bills to on the floor.

Thanks for all of your consideration and help. I deeply appreciate it.

Sincerely,

BOB PACKWOOD.

Mr. PACKWOOD. He has been a model of fairness on that, and I do not want to complicate his life. I am moving on this bill now because we have had a recent report by the Interagency Scientific Committee headed by Jack Ward Thomas of the Fish and Wildlife Service involving the spotted owl and timber supply that came out 10 days ago that has further worsened the timber supply problem.

There is no question, Mr. President, but that we are in short supply of timber in this country. We today import about 30 percent of our lumber from Canada—the same species we grow here, by and large, spruce, fir, and hemlock, ironically very much the same species we export in the form of logs, not quite in the same proportion but the same species.

The irony is that if you compare species for species, fir for fir, hemlock for hemlock, of the same age, we pay more money to buy the imported lumber from Canada than we get for selling the unprocessed log overseas. You have to be careful, species for species. A 300-year-old Douglas-fir log is worth more than a 50-year-old hemlock in lumber. If you compare hemlock to hemlock, or fir to fir, we lose money on the exchange. That is understandable. Processing adds value.

Canada has strict regulations on the export of logs. British Columbia, their principal exporting Province, has a 100 percent tax on the difference between the value of timber sold domestically and exported. So you can export it if you choose, and you pay all of the difference to the Provincial Government. It is somewhat of a disincentive there to sell overseas.

I will read a letter from the Chief of the Forest Service:

DEAR SENATOR PACKWOOD: The purpose of this letter is to follow-up on your conversation with Dr. David Darr of my staff regarding the possible effects of banning U.S. softwood log exports on softwood lumber imports. In 1988, we imported 30 percent of our softwood lumber, almost all from Canada. If softwood log exports from public lands were to be banned and if all the logs were to be processed into lumber and the lumber substituted one-for-one with imports, imports would be reduced to 26 percent of consumption. If exports from public and private lands were to be banned, processed into lumber, and the lumber substituted one-for-one with imports, imports would be reduced to 16 percent of consumption.

This analysis was discussed with you by Dr. Darr on May 12. Please feel free to call him at 382-8052 if you would like further information.

Mr. President, I ask unanimous consent that that letter be printed in the RECORD.

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

MAY 12, 1989.

DEAR SENATOR PACKWOOD: The purpose of this letter is to follow-up on your conversation with Dr. David Darr of my staff regarding the possible effects of banning U.S. softwood log exports on softwood lumber imports. In 1988, we imported 30 percent of our softwood lumber, almost all from Canada. If softwood log exports from public lands were to be banned and if all the logs were to be processed into lumber and the lumber substituted one-for-one with imports, imports would be reduced to 26 percent of consumption. If exports from public and private lands were to be banned, processed into lumber, and the lumber substituted one-for-one with imports, imports would be reduced to 16 percent of consumption.

This analysis was discussed with you by Dr. Darr on May 12. Please feel free to call him at 382-8052 if you would like further information.

Sincerely,

F. DALE ROBERTSON,
Chief of the Forest Service.

Mr. PACKWOOD. I want to emphasize the relevance of this. We were 30 percent short of producing our lumber needs in this country on the day of that letter last year. That was before the new Forest Service plans had come out from the Northwest, and the Northwest still, as a region, is the single largest lumber producer. That was before the new Forest Service plans came out, which apparently will reduce land available for timber harvest off the public forests to on an average of 15, maybe 20 percent, not exactly the same on every forest, but average them all together, a further reduced cut.

Sec nd, since the issue of the spotted owl has arisen, the Forest Service has indicated they are going to withhold further sales, and more areas will be set aside to ensure the continued existence of the spotted owl. I am not sure how many, but it appears to be 0.7 million board feet to 1 million board feet reduction beyond which the Forest Service plans may have further reductions. So this is a top-of-the-head guess. When the spotted owl plan is in effect, when the new Forest Service plans are out, assuming lumber consumption in this country continues at roughly the same level it has continued in the past, we will end up importing 35 to 40 percent of our lumber from Canada.

Therefore, given that circumstance, it does not, in my judgment, Mr. President, make any sense to be exporting raw logs from the United States when we do not have enough logs to run through our mills here; and when we do export them, we lose money on the exchange when we buy lumber of the same kind and quality from another country. We lose jobs, endanger our environment and worsen the balance of payments. There is no argument.

If I had my druthers, I would ban the export of logs off private lands also. I am not touching that in this bill. The reason I would do it is that statement in the Chief of the Forest Service's letter. If we got rid of the ban on all Federal lands, public lands, Federal and State lands, instead of purchasing 30 percent of our lumber from another country; that is, Canada, we purchase 26 percent. The reason for that is, Mr. President, that of all the log exports in this country, only about one-quarter are off public lands.

Three-quarters are off private land and of those, far and away the biggest exporter is Weyerhaeuser. As a matter of fact, Weyerhaeuser exports more logs alone than all of the other log exporters in the country, including all the private companies put together, off all of the public lands of the Federal Government, all of the public lands of the State governments.

Weyerhaeuser is very opposed to this amendment, although it does not touch private lands. I think what they fear is that the nose in the tent is a harbinger of something that might happen and, indeed, we would have the power to ban the export off of private lands if we chose to do so.

You may recall in 1973-74 President Nixon banned the export of soybeans all of which, to the best of my knowledge, were growing on private lands. I do not recall much public outcry over the ban of soybeans as they were in short supply in this country.

Do we have the power to do so? Yes. I emphasize this bill does not touch this.

Here is one of the environmental arguments I will make and the argument I will make on this is they are not just jobs; they are principally environment.

Canada has terrible environmental laws in terms of reforestation, in terms of cutting and they have unlimited forests, they think. No forests are unlimited. When you go in the Province of British Columbia, it looks like what I assume much of the country in the United States looked like 100 years ago, mile upon mile, mile upon mile, of good timber. And they are perfectly willing to cut it down.

Likewise, Quebec Province, although they do not have the quantity of lumber that British Columbia does. They are willing to cut it down. They will happily worsen the Earth environment.

If we choose not to cut trees in this country, they will cut trees in that country and send this timber here to fill our lumber needs.

Mr. President, I ask unanimous consent that the article that appeared in the Oregonian, April 17, 1990, by Timothy Egan of the New York Times News Service, entitled, "Battle Over Old Growth Erupts in British Columbia" be printed in the RECORD.

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

[From The Oregonian, Apr. 17, 1990]

BATTLE OVER OLD GROWTH ERUPTS IN BRITISH COLUMBIA

(By Timothy Egan)

VICTORIA, BRITISH COLUMBIA.—The biggest trees in Canada, some more than 300 feet high, cling to the spongy depths of the forest floor in the Carmanah Valley just north of Victoria.

They were ignored for centuries, but now the Sitka spruce in the isolated basin are being treated like the last bison herds of the West.

As on the U.S. side of the border, all but a handful of the valleys in North America's only temperate rain forest have lost their original tree cover to the advance of loggers.

Until recently, the fight over the swath of ancient evergreens hugging the Pacific had been fought mainly in Washington and Oregon. But the battle has moved north.

As massive logging at an ever faster pace has cut up the Canadian domain of thousand-year-old Cedars and towering firs, British Columbia has been accused of waste and hypocrisy.

Hundreds of thousands of acres of the old-growth forests have never been replanted, which has prompted some forest ecologists to label British Columbia "the Brazil of the north."

In the United States, a federal scientific panel recently recommended setting aside a network of habitat reserves totaling 8.4 million acres of national forests to assure the survival of the imperiled northern spotted owl, which lives in the Northwest's shrinking old-growth Douglas fir forests. If federal agencies follow the panel's recommendations, logging could be barred from as much as 3 million acres of timberland, and thousands of forest products jobs could be at risk.

But in Canada, the battle is just beginning.

"I tell my guys if they see a spotted owl to shoot it," said Jack Munro, Canadian president of the International Woodworkers of America, which represents 50,000 loggers.

On Tuesday, after years of protests by environmentalists and threats by mill owners to shut down plants if tree-cutting is slowed, the British Columbia government of Premier William Vander Zalm decided to allow logging in half the Carmanah Valley, while setting aside the other half as a park.

The land is publicly owned, but logging rights were sold long ago. In making the decision, government officials lashed out at critics, some from as far away as New Zealand and England, who had urged preservation of what is left of Canada's once-vast rain forest.

In British Columbia, timber companies cut nearly 600,00 acres last year, more than was logged in all the national forests of the United States.

Nowhere have the woods been so depleted as on Vancouver Island, where miles of land appear barren, a stumpland where 250-high-trees used to stand.

The Carmanah Valley, a relatively small 16,500-acre breach in the west side of Vancouver Island, has become the symbol of resistance to the oldest and the most dominant industry in western Canada.

Preserving even half the valley, which holds the world's biggest spruce trees, would cost several hundred jobs, industry officials say.

But even some loggers, alarmed by a loss of both trees and jobs, say they are outraged by the overall pace of tree-cutting in the province.

"The world is going to need our wood, and we just aren't managing it properly," said Munro of the loggers union. "Most of the old-growth trees have been cut from the states, so now the pressure is on us.".

British Columbia's economy is booming, creating nearly half of all the new jobs in Canada last year, and polls show a majority of the province's 3 million people want new restrictions on logging.

"We're witnessing a very radical change in the way the public views forest management," said John Cuthbert, the chief forester for British Columbia.

"In the good old days, there was lots of room to operate," he said. "The province was still being developed. Now the timber supply has shrunk."

What has changed, he said, is that the coastal evergreens are now considered to be part of a forest of global significance.

As North American political leaders have criticized tropical deforestation, the shearing of this continent's temperate rain forest has provoked cries of hypocrisy and short sightedness.

No matter how many trees are planted for replacement, foresters say it will be impossible to duplicate the network of redwoods, cedars, and sitka spruce that support one of the richest ecosystems on earth.

"They are cuting these coastal old-growth trees at a rate that simply cannot be sustained," said Peter Pearse, a forestry professor at the University of British Columbia who headed a royal commission on logging.

"This forest is unique in all the world, and it is diminishing in the same sense that tropical forests are disappearing.

While the amount of trees cut here is a long way from the 25 million acres of tropical rain forest removed every year, environmentalists say that at that rate most of the remaining forest will be gone within a generation.

Cuthbert said that logging was excessive and careless up until the mid-1980s, but that reforms are under way. A new law has gone into effect requiring companies to reforest.

Recent debate has centered on the environmental value of the anicent forests. The trees wring moisture from the clouds and help keep the coastal climate cool.

When large sections are leveled and the debris is burned—a practice known as clear-cutting and slash-burning—it can cause flooding in the winter and air pollution in the summer and may contribute to global warming, according to forestry experts.

Canadian logging practices are wide open. In the United States, for example, clear-cuts in the national forests are limited to 20 acres, but in Canada there is no such limit.

Throughout this province, hundreds of square miles have denuded and are littered with rotting debris.

Peter McAllister, president of the Sierra Club of Western Canada, said Canadian timber companies are "plundering the province" in a race to cut wood while prices remain at an all-time high.

As in Washington and Oregon, much of these public lands are being leveled to feed a growing appetite for lumber in Japan. Environmental groups in British Columbia, as well as in Washington and Oregon, say much of the ancient forest could be saved if overseas buyers were forced to get wood from second-growth tree farms rather than the centuries-old forest.

But timber industry officials say that would require costly overhauling of mills and years of commitment to reforestation. As long as there are still several million acres of virgin forest in this province, there is little economic incentive to raise trees here as they do in eastern Canada, industry leaders say.

Critics say the provincial government's stand on the forest is contradictory. British Columbia has stepped up promotion for a booming tourist trade built on the natural wonders of the province, but at the same time it has allowed its forests to be cut as never before.

"I used to hear people in the states say that when their forests are cut, there will always be Canada," said Joe Foy, a leader of the conservation movement in British Columbia. "But that isn't true.

"We aren't taking very good care of our piece of the globe. We have a small population, but the whole world grazes here. So it's important for us to preserve the blueprint and spare parts of the forests of the future."

Mr. PACKWOOD. Mr. President, this article lays out the forestry practices in British Columbia, and I do not think there is a practice in any State in the United States, let alone practice in Federal forest lands, as bad as that of British Columbia.

Next I address myself to the issue of whether or not an export limitation violates the General Agreement on Tariffs and Trade, GATT, because I am, by and large, a free trader, and I like to lower tariff barriers. But there is a provision in GATT—it is article XX, subsection (g)—which reads as follows:

ARTICLE XX
GENERAL EXCEPTIONS

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in the Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

(g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;

There is no question we are involved in a tremendous conservation battle. It splits parties that happened to be allied on the particular issue of log export ban. I do not think anybody can make an argument we are not doing something to try to preserve old growth and reduce cut and follow conservation matters. Given that, we are clearly within the parameters of the General Agreement on Tariffs and Trade if we attempt to limit or ban the export of logs when we are in short supply anyway.

As a matter of fact, we were recently involved in a debate with West Germany on the export of copper scrap. They claim that copper scrap was in short supply and, therefore, invoking this section of GATT, they did not want to export it. We sued them under the GATT. Our contention was that it was not in short supply. We did not attack the premise of their ban, the premise being short supply, because we knew if we attacked the premise and failed under GATT, they could ban export.

What we attacked was the fact. We said it was not in short supply. The cause was held mainly because Germany and the European Community could not prove that copper scrap was in short supply, so the case was settled. In essence we won. They could not prove the short supply situation.

There is no one, however, who can conceivably contend we are in short supply of timber in this country and we are going to be in shorter supply of timber barring normal use of lumber. As I said, I would estimate if we have both all of the spotted owl limitation on forest use put in effect and in the Forest Service plans I would say 45 or 40 percent will come from Canada.

Next there is an issue involving State versus Federal lands and export policy. I have introduced two bills. One would ban the export of logs on Federal public lands; the other would ban the export of logs on State public lands. The reason I separated them was this: the State of Washington has a problem unique to that State in terms of State public lands. They export great quantities of logs off their State lands and the money goes to their school funds. There is tremendous pressure in Washington to continue the export of the logs. In addition, Weyerhaeuser is headquartered in Tacoma, WA, and opposed to any limitation on any export, anyway. The State of Washington in terms of their own log export has a unique problem and that is why I separated the bill into two. Logic would tell you I would lose some votes when I separated them. Logic will tell you when you have a Federal policy that says you should not export logs, you should not have a contrary State policy that says you cannot export logs.

Indeed, Congress has the power under the commerce clause to regulate commerce, and we should not have conflicting Federal and State policies. That is one argument to unify the two bills in one bill and had I unified the two bills in one bill, I frankly would have picked up another sponsor or two who though it was illogical to allow conflicting export policies on wood. But had I put the two bills together, then I would lose some supporters who said I an treading on State rights and State sovereignty. States have the right to set their own policy on their own public lands. On balance I separated the two bills.

The reason the State of Washington is really unique in this sense is that California, Alaska, and Oregon, and these are the only States of any consequences that export logs off State public lands, all have laws prohibiting the export of logs off of State public lands. Those State bans, however, have been challenged in court and have been found to be unconstitutional because only the Congress has the power to set international trade policy. So even though the States want to ban the export of logs off their own land they cannot.

I emphasize again, if they had their way, California, Alaska, and Oregon would prohibit export of logs off their State lands. Congress could delegate to the States the power to decide for themselves whether or not they want to export logs off the State lands, and one of the bills that I introduced would undertake to give that power to the States.

But to emphasize again today I am not tempting to involve myself in the issue of State log exports.

As we talk today our staffers are meeting, staffs of the Oregon and Washington congressional delegation, Republican, Democrat, Senate and House, trying to see if language could be worked out involving the State export of logs that would not only be satisfactory to the parties but satisfactory to the administration as well. While the administration supports the ban on the export of logs off of Federal lands they do not support the delegation to the States of the right to set their own log export policy.

I do not know what the outcome of those negotiations are going to be of the delegations and their staffers of the States of Oregon and Washington and eventually whether it will get the approval or disapproval of the administration. For that reason when I later will propose an amendment on the subject of log exports, I will not touch the State land issue at all nor will I touch the private log export issue at all. The amendment that I will propose will relate only to the export of logs off of Federal lands.

The amendment that I will propose is very similar to S. 754, the bill that I introduced to prohibit the export of logs from Federal lands last year and the bill upon which Senator SARBANES and his subcommittee held the hearing last November. The only difference in this bill is that since then the technical language involving substitution, and I will explain what that is, has been drafted and sharpened and will be in the bill. But I emphasize again it is only Federal lands.

The bill would do the following. It is a rather relatively simple bill. One, you cannot export logs off of Federal lands; two, what you cannot do directly you cannot do indirectly and by that I mean this: You have private logs; you sell them overseas.

You then turn around and buy public logs off of public land to run them through your mill because you do not have enough logs because you sold your private logs overseas. That is called direct substitution. My bill would prohibit direct substitution. It, in addition, prohibits indirect substitution. Indirect substitution is simply a variation of direct. In the direct substitution, you are a mill owner and you sell your logs overseas and you buy public logs to make up the difference. Indirect substitution is you are a mill owner and you sell your logs overseas and you buy your logs off a third party who has brought off public land, that is indirect substitution. That is prohibited under this bill.

There is no justification in terms of national trade policy why we should prohibit the export of logs off of Federal lands and then turn around and say, "However, but you can do it indirectly." If we are short of timber in this country—and there is no question but what we are and are going to be—and if it is a matter of Federal policy we are going to say you should not export logs off Federal lands, then you should not be allowed to export those logs off of Federal lands directly or indirectly or in any other fashion. So my bill will prohibit direct or indirect substitution.

Mr. President, as I said, this bill has an unusual coalition of support. It is supported by environmental groups, for obvious reasons. This is a significant environmental issue. We harvested about 16 billion board feet of timber in the Northwest last year, 16

billion board feet and 4.2 billion of this was exported. Almost one log in four that is cut in the Northwest is sent overseas. This at the very time when we are talking about setting aside an additional million to million and a half acres of Forest Service land previously eligible for cut, that I think may no longer be available for cut, and another 700 million board feet to 1 billion board feet be set aside for the protection of the spotted owl. So is this a conservation measure? Clearly, it is.

If we are going to reduce the amount of timber available for cut to protect our forest and to protect owls, then every stick of timber we can also reduce from going overseas aids this conservation effort and that is why this bill has extraordinary environmental support.

It has labor support, and that is understandable. Jobs in the timber indusrtry are good-paying jobs and many of them are unionized. The normal figure we use on employment is that for each billion board feet of timber you are talking about 9,000 direct jobs and another 9,000 indirect jobs. So if you are talking about the export of 4 billion board feet of timber, public and private, that could otherwise be used in the United States, you are talking about 36,000 direct jobs and 36,000 indirect jobs in the States of Oregon and Washington. And I emphasize that if you include private timber. Even if you did not include private timber, which I am not trying to ban—I think we should; I am not trying to ban it—you are still talking about anyplace from a low estimate of 10,000 to 15,000 jobs to a high estimate of 35,000 to 40,000 jobs lost in the States of Oregon and Washington because of exports off of public lands.

Now I might say, Mr. President, those are not evenly spread around the State. Seattle and Portland are not as nearly directly hurt as Sweet Home, Lebanon, Oak Ridge, Sutherlin, Roseburg, Grants Pass, smaller towns, mill towns that are going to be ghost towns if they are not mill towns. There is going to be severe unemployment in those sections of the State which already have a higher than average rate of unemployment for the State. And I emphasize again there will be a loss of good jobs, jobs that pay a sufficient wage that a one-family earner can support a family. In most of the areas they are not going to be replaced with other jobs. If they are, the jobs are not going to be as well paid as the jobs that are lost. So it is understandable why labor supports this.

Although, I must say, there is almost a humorous contradiction to this. The national AFL-CIO supports my amendment. The national AFL-CIO is opposing an amendment I am going to offer also to this bill involving the import of shoes from the Caribbean Basin. So I wish staff would listen to what I am saying. When the AFL-CIO calls and says oppose the Packwood amendment, make sure you understand it is the shoe amendment. Because another arm of the AFL-CIO is calling today saying please support the Packwood amendment and they mean the timber amendment.

I cannot think of a better illustration to use than when you have at the same time an organization opposing you with the right hand and supporting you with the left hand. And I understand why. To them, it is jobs in both cases.

Here is the list of Senators who cosponsored S. 754. Now I have not had time to contact them to see if they are cosponsors of the amendment but the amendment is so insignificantly different that I doubt that there is any problem. I might say Senator BENTSEN indicated he will support the amendment also.

The following Democrats support the amendment: Senators BAUCUS, BRYAN, HEFLIN, LIEBERMAN, METZENBAUM, PRYOR, and SANFORD.

The following Republicans: BURNS, DURENBERGER, COHEN, JEFFORDS, HATCH, MCCLURE, MURKOWSKI, PACKWOOD, ROTH, STEVENS, SYMMS, WALLOP, and WILSON.

That is hardly a list of all hard-shell conservatives from the West, hardly a list of all Republicans. I do not think anyone will confuse Senator METZENBAUM with a conservative Republican from the Northwest or Senator LIEBERMAN.

This bill has widespread support.

In addition to those, here is just a partial list of the environmental groups nationally that support this amendment: The National Audubon Society, and the Wilderness Society.

From the labor side: AFL-CIO, the Association of Western Pulp & Paper Workers, the United Brotherhood of Carpenters & Joiners of America, the International Woodworkers of America, and the Industrial Union Department of AFL-CIO.

From the trade association: Western Building Material Association, the National Lumber & Building Material Dealers Association, North American Wholesale Lumber Association, and Southeastern Lumber Manufacturers Association.

Then, in Oregon, I will read a few:

The Audubon Society; Headwaters, Inc. of Medfore; Izaak Walton League Oregon Division; Lane County Audubon Society; National Wildlife Federation; Oregon Natural Resources Council; Rogue Valley Audubon Society; Sierra Club; and the Wilderness Society.

Among the groups relating to workers, of course, the Oregon AFL-CIO and interestingly, the Oregon Education Association supports this initiative.

I will not read the entire list of businesses, but it is those in the timber industry: The Alder Creek Lumber Co., of Portland, Barclay Logging Co., Boise Cascade, Georgia-Pacific, and so on.

Mr. President, I ask unanimous consent that the list of Oregon Groups and businesses that support this amendment be printed in the RECORD.

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

OREGON GROUPS AND BUSINESSES SUPPORTING LOG EXPORT RESTRICTIONS, July 19, 1989

Honorable Neil Goldschmidt, Governor of Oregon.

ENVIRONMENTALISTS

1. Audubon Society.
2. Headwaters, Inc. of Medford.
3. Izaak Walton League Oregon Division.
4. Lane County Audubon Society.
5. National Wildlife Federation.
6. Oregon Natural Resources Council.
7. Rogue Valley Audubon Society.
8. Sierra Club.
9. The Wilderness Society.

LABOR

1. Oregon AFL-CIO.
2. Oregon Education Association.
3. Eugene Education Association.
4. Western Council of Industrial Workers.

BUSINESS

1. Alder Creek Lumber Company, of Portland.
2. Astoria Plywood.
3. Banks Lumber.
4. Barclay Logging Company, of Sisters.
5. Bohemia, Inc., of Eugene.
6. Boise Cascade.
7. Brand S Corporation, of Corvallis.
8. Eugene F. Burrill Lumber Co., of Medford.
9. C & D Lumber Co., of Riddle.
10. Clear Lumber Manufacturing, of Sweet Home.
11. Fort Vancouver Plywood.
12. Frank Lumber Company, of Mill City.
13. Friesen Lumber Company, of St. Helens.
14. Hanel Lumber Company, of Hood River.
15. Linnton Plywood, of Portland.
16. Medford Corporation.
17. Montmore Timber Products, of Coos Bay.
18. Mountain Fir Lumber Company, of Salem.
19. Multnomah Plywood, of St. Helens.
20. Bob Ridgley, President, Northwest Natural Gas.
21. Oregon Association of Relators.
22. Oregon Home Builders Association.
23. Oregon Overseas Timber Co., Inc. of Bandon.
24. Oregon Rubber Company of Eugene.
25. Pope & Talbot Inc., of Portland.
26. Portland General Corporation.
27. Rogge Forest Products, Inc. of Bandon.
28. Roseburg Forest Products of Roseburg.
29. SDS Lumber Company, of Bingen, Washington.
30. Second Growth Forest Management, Inc. of Eugene.
31. Seneca Sawmill Company of Eugene.
32. South Coast Lumber Co. of Brookings.
33. Stevenson Co-Ply, of Stevenson, Washington.

34. Stimson Lumber Company, of Forest Grove.
35. Sun Studs, Inc., of Roseburg.
36. Swanson Brothers Lumber Company of Noti.
37. Taylor Lumber & Treating, of Beaverton.
38. Marsha Congdon, Vice President/CEO, U.S. West Communications of Oregon.
39. Willamette Industries, Inc. of Portland.
40. Willamina Lumber Company.

CIVIC ORGANIZATIONS

1. Eugene Chamber of Commerce.
2. Grants Pass Chamber of Commerce.
3. Medford Chamber of Commerce.
4. Portland Chamber of Commerce.
5. Roseburg Chamber of Commerce.

TIMBER ASSOCIATIONS

1. Douglas Timber Operators & Roseburg.
2. Northwest Timber Association of Eugene.
3. Northwest Forestry Association of Portland.
4. Northwest Independent Forest Manufacturers of Tacoma, Washington.
5. Portland Wholesale Lumber Association.
6. Siuslaw Timber Operators.
7. Small Business Forest Products Association, of Artois, California.
8. Southern Oregon Resource Alliance.
9. Southern Oregon Timber Industries Assoc. of Medford.
10. Western Forest Industries Association.
11. Western Wood Products Association.

OREGON COUNTIES

1. Clackamas.
2. Columbia.
3. Coos.
4. Crook.
5. Curry.
6. Douglas.
7. Hood River.
8. Jackson.
9. Jefferson.
10. Josephine.
11. Klamath.
12. Lake.
13. Linn.
14. Morrow.
15. Polk,
16. Yamhill.
17. Wasco.
18. Washington.

OREGON CITIES

1. Baker.
2. Boardman.
3. Brookings.
4. Cave Junction.
5. Central Point.
6. Coos Bay.
7. Cottage Grove.
8. Depoe Bay.
9. Dundee.
10. Echo.
11. Elkton.
12. Estacada.
13. Eugene (Mayor only).
14. Forest Grove.
15. Gearhart.
16. Gold Beach.
17. Grants Pass.
18. Imbler.
19. Irrigon.
20. Island City.
21. Jacksonville.
22. Medford.
23. Milwaukie.
24. Myrtle Creek.
25. Nehalem.
26. Oregon City.
27. Paisley.
28. Pendleton.
29. Pilot Rock.
30. Portland.
31. Port Orford.
32. Prairie City.
33. Prineville.
34. Rogue River.
35. Roseburg.
36. Salem.
37. Seaside.
38. Sheridan.
39. Silverton.
40. Sweet Home.
41. Talent.
42. Waldport.
43. Wasco.
44. Wood Village.
45. Yoncalla.

OTHER OREGON GOVERNMENT AGENCIES

1. Port of Coos Bay.
2. Port of St. Helens.

So, in an unusual coalition, you have business, labor, environmentalists, and the administration supporting the ban on the export of logs from Federal land and a ban including limitations on substitution. This coalition, I will be very frank, is not going to hold together forever because the debate will come as to whether or not, once we have determined how many logs are going to be left in the United States, how much standing timber is going to be harvested or how the remaining part of that standing timber should be managed. Should it be managed strictly for jobs and perpetual timber cutting? And by this I mean sustained yield. Nobody is talking about cutting and running. But should a portion of it be timbering or planning or a sustained yield basis? Or should a larger portion of it than desired by those who want to manage it on a sustained yield basis for timber be set aside for nontimber purposes, fish and wildlife, recreation, wilderness?

At that stage the coalition will fracture. In fact, it has fractured, and we will find the unions and business on one side and the environmentalists on the other. But at this stage they all make common cause on supporting this bill.

And, as I say, the administration, and to its credit, has reversed its position. A year ago, in the first President Bush budget—it was a carryover of the old President Reagan budget—the administration came out to eliminate the ban on the export of logs from Federal lands. We had a ban, but we had been operating from year to year in the committee and the ban was operating from year to year. As long as Senator HATFIELD remains in the Senate and Congressman AUCOIN remains in the House, I think we could succeed in doing that, although there were loopholes in it in terms of substitution. Any number of companies were grandfathered. This was passed in 1973 and, if they were exporting then, they were allowed to continue to export, and they still do. And there were some other exceptions for direct and indirect substitution.

But the administration wanted to eliminate that ban and sell off the logs overseas that they could sell. That was in 1989.

In their budget message this year, they changed their position 180 degrees. They said they now realize from the standpoint of conservation and protection of the resource, we should have a ban on the sale of logs off of Federal public lands. They took no stand on the issue of the State bill. I emphasize again my amendment, when offered, will not touch State lands.

So, not only have we had the administration change position, we have all of these other groups, that are often disparate and often fighting, come together on this issue and an aggregation of sponsors in the Senate that covers the spectrum, probably, from far left to far right and geographically from Connecticut to California.

Who opposes the bill? It does have opponents. The Pacific Rim Trade Association. The Pacific Rim Trade Association is a collection of companies—I am generalizing this—a collection of smaller companies and larger companies, some of them involved in the export of logs personally, their own companies. I understand their interests.

Ports who export logs are opposed, stevedores, longshoremen, exporters, and importers. These are all people who have a direct interest in the export of logs, and their opposition is perfectly honorable and understandable, although to Georgia Pacific's credit, although a member of the Pacific Rim Trade Association, when they took a position against this bill, Georgia Pacific sent me a letter and said, "In this case they do not speak for us and we support a ban on the export of logs."

Then, of course, we have Weyerhaeuser, and Weyerhaeuser is in a class by itself on this issue. I will have them correct me if I misstate myself on this, but I think they sold $300 to $400 million worth of logs overseas last year, logs that could be sold here and processed here, logs that we need here. I will say again, if their lobbyist is listening, if I have given the wrong figure I will correct the Record, but I can say without any fear of contradiction that Weyerhaeuser exports more logs by themselves than all of the exporters in the country put together: all the companies, all the State lands, all the public lands. So, clearly, do they have an interest? They have a direct interest.

As I say, I have not touched the issue of State lands. There is a difference between my bill and those from the State of Washington on the issue of substitution of the logs on Federal

lands. I would make the case that, if we are short of timber in this country, we should not be exporting logs directly or indirectly off of Federal lands. And in drafting this bill I had to step on some toes, in Oregon, of people who would support a log export ban if I would make an exception for them, in essence, because they were involved in direct or indirect substitution.

I said, no, in good conscience, if we are going to say it is not in the interests of this country to export an item that is in such short supply that we cannot take care of our own needs, it is not fair to say: But for those few companies that are directly or indirectly substituting public timber for their timber, we will make an exception. If the policy is good, an exception should not be made.

So I did not. It caused me some grief in the State of Oregon. Those from the State of Washington would like to have broader substitution exceptions that I think wise, broader substitution exceptions than organized labor or the environmentalists or the others in the aggregation of supporters on this bill think is wise.

The purpose of debate in the Senate is to debate those issues. I would expect, when I offer the amendment, that those from the State of Washington may have amendments to offer to it in terms of allowing substitution so that they can continue to sell their own private timber overseas and buy public timber in some cases. That is a fair debate, but I do not think it is good public policy.

I will say again in closing, Mr. President, I do not think it is good public policy, either, to be exporting logs off of private lands. I simply chose not to engage this battle at this time because it buys me a passel of opponents that are not at the moment involved in the export of logs and may never be involved in the export of logs. But when we start to say we are going to affect private rights, they tremble. So, for the sake of getting some good, I am ready to give up the perfect.

In conclusion, I say I will apologize to anyone that I blindsided on this by asking for the unanimous-consent agreement, and that is why I was willing to vitiate the agreement. I have told them personally and told them in staff meetings where their staff was present, and I was at the staff meeting with the staff, that I was going to go on this bill with a Federal ban.

All along my position is there should be no substitution. We will fight out that battle. I am pleased to say I do not very often get to have a battle in which I have allied with me the AFL-CIO, the Audubon Society, and the Wilderness Society, and almost all of the timber industry, save Weyerhaeuser, and an aggregation of cosponsors that is as disparate, geographically and philosophically, as you can get.

The PRESIDING OFFICER (Mr. SIMON). Who seeks recognition?

The Senator from Washington is recognized.

Mr. GORTON. Mr. President, in listening with care to the remarks of the Senator from Oregon, I find myself able to agree with some 90 percent of what he has said and simply wish to remark that it is to a very considerable degree irrelevant to the amendment which he proposes to introduce. The Pacific Northwest and particularly the States of Washington and Oregon are, indeed, subjected to devastating and unexpected changes in timber management practices with respect, primarily, to Federal timberlands and the national forests under the Bureau of Land Management.

With the possible addition of impacts on both State-owned and privately owned land, as well by reason of the imminent listing of the spotted owl as either a threatened or endangered species on all, or on large parts of the national forests of those two States, that devastation is difficult to justify in any set of remarks on the floor of the U.S. Senate with respect to the impact it will have on individuals, on families, and on communities in the rural and forested portions of both the States of Washington and Oregon.

I believe that, if anything, the distinguished Senator from Oregon was too modest in his description of the percentage loss of cut in the two States which is likely to result from that listing and from the so-called Thomas report. Rather than 10 to 15 percent, at least in certain areas it is likely to be 40 or 50 percent. At least that on the Olympic Peninsula in the Olympic National Forest, much of which has already been set aside as wilderness and for other purposes inconsistent with timber production.

As a consequence, the challenges with which we are faced literally, in order to save the forest products industry as a viable part of the economies of our two States, is a daunting one, indeed. It is one on which I wish I could speak here today with the confidence that I spoke for a united delegation of not only Senators but Congressmen from both the States of Washington and Oregon. By reason of the proposal of Senator PACKWOOD, however, I am unable to do that and must report he is dividing rather than uniting those delegations.

He is correct in stating, as well, that there are a number of aspects to the problem of timber supply. The one affected primarily by Federal policies, of course, is Federal timber supply on Federal lands. There are State lands in each of the States of the Northwest, even those other than Washington and Oregon. There is a greater acreage of State lands in Washington than Oregon primarily due, I suspect, to the fact that Washington is a younger State and entered the Union under somewhat different circumstances and with a large grant of Federal lands which were to be managed for the benefit of its schools and its education system.

There is in each State, of course, large acreage of privately owned timberlands. In the case of the State of Washington, at least, larger in acreage and much larger in production than those Federal and State lands combined.

The debate over log exports is hardly a new one, Mr. President. It has been going on with, I must say, two sides speaking past one another for a longer time than I have been a Member of the Senate, and I suspect for a longer time than ever the Senator from Oregon has been a Member of this body. Generally speaking, there have only been two sides and no middle ground on that debate, at least as it respects State lands; one which would ban totally the export of raw logs from State lands and one which would allow the market to determine prices and to make decisions about the destination for such logs.

The Senator from Oregon is right in saying with respect to State lands that the other States—California, Oregon, Idaho, and Alaska—all have policies which would prohibit the export of logs from State lands. Because of the way in which most State lands came into the title of the State of Washington, however, its statewide policies have always been profoundly different. Those State lands, in the most part, are managed for the benefit of the public schools, particularly the public school construction fund. The constitution of the State of Washington requires that they be sold to the highest bidder because the State is acting in a trust relationship and must get as much for its schools as it possibly can.

Attempts have been made to change that State constitution. They have uniformly been defeated. Nonetheless, the crisis which began to grow some 2 years or so ago over additional tremendously wide set-asides of Federal forest lands for spotted owls and for other conservation purposes has caused a change of heart on the part of many in the State of Washington, including this Senator and including I believe, and we will hear shortly, on the part of the senior Senator from the State of Washington. Each of us has historically taken the position that the market should govern where logs from State lands are sold because of the impact that the sale of those logs has on the public school system. Each of us has come to the point in the course of the last 6 or 8 months in which we think there should clearly, however, be some restrictions in spite

of that trust relationship in order to help alleviate, at least in some small part, the devastation caused by various Federal court decisions based, I must hasten to add, on statutes passed by the Congress of the United States with respect to the management of State timber.

There are, of course, as the Senator from Oregon pointed out, two other sources of the export of raw logs. One is overwhelmingly the largest exporter of raw logs, from privately owned odd timberlands in both States and, for that matter, in other States. The desirability of local pressure, a lot of impact on private owners of logs to prohibit them selling where the market was best would be an extraordinary interference in the free market to say, at the very least. As the Senator from Oregon has pointed out, in spite of his support for such a ban, he does not here propose it.

The third source of logs which historically has been exported is, of course, from the margins of Federal lands. For some 20 years or more, there has been a general prohibition of the export of logs from Federal lands—the National Forest Service and the Bureau of Land Management primarily—amounting to a subsidy for the timber products industry in the Pacific Northwest because, of course, it means that forest timber sales are at a lower price than would likely be the case if they were to be bid on for any purpose. The rest of the Congress has been generous to the Pacific Northwest in this connection; necessarily generous because most of our small mills, unlike large companies like Weyerhaeuser, have no land base themselves and must bid on publicly owned timber in order to keep operating and keep their employees and communities in work, at work, and prosperous.

So each year the appropriations bill has included a rider for 1 more year prohibiting the export of raw logs from Federal lands with some exceptions. It is those exceptions which I gather are the subject of an amendment which the Senator from Oregon has not yet offered. That subject is the smallest by far of all of the sources of logs, either for domestic processing or for export. It is a number which is significant, of course, but it pales in significance when compared with the bulk of timber from Federal lands, with the amount of timber from privately owned lands and with the amount of timber available, at least from the State of Washington, from State-owned lands.

The exceptions which have been included in these annual appropriations bills passed almost automatically in this body, due to the senior Senator from Oregon, are in the field which the Senator from Oregon has correctly described as substitution. Some so-called direct substitution and some so-called indirect substitution. Direct substitution is relatively rare. I am not sure it exists in Oregon at all. It existed in Washington for one mill. Incidentally, a Weyerhaeuser mill, 40 years ago entered into a sustained yield management program and signed a contract with the Federal Government under which it could make a certain amount of direct substitution.

Indirect substitution we can discuss later and is somewhat more complicated. Each amounts at least in the State of Washington, I think perhaps in the two States combined, to less than 100 million board feet per year. The amendment proposed by the Senator from Oregon would cancel those direct substitution contracts and prohibit indirect substitution as well without any real exceptions.

This Senator has not the slightest objection to the Senator from Oregon establishing such policies with respect to the national forests in Oregon. They would however be highly disruptive of the market in the State of Washington, much more disruptive than their constructive changes in timber management would indicate.

Because of this historic difference between Washington and Oregon, because most of the Washington congressional delegation has traditionally not favored a ban on the export of logs from the State land, our congressional delegation which meets together, Senators and House Members, at least monthly, authorized this Senator and the distinguished Congressman from our northwestern district, Congressman SWIFT, to meet the proposal for a middle ground covering both the subject of exports from State lands and Federal substitution to that delegation.

It was a difficult task. We were faced with great conflict within the State but with a sentiment on the part of our delegation that a middle ground not only was appropriate but was reachable. Interestingly enough, perhaps curiously enough, a meeting, at which the two of us reported to our congressional delegation, took place yesterday morning under the chairmanship of the distinguished senior Senator from my State.

The delegation itself authorized the two of us to go forward on a concept which is approved and to attempt to negotiate with Oregon so that we could have a united front on this field.

In summary of course it was our view that policies with respect to Oregon should be decided by the Oregon congressional delegations. They would almost certainly include a total ban on the export off raw logs from the State lands of Oregon and of the kind of Federal substitution which I gather is to be the subject of this amendment.

In the case of the State of Washington, because it is of a different historic background, and recognizing the terrible devastation about to be imposed on the timber industry in many of our communities by these various spotted owls and other environmental decisions, the delegation moved a long way, and now proposes to ban the export of roughly half of the production of our State lands and a considerable tightening of the restrictions on substitution on Federal lands.

The Congressman from the Second Congressional District, I believe—I cannot make this as an unequivocal statement at this point but will be able to inform the Senate later—in whose district the Simpson bill lies, I believe wishes however to continue that particular 40-plus-year-old contract which has worked very well in stabilizing not only timber production but employment in one of the principal economies of his district.

There are other much less significant indirect substitutions in the State, which are of help to small mills, and of help to mills other than the Wayerhaeuser Co. which we believe also should be excepted. I find it regrettable that the Senator from Oregon has not been willing to consider the views of the Washington congressional delegation on this subject, and therefore have either to delay the debate on this subject for some considerable period of time or to prepare—and I am in the process of preparing—a State of Washington amendment which would reflect the views of our congressional delegation to introduce as a second-degree amendment.

My own strongly held view is that the use of the regular process, the condemnation of the bill that deals both with State log exports and with Federal substitution, would be a vastly preferable way in which to go. I know of no substantive difference which now separates the Washington and Oregon congressional delegations with respect to State timber.

I think we have only a drafting problem to make certain that our views are clearly stated in that matter. I regret to say it does seem to be a difference here, and it is a difference which I would ask this body to deal with by permitting the Washington delegation to determine these policies with respect to Washington, and the Oregon delegation and those of the other States impacted to make the decisions with respect to Oregon.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Washington is recognized.

Mr. ADAMS. Mr. President, really this morning is a bit of tragedy of jumping the gun. I do not say this critically of the Senator from Oregon because of course he can place the

amendment in at any time that he wishes. But as chairman of the Washington delegation and a senior Senator we have met under my auspices once a month, sometimes twice a month—I think we met as recently as Thursday—on this specific timber problem.

We have shifted our traditional position. I am probably one of the few here who was actually in Congress when the ban on export of Federal logs from Federal lands was put in place. We used to call it the "Julia Butler Hanson" amendment because it was put in the Interior appropriations bill. At times it was called the Morse amendment. But here has been a ban on any logs from Federal lands being exported for many, many years as stated by Senator PACKWOOD and as stated by Senator GORTON.

I am in support of that being made permanent. I have no objection at all. In fact, I think we are long overdue to place what Senator PACKWOOD has suggested as the substantive committees' putting on such a ban rather than being done year by year in the Appropriations Committee. I advocated it. I testified for it in front of the House. I testified for it in front of the Senate. I am hopeful that type of ban will occur.

The same thing applies, Mr. President, to the substitution issue. But it is as stated by the junior Senator from the State of Washington, more complicated in the State of Oregon than in the State of Washington. And the same is true of public lands. The reason for the original ban on Federal lands was to protect smaller mills and others in the State so that they could have a supply of timber that did not own it themselves as the timber giants did.

But a desperate economic situation hit the Northwest, once early in the seventies and again early in the eighties. I know the Senator from Oregon remembers this. Log exports were not a major factor in the Northwest timber industry until the very recent last 25 years.

My family grew up in the timber business. We had people in my family who logged Queen Anne Hill in Seattle. We had one brother who was in New England who sold the timber and the lumber products there. But during the course of many, many years, Mr. President, the markets from Canada, and the Southern United States, flowed into the middle part of the United States and into New England, and gradually the Northwest market began to shrink for finished products internally.

We were moved back first to Chicago, later to Butte. We finally had a rather limited market, and our problem was to sell logs or to sell finished products. We were selling to Hawaii, to the State of Washington, and some to California. That was about it. So the industry was not prosperous. But then an even worse disaster befell us. A storm blew down an enormous number of logs, logs that must be harvested within a fairly limited period of time. Otherwise, the bugs and climate and everything else destroys them. Later, we had the Mount St. Helens' disaster, which had the same effect. It was an enormous, what we call, a "blowdown."

At this point, the idea was struck that, well, maybe the international market would like logs or like timber. We wanted to get rid of an economic problem. It was a question of getting them off the ground, getting them sold in any way possible, or having them rot. So, gradually, an export market was built.

This export market became, suddenly, in the eighties, very popular. The Japanese liked receiving these logs. The Chinese began to like to receive these logs. They were beautiful straight line, straight grain timber. They used them in their type of construction. Then we got into a very complex attempt in the Northwest to cut to Japanese standards, which are very different than ours. They do not tilt up their houses. They sell the interior part in a little package with a blue ribbon in it, and they use the beams without anything on them across the tops of their houses, because of the clear grain. It is a very complicated business.

But logs began to be a valuable item. And some of our people converted. All of this in the early eighties meant that our timber industry—which a lot of these small mills had gone out of business, and a lot of the others were in terrible trouble—began to export logs more and more. Then it became overwhelming, because as our market came back in the United States, then at that point companies were selling both logs and finished products, and then began to say to the Japanese, and rightly so, "we do not want to send our resource over there. We want you to take our finished product."

That is a terrible debate going on right now, and I hope we win it, and that is why I am in favor of holding our logs in the United States from Federal lands and not letting people substitute.

In the course of doing this, as we banned them from Federal lands, substitution became necessary. I think the Senator from Oregon and the Senator from Washington, who have spoken, know this very well. I do not know how many of the other Members know why substitution became a problem and indirect substitution became a problem.

When you cut a section of timber, you get all kinds of product out of it. You get some very large trees, some very small trees, and the substitution and indirect substitution became methods whereby people who cut a series of timber and could not handle it in their mills, would take and swap back and forth. Also, certain companies—and I think this is what Senator PACKWOOD has directed a great deal of his emphasis in the second part of his amendment toward—certain of the mills had a grandfather right. In other words, they had been logging in the Federal lands, and so they were given the right that if they took their timber from private lands—there was Weyerhaeuser or Crown Zellerbach, or whatever company you want to name—and they would substitute in their timber, they could use Federal logs for either export or for cutting. The reason for it was that the location of the mills and the location of the timber very often did not match. So they would substitute into the market a certain amount of timber. But this was limited.

There was a limited right to do this substitution. There also became a right of indirect substitution where somebody who had a little mill was cutting, and they could not use part of it, so they would swap off with the big mills, and this was called indirect substitution.

I do not say any of this was right or a long-planned thing. It was the way the market grew up. Oregon is very different than Washington in this effect. We have cutting circles in the State of Washington, many of them contractual, and one of them was mentioned by the junior Senator from the State of Washington, whereby a town had a 100-year contract with a mill which had, in turn, a 100-year contract with the surrounding forest area to cut a certain amount per year for that many years for jobs, to stabilize the market. We have to undo that contract. I think it should be undone. I think that we should be out of that business.

So what the tragic part about this is we are in support—this Senator is—of many, many of the provisions that are being proposed by Senator PACKWOOD, but we have not had a chance to negotiate with him to handle our specific problems; and that is why we are trying to draft a substitute amendment that would accomplish the two parts: ban making permanent on Federal lands—and all of us are agreeable on that—ban log exports; and ban indirect substitution.

But we have contractual things that we have to handle first. We have gone much farther, and as was explained by the junior Senator from Washington, what I attempted to do as we had our delegation together was to take those who were of greatest interest, who had these forests and had spent the time on them, like Representative SWIFT and others, and put them on committees with Senator GORTON to draft a

plan that will come up later this year, regardless of whether we pass this, that would begin to deal with timber supply for these little towns, because of the effect of the fish and wildlife decision of protection of species within the forests, the fact that the forest plans will not allow as much timber to be cut.

In other words, the whole delegation realizes that the cut must go down, that old growth must be protected, that there are various ways of new selective timber cutting that must be done.

I congratulate Senator PACKWOOD for leaving that portion out, and we hope to put it in the Export Administration Act, because he is absolutely right. The Federal Government said that, through the Supreme Court, individual States could not make foreign policy of what logs they would export or not export. That has to be taken care of, and we are going to do it in that act. If we were not to do the Packwood amendment at all today, this matter would be up in that act. I have talked with Senator SARBANES about it, and he understands we have that problem before us.

What is concerning us is that we picked two small pieces out of this, and we would even go along with that if we had a little voice in those two small pieces, so that we could take care appropriately of banning the log exports and providing a supply of timber for our smaller mills.

There are several ways you can do this, and I think they are constitutional; which is to say, for example, off the sale of State lands that the first $400 million board feet could not be exported; that it would keep the foreign buyers from coming in and bidding up the price but would still leave a marketplace for logs above that. That is one suggestion.

I am saying that this matter is going to come before the whole body. What Senator PACKWOOD is doing is taking two small pieces out of this which, if we had a little time to go through it with him, I think we could agree, and we could handle the substitution problem through either a grandfather clause or through some type of statement as to what the rights of these people would be. Because as I understand it, the Senator is only talking about direct substitution and a ban on Federal lands. And if we could get a substitute amendment to do that, we would be very pleased to vote for this bill.

I would personally vote to table it in the form it is in now because I have never seen it. I have not had a chance to go through the pieces of it. We have not finished drafting the substitute. I have told the people get it over here so that we have an orderly transition and you do not have to make it perfect because we are going to have a second shot at this in the Export Administration Act.

I agree with Senator PACKWOOD. I think that at some point in that act we are going to have to do it on private lands, too. I do not yet know how to do it, whether you do it with a tax or do it in another fashion, but you cannot have individual States with individual policies.

So what I am pleading for this morning is that if this were to come up immediately I would have to request that it be tabled, not because I am opposed to what he is doing, but because we have not had the time to flush out and correct the bill and we know it is coming up in another part later. We have not had a chance to negotiate it out. We need to have that time.

I want to close by saying this, because I know the occupant of the Chair at the present time is interested in what I am most deeply interested in, one of the major problems here is we are going to reduce that cut even after we finish with the exports and they are kept in the United States. There is not going to be enough timber. So mills are going to close. They have already closed. They started closing 2 years ago, even though we put in a special bill, Senator HATFIELD and myself, and the Appropriations Committee—it was later carried in the House—that allowed a system for dealing with the spotted owl and for dealing with these timber contracts. That runs out and they have not been able to complete it. New forest plans are coming in. So towns have closed. When you talk about what happened to the miners in the Clean Air Act, I can state to you that as the exports stop, the longshoremen will go out of business and the loggers will go out of business, a lot of them, and this is going to be something that we are going to be coming to all of you and saying we need help for people to readjust for their jobs, we need assistance to communities so they can retrain and revitalize.

We know that this is going to have to happen. That is why we are here this morning, with Senator PACKWOOD, saying give us a little opportunity to take this piece by piece.

I will vote for your Federal ban on export of logs from Federal lands. I am for that. I think we should do that. I am for shutting down the export market and doing something about the direct substitution. You just caught us a little too fast to know what all the effects are in our State.

I close by saying this—and I hope I have the attention of the Senator from Oregon, because I think it is very important, and the Senator from Texas, too—we are going to have to deal with State lands at a later point here, and in our State, the school construction comes from the State lands, $147 million of it. We have to correct that problem in the next bill. So we have no choice but to do that.

So I am hopeful that we will have an opportunity today to—if the Senator insists—do the things that we are already in agreement on, not cause ourselves to be boxed so that we cannot move forward further in planning for reduced cut and protection of the species and the old growth and the other portions of the forests and help our towns out there through this very difficult period of time.

If that can be done, we, of course, will withdraw our objections to it. But this came on us too fast. I think with a few minor changes we could get it accepted and go through it.

So, I hope, Mr. President, that not only the history but the very deep problems that we have are understood by our colleagues, and if we cannot get the substitute amendment that they will table this with the assurance we will do the whole thing in the Export Administration Act because we are for stopping this export of large old growth timber to Japan. We want to stop that. We are all looking for the ways to stop it within the abilities of Congress and the State to deal with the other problems that we have.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I told the distinguished ranking member of the Finance Committee that although I support his amendment I believe that a proper definition of what it really does is like putting vasoline on a cancer. I suppose if you have no other medicine and you have cancer maybe vasoline is better than nothing, but the reality is in my opinion that the Japanese buying logs is not the threat to the lumber mills of the Pacific Northwest, that the real threat is ourselves, our own Government ownership policies where we now have 3,000 lawsuits against the U.S. Forest Service to stop the harvesting of U.S. trees.

As I said, I am generally supportive of prohibitions on the export of logs off Federal forests. Generally speaking, I would say it is not a bad concept so we can have value added to these logs and produce a product where we can export overseas where American workers can produce it. We know our forest products industry is efficient, modern, and much superior to that of the Japanese. The Japanese are imposing very restrictive tariffs and other mechanisms to keep United States finished lumber out of their markets so they can develop their own industry. Those are given facts.

But I do think that this is a Band-Aid solution. I understand, appreciate, am sympathetic, and I hope the Washington State problem can be worked out. I say to my two colleagues from Washington State they they will be

able to resolve this issue, but in my opinion the timber is out there to meet the needs of the American mills. The problem is we just cannot seem to get to it.

The questions need to be resolved: roadless area questions, the failure of the forest planning process, the legal challenges, delays, cumbersome appeals process, the long, lengthy time it takes. If it were not for these obstacles there would be a lot less hue and cry from local mills about log export bans, which is really a Band-Aid solution, as I mentioned.

In the long run, I think we all need to recognize that prohibiting logs leaving the Northwest will not compensate for a steady decline in Forest Service sales. No amount of trade policy adjustment or environmental policies are going to compensate for the basic management flaws in the Government.

This is our problem; this is a United States problem. I realize that the Congress of the United States and the body politic of the United States are not on an enlightened enough level today that they would be willing to go out and help privatize larger sections or the management at least of some of those national forests as is done in Sweden so they can continue to farm and grow trees.

It just so happens that my personal background is one of tree growing, and in all reality the harvesting of timber is like a gardener, except the harvesting takes 60 years in some cases or 80 years in other cases or 40 years in other cases instead of an annualized crop. All too often people in the name of the environment, and they want to do good, are protecting the harvest of trees that should be harvested so that we can plant new trees and continue to have a new growth of forest that will grow much faster.

I think it is very interesting that yesterday there was an article in the Washington Times about the differences in the areas of the United States. I paraphrase from that article.

What is intriguing about the growth of wood supply in the United States is that the mainly federally owned and "preserved" West, the national forest where the big bulk of our mature softwood timber supplies are in Oregon, Washington, Idaho, and Alaska, the bulk of that forest's production is actually going down, decreased by 9.7 percent; but in the North it is up by 79 percent; in the South it is up by 66 percent. This is since 1952 where the private forest ownership was 80 to 90 percent private. This is really what the problem is.

I believe personally that we would not have to do anything even as radical as completely privatizing the national forests if we just manage the national forests as Theodore Roosevelt and Gifford Pinchot suggested, so we have a wise use of resources and not get confused by spotted owls and timber wolves and red line and blue line forests so we could preserve the old trees and we could preserve the spotted owls and other species, but go ahead and harvest the older trees and replant them as is being done in other places in the world. We would do two things.

We would do two things. No. 1, we would supply the adequate timber that is necessary for the pulp and paper and fiber of this country, for the housing of this country, and for the jobs of the people in this country. We would grow new forest, which would consume carbon.

As a matter of fact, no thanks to the national forest system, but it is interesting that a major new study by the Goddard Space Institute and Columbia University shows that young forests actually sink the carbon levels and consume it. James Hansen, of NASA, told the National Academy of Sciences workshop in January that, because of our growing forest volume, the United States now is actually consuming carbon and sinking the surplus in the world. And we are doing it, we are where we are, growing more wood and fiber for the use of the people, and that is in the South and in the North where the trees are being managed as a farmer, a true conservationist, would harvest the old and dead or dying slow-growth trees and replant them with younger forest that can continue to grow, and then the next generation can do it again.

Mr. President, although I support the Senator from Oregon's amendment, because there is no question that we feel the pressure in my State as the Oregon bidders come over and bid on the forest, but I still think that those of us in the Senate should look at this from the long-range view. This is only a stopgap measure, a temporary measure.

What we should do in this Senate is have a long view of where we are going with the management of these national forests.

I say to the distinguished Presiding Officer, coming from the southern part of the State of Illinois, one of the truly great farming areas of the world, deep soil, lots of rainfall, good growing season, massive production in crops like soybeans and corn and other grain products, some of the best in the world, I would suggest to the distinguished Presiding Officer that, if we were to take his State and the rest of the breadbasket States from the Midwest and the Mississippi Valley and have two-thirds of them in Government ownership and then set up a department called the U.S. Feedgrains Department, like we have the U.S Forest Service, then I would ask the Presiding Officer, I wonder, rhetorically, how many bushels of corn and soybeans and wheat we would have to sell if the Federal Government were managing and they would have to go in and have 3,000 lawsuits, when they did have a manager who was trying to come up with a plan to grow soybeans or corn and they had someone come in and sue them for the management policies and say you cannot do that because you are interfering with the future of the spotted owl or whatever it might be or the gray mouse or whatever would interfere with the growing of these crops. This is what the problem is.

The sooner we start addressing the long, permanent problem, as long as we are going to insist that the Federal Government own all of these forests or at least have some kind of a massive participation on the management of it by the people who are not the professionals, not based on sound science, not based on the reality of producing wood and fiber, not based on the reality of when a forest gets old and stops growing and starts dying—it is burning slowly, when that happens, that is the ecological process, that is a biological process that is taking place. We are not producing any new wood. We are not producing any new growth. We are only producing carbon in those old forests. That is not good sound environmental policy. It also hurts people, Mr. President.

So, the Senator from Oregon is reacting and responding, as he should, to the sawmill workers and the loggers in his native State of Oregon. We have the same problem in Idaho. The problem is somewhat different in Washington State.

But I would say this. If you go back and look at the history of the last 50 years, we have cut hard on the private lands, on the State lands, in the Pacific Northwest, waiting for the time when we would then start using the national forest lands to fulfill the need for wood fiber and wood products in this Nation. Now the trees are old. They have stopped growing. They need to be harvested in many cases so new trees can be replanted and new forest restored, new growth restored, and we are stopped. We are stymied. We are buried in bureaucracy. We are buried in lawsuits. We are buried in litigation. And we are not really carrying out our responsibilities.

I would shudder to think what Gifford Pinchot would think if he were alive today to see the stalemate that has been produced in the Pacific Northwest when all you have to do is get in an airplane and, in my own State, start flying at the Salmon River and fly north to the Canadian border and you fly over forests almost the entire way, forestland of soft white pine, forest owned by the Federal Government where, in most instances, if

you do have a forest plan and a harvest management plan in effect, there is probably a lawsuit going on and it is being stopped and tied up in court over some endangered species, some watershed area, or some other reason, whatever you can think of, many of them very noble causes, but under the guise of stopping those forest plans.

It is like one of the leading environmentalists in the West said—and I do not recall the gentleman's name, but I could find it for the record. But his statement was, if we did not have the spotted owl, we would have to conjure up one or find some other species on which we could stop these pillaging foresters from harvesting these trees. It is as though it is some kind of a sin to harvest a tree that has stopped growing. If we had the same attitude over our gardens, we would find we would have no vegetables to eat.

Mr. President, I think this is really where we need to focus our attention. I hope that we can work out a substitution that is satisfactory to the unique situation with Washington State. I say to the Senator from Oregon, I think that there is no other choice than to do what he is trying to do at this point. But, in reality, the problem is a much bigger problem, and it is about time that the U.S. Senate and the Congress and the administration sit back and take a look at the hole card of where we are going and think that we who have the technology, 20 to 25 years ago have had people on the Moon, you would think we would have the good common sense to be able to sit down and come up with a management plan that would allow us to have a reasonable harvest level of those old trees in the Pacific Northwest that would actually in the long run make a healthier environment, not a worse environment.

Mr. President, I also say that we should recognize the fact that it is a pretty well proven fact worldwide that freedom works and government controls and oppression do not work. We are having hearings today in the Joint Economic Committee and they are talking about the economy in the Soviet Union. Just in summary of what the witnesses have said to the Joint Economic Committee thus far today is that the Soviet Union is broke, their economy is dead, they are not producing anything. They are worse off than they even imagined they were. There really has been no perestroika. There has been no reform. There has been no unleashing of human energy and unleashing of the natural resources for the people over there. They still are stultified, stagnated by Government ownership, bureaucracy that is massive and impedes the production of the foods and services that their people want.

Basically that is the problem we have here. So while we have no choice now for today but to try to do what we can to help keep the mills alive in the Pacific Northwest and keep people working, I say again that in the long run, I think it is time that we have a long look at this. Maybe our forest management plans in the 1976 Forest Planning Act are not working. Maybe it cannot be done. If it cannot be done, then we need to take a relook at how we can make the multiple use concept work.

Put some lines around some of those forests, leave some of that area to satisfy the needs and wants of the spotted owl and other species. And with the rest of it, get on with a reasonable, rational, careful, environmentally sound harvesting policy so we can have the jobs, supply the mills, produce the lumber for the houses of the people in America. That will allow people an opportunity to be happier and at the same time do something that is good for sound environmental policy in this country.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. I would say to the Senator from Idaho I saw an example of that Sunday. I spent several hours going through what is called the Tillamook Forest in Oregon. It used to be called the Tillamook Burn. It burned tremendously in 1933, 1939, and 1945, a total of about 340,000 acres.

As we look at pictures from that era it looks like the Mount St. Helens explosion. It is hillside upon hillside bare, nothing. No trees. A few snags. Just bare land.

In 1948 the State of Oregon passed a bond issue to reforest the area. We have been reforesting ever since, some in the late forties, some in the fifties, some in the sixties.

In Oregon, the State forests are not managed on multiple use. The paramount use is timber production. There are some campsites but the paramount use is timber production. It is planted on an 80-year cycle. You plant them every 30 years; do precommercial bedding. Some do not grow as well as others. You take out the ones that do not grow very well and they are not big enough for lumber and you chip them and give more room for the other trees to grow.

Then about age 45 to 50 years you go through in what we call the commercial thinning and take out more trees that are big enough for lumber. Then in about 80 years on average, maybe 60 in some places, 100 in others, take out the remainder of the trees and replant them again. You can do so on a 80-year cycle.

As you drive down from Portland, down the Oregon coast, you drive through the Tillamook Burn. The highway just divides it and you can look on either side. What you see are hillside upon hillside upon hillside of trees. I would defy most people to be able to tell that that area was ever burned. It will be in harvest forever, well managed, on principally a timber basis. So, it is perfectly possible to manage things on that basis.

Second, I would say to my friend from Washington, I, too, wish we could go back to the era he wishes about, or as he has indicated, if we could just let Washington take care of the State of Washington and let Oregon take care of the State of Oregon, we could have a happy compromise. That is the way we operated on public land in the Senate until about 1975, as I recall. I might be off a year. That is when we passed the Alaska lands bill.

We set aside great portions of Alaska in wilderness areas, over the initial objection of the Alaska Senator, the Alaska Governor, the Alaskan legislature, the Alaskan press and, I assume, the Alaskan people. But we simply said that is Federal land. It is so pristine, it is unique, so that even through the local citizens want to handle it in one fashion, we are going to override them.

Ever since that day, for better or for worse, the idea that each of us in our State can say this is the way we manage our U.S. Forests, our U.S. Bureau of Land Management lands, has been gone.

So, consequently, I now vote if the issue comes up on the management of the Cape Cod National Seashore, and Senator KENNEDY votes on the management of the Siuslaw National Forest, and they are national properties and we vote on them nationally.

So, when the issue comes as to whether or not we should have direct or indirect substitution in the State of Washington, although it is unfortunately no longer possible, I would be willing to make that trade. I would be willing to give them that if the alternative was that henceforth the Oregon delegation on all management of public forests would have the final say as to how they are managed.

Having said that, I understand the situation that they have in the State of Washington with one mill in the Olympic forests with its contract and cutting cycle. If something would be worked out for that mill I would be amenable.

AMENDMENT NO. 1492

(Purpose: To restrict the export of unprocessed timber from certain Federal lands)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD] proposes an amendment numbered 1492.

Mr. PACKWOOD. 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:

At the end of the bill, insert:

TITLE V—FEDERAL TIMBER EXPORT RESTRICTIONS

SEC. 501. SHORT TITLE.

This title may be cited as the "Federal Timber Export Restriction Act of 1990".

SEC. 502. PURPOSES.

The purposes of this Act are—

(1) to make permanent the current Federal policy of restricting the export of unprocessed timber from Federal lands;

(2) to review and revise Federal policy with respect to the ability of timber operators to acquire and mill Federal logs in lieu of exported private logs;

(3) to promote the conservation of forest resources consistent with Federal resources management plans;

(4) to help relieve the critical short supply conditions in industries which rely on an adequate timber supply; and

(5) to effect measures aimed at meeting these objectives in conformity with the obligations of the United States under the General Agreement on Tariffs and Trade.

Subtitle A—Federal Lands

SEC. 511. RESTRICTIONS ON EXPORTING OF UNPROCESSED TIMBER.

Notwithstanding the act of April 12, 1926 (16 U.S.C. § 616.44 Stat. 242), and except as permitted by section 513 or 514 of this Act, no person who acquires, either directly or indirectly, unprocessed timber originating from Federal lands shall—

(1) export such timber from the United States;

(2) sell, trade, exchange, or otherwise convey such timber to any other person for the purpose of exporting such timber from the United States: or

(3) use, or assist or conspire with any other person to use, such timber in substitution for unprocessed timber originating from private lands exported or to be exported from the United States.

SEC. 512. INFORMATION GATHERING.

(a) REQUIREMENTS OF PERSONS ACQUIRING UNPROCESSED TIMBER.—In accordance with regulations issued under section 523, each person who acquires, either directly or indirectly, unprocessed timber originating from Federal lands shall report the disposition of such timber to the Secretary concerned on a quarterly basis.

(b) REQUIREMENTS OF PERSONS CONVEYING UNPROCESSED TIMBER.—

(1) IN GENERAL.—In accordance with regulations issued under section 523, each person who sells, trades, exchanges, or otherwise conveys to another person unprocessed timber originating from Federal lands shall identify in writing the original of such timber to that other person.

(2) ACKNOWLEDGEMENT.—The person to whom such timber is conveyed under this section shall submit to the Secretary concerned, in such manner as the Secretary may prescribe—

(A) written acknowledgment of receipt of the written identification of the origin of such timber under paragraph (1), and

(B) a written agreement to comply with all of the prohibitions in section 511.

(c) REPORTS BY SECRETARIES TO CONGRESS.—The Secretary concerned shall, on the basis of the information received under subsection (a) and (b), report annually to the Congress on the disposition of unprocessed timber originating from Federal lands administered by that Secretary. The Secretary of Agriculture may meet this requirement by including such information pertaining to the National Forest system as part of the annual report required by section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (17 U.S.C. 1606(c), 88 Stat. 478).

SEC. 513. EXCLUSIONS.

(a) EXEMPTION FROM PROHIBITION ON SUBSTITUTION.—The prohibitions contained in section 511 shall not apply to a person if, before the unprocessed timber otherwise subject to the prohibitions is obtained—

(1) that person applies to the Secretary concerned, in such form as is prescribed in regulations issued by such Secretary, for an exemption of the prohibitions contained in section 511:

(2) that person demonstrates in such application that the Federal lands from which the unprocessed timber will be obtained are not located in the same geographic area—

(A) from which that person exports any other unprocessed timber from private lands; or

(B) from which that person has exported unprocessed timber from private lands in the preceding 5-year period; and

(3) the Secretary concerned grants the exemption.

(b) DETERMINATION OF GEOGRAPHIC AREAS.—The Secretary concerned shall determine the boundaries of geographic areas for purposes of subsection (a)(2) in accordance with the procedures of rulemaking set forth in section 553 of title 5, United States Code. The Secretary shall consider whether persons other than the applicant for the exemption engage in commerce in unprocessed logs between the two geographic areas involved. Such commerce shall be sufficient to deny the exemption. Any such determination shall be reviewed at least once in each 2-year period. The Secretary concerned shall publish notice of such review in the Federal Register, and shall give the public an opportunity to comment on such review.

SEC. 514. SURPLUSES.

(a) DETERMINATIONS BY SECRETARIES.—The prohibitions contained in section 511 shall not apply to specific quanities of grades and species of unprocessed timber from Federal lands which the Secretary of Agriculture or the Secretary of the Interior determines to be surplus to domestic manufacturing needs.

(b) PROCEDURES.—Any determination under subsection (a) shall be made in regulations issued in accordance with section 553 of title 5, United States Code. Any such determination shall be reviewed at least once in every 3-year period. The Secretary concerned shall publish notice of such review in the Federal Register, and shall give the public an opportunity to comment on such review.

Subtitle B—Sanctions; Definitions; Effective Dates

SEC. 521. PENALTIES.

(a) IN GENERAL.—Any person who violates this title or an implementing regulation, or counsels, procures, solitics, or employs any other person to take an action in violation of this title or such regulation, shall be assessed a civil penalty by the Secretary concerned of not more than $10,000 for each violation.

(b) KNOWING VIOLATIONS.—Any person who knowingly violates this Act, or any implementing regulation, shall be assessed a civil penalty by the Secretary concerned of not more than $1,000,000 or three times the gross value of the unprocessed timber involved in the violation, whichever is greater.

SEC. 522. DEBARMENT.

If the Secretary concerned finds, after notice and an opportunity for a hearing on the record, that a person has violated this Act or any regulation issued to carry out this Act, such Secretary shall issue an order prohibiting that person from entering into any contract for the purchase of unprocessed timber from any Federal lands for a period of not more than 5 years. Such person shall also be precluded from taking delivery of Federal timber purchased by another party for the period of debarment. Such an order shall be subject to review in an appropriate District Court of the United States.

SEC. 523. REGULATIONS.

Within 1 year after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall, in consultation, each prescribe new coordinated and consistent regulations to implement this Act on lands which they administer.

SEC. 524. DEFINITIONS.

When used in this title, the term—

(1) "acquire" means to come into possession of, either directly or indirectly, through a sale, trade, exchange, or other transaction;

(2) "affiliate" of another person described in paragraph (4) of this section is a person that—

(A) controls or has the power to control such other person,

(B) is controlled by or is subject to control by such other person, or

(C) when such other person is controlled by, or is subject to control by, a third person,

except that in determining whether persons are affiliates, all appropriate factors shall be considered including, but not limited to, common ownership, common management, and contractual relationships;

(3) "Federal lands" means lands administered by the Secretary of Agriculture, the Secretary of the Interior, and the Secretary of Defense, and located west of the 100th meridian in the contiguous 48 States, excluding lands held in trust by the United States for the benefit of any Indian tribe or Indian individual;

(4) "person" means an individual, partnership, corporation, association, or other legal entity and shall include subcontractors and any subsidiary, parent company, or other affiliate;

(5) "private lands" means lands held or owned by a person but does not include lands held or owned by the United States, a State or political subdivision thereof, or any other public agency;

(6) "Secretary concerned" means the Secretary administering the Federal lands from which the unprocessed timber is removed;

(7) "substitution" is the practice of purchasing or otherwise obtaining timber from Federal lands west of the 100th meridian in the contiguous 48 States while at the same time exporting, or selling for export, timber from private lands west of the 100th meridian in the contiguous 48 States; and

(8) "unprocessed timber" means timber as defined by the regulations prescribed pursuant to section 523 of this Act.

SEC. 525. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act, but shall not apply with respect to timber removed pursuant to timber sale contracts entered into before the date of enactment of this Act.

(b) EXEMPTION FROM SUBSTITUTION.—Section 511(3) shall take effect 1 year after the date of the enactment of this Act. During such 1-year period, section 511(3) shall not apply with respect to the acquisition of unprocessed timber from Federal lands by a person who, in accordance with regulations of the Department of Agriculture and the Department of the Interior in effect on the date of enactment of this Act, demonstrates to the appropriate official that the Federal lands are in a tributary area as defined by the current regulations.

Mr. PACKWOOD. Mr. President, I have talked with the chairman of the committee, Senator BENTSEN. I told him I would put this in and I would be willing to go into a quorum call and see what we can work out for the State of Washington on this one mill, or I would be willing to temporarily set this aside if there are other amendments. I do not know if there are other amendments to come up, acceptable amendments or unacceptable amendments or any other amendments, that are ready to come up this afternoon. I would like to take care of th's harmoniously, if we can.

So, for the moment, I suggest the absence of a quorum and we will see what we can work out.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. 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. GARN. Mr. President, the Packwood amendment is based on legislation introduced by the Senator and referred to the Senate Banking Committee. The issue addressed by the amendment is one of controls on the export of logs, a matter covered by the authority of the Export Administration Act and within Banking Committee jurisdiction.

The International Finance Subcommittee held a hearing on the issue last November in anticipation of further consideration of the legislation, as part of the debate on reauthorizing the Export Administration Act.

The committee has now begun hearings on reauthorization of EAA, and will shortly prepare comprehensive legislation for consideration by the Senate. This issue should be considered by the committee and the Senate as part of the EAA debate.

The opportunity to do so will be provided by early summer. It is inappropriate to adopt this amendment without full consideration by the committee of jurisdiction, which has already begun, and by the Senate as part of the appropriate legislative vehicle, the Export Administration Act.

So, while taking no stand whatsoever on the amendment today on substance, I do feel with the jurisdiction belonging to the Senate Banking Committee and the fact that we are proceeding to consider this legislation, that it is inappropriate for us to do it in this forum and, therefore, I do oppose the amendment and will vote against it.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, if I might respond very briefly to the Senator from Utah, I would agree with him under normal procedures. But as I said when I started this debate, I sent a letter on February 28 to Senator SARBANES, the chairman of the subcommittee, asking if he planned any action on this. Or, if he was not just let me know. I was not complaining. I just wanted to know one way or the other what he was going to do and I put that letter in the RECORD earlier.

I printed that letter in the RECORD earlier. Then on April 6, following a conversation between Jon Stephens of my staff and Marty Gruenberg of Senator SARBANES' staff, Mr. Gruenberg indicated that the committee did not want to consider this in markup and would prefer it be offered as an amendment on the floor. Therefore, I sent Senator SARBANES a letter. I will quote the last part of it: "Therefore, assuming what my staff member told me Marty Gruenberg told him is accurate, I'll look around for some other vehicle to attach the log export bills to on the floor."

It was not my intention to circumvent their jurisdiction. When I was told they did not want to handle it in markup and would prefer a floor amendment, and I wrote to the chairman of the committee and said I will look around for some other vehicle, I thought I covered that base.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I respond, with all due respect, that there are many members of the Banking Committee and with all due respect for Senator SARBANES who is chairman of that subcommittee, it certainly has not been the intent of this Senator that it not be considered. I was unaware of that correspondence and it is certainly my intent and the intent of the Republicans and the Republican staff members who have addressed this issue to do as I have outlined.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, the Senator from Alaska is very interested in the legislation that was proposed by my colleague from Oregon regarding his amendment to prohibit the export of logs from western federally owned lands. One might wonder why, since Alaska does not apparently have a dog in this fight, we have an interest. Alaska is in the unique position of being exempted from the discretionary approach toward the issue of round log export from Federal lands. We have it in statute that round log export is prohibited as a consequence of mandating primary manufacturing.

It is fair to say the State of Alaska would virtually have no primary manufacturing of timber if, indeed, we did not have this existing prohibition which, if applied to the balance of western forest lands, Federal lands, would simply ensure, as the Senator from Oregon intends, that there is no administrative flexibility nor administrative loophole that would allow the export of logs from Federal lands.

The Senator from Alaska has seen, if you will, the transition associated with market fluctuations and the effect that it has on primary manufacture when there is an increased output of logs from private land. For almost a decade and a half, when we were developing our markets in the Pacific rim, our timber production was from Federal land. During that time, we developed the sawmills in Ketchikan, in Metlakatla, in Wrangell, in Haines, in Petersburg, and developed a very healthy economy. In addition to that activity, there was the associated longshore payrolls and we built up, if you will, a substantial tax base in many of these small communities that were previously dependent solely on the fishing industry.

Then Congress enacted the Alaska Native Claims Settlement Act which resulted in the transfer of some 40 million acres of Federal lands in Alaska to the private sector. So we had a transfer, if you will, of land from Federal ownership to ownership by some of our Native corporations and village corporations and they, obviously, in southeastern Alaska, selected rich timber lands. That land then went from Federal oversight into private hands and we saw the development of an export market almost overnight.

The development of this growing export market greatly enhanced the logging industry, but at the same time it reduced the manufacture in those areas that had developed small sawmills. What we had was a declining market in the Pacific rim countries, and so the sawmills began to diminish as the export market maintained a decline not nearly proportional to the saw and timber. The point being that the export market was demanding entire logs. They were readily available from private sector timber hold-

ings, and, so, we saw the decline of primary manufacture in southeast Alaska. We saw mills in Ketchikan shut down, mills in Wrangell shut down and mills in Haines shut down. We probably saw the actual volume of primary manufacture drop approximately two-thirds during that time. Coupled with the complexities of what has been happening in the Pacific rim countries over the last several years, we have seen that their production costs have come up, and now they are looking more favorably on primary manufacture products from the United States, from Alaska and the Pacific northwest.

And the transition continues, Mr. President. We see market prices going up, the cost of labor going up in the Pacific rim countries and, as a consequence, the economics are changing. But clearly, had Alaska had the flexibility of exporting round logs from Federal lands, we would have virtually no sawmill industry in our State today.

So, as we look at the merits of the amendment of the Senator from Oregon, I think the experience that Alaska has had is meaningful, and I think there are a couple of other considerations that we should recognize. There is going to be more and more pressure on the timber base, the available timber in the United States, and particularly from the west coast. We have seen evidence that the concern over the spotted owl might reduce the volume by some 30 percent in Washington and Oregon, areas where currently the cut is in the area of 6 to 7 billion board feet a year.

The situation in Alaska is a little different. Our cut is much less. We are taking about 450 million board feet from Federal lands and about 500 million from private lands. It is fair to say that the large portion of the timber from private lands is exported. The rest, the inferior timber, goes into pulp.

But if we look at the merits of this type of legislation, I think there is a parallel, Mr. President. The question is, Is it in the interest of the United States, as we experience a reduction in our timber base, to continue to export not only from State lands—and this is a question that we should address, at a later time and I understand that the Senator from Oregon is reluctant to get into it at this time or he would have pursued it—but clearly we are going to have to take a look at the issue of export from State and private lands as our timber base decreases. While it may be certainly profitable to those who have private holdings, reality dictates that we have to look at our own domestic interests. The issue of exporting jobs has always been associated with round log export. Our costs have not gone up as fast as they have gone up overseas. Our market now can be competitive for dimensional lumber.

If my colleagues think that there is not a parallel to this argument, I simply ask them to consider the merits of the prohibition on oil export from Alaska. There is a prohibition, of course, that mandates that no oil that is produced on the North Slope can be exported. That is a protectionist type law but it is certainly applicable and the justification for it speaks for itself because we are a Nation that is not energy independent.

We are dependent on foreign sources. We are importing 54 percent of our crude oil now and the justification that Alaska oil should be consumed in the United States speaks for itself, let alone the interests of the maritime unions and others who have built U.S.-flag vessels. But the premise is the same.

If we look at the merits of whether we should encourage the primary manufacturing of our timber products within our Nation and within our west coast and Alaskan cities, we can see that it proves worthy of discussion.

We can be competitive. The market will accept our primary manufactured products if we reduce or eliminate round log export. Make no mistake about it, no longer will we be exporting our jobs. We have been increasing our sawmill capability. We will be increasing employment in our west coast States of Washington, Oregon, California, and potentially Alaska.

While I agree with my colleague that there is not the time to get into the issue of exporting round logs from State or private lands, that is a discussion for another day, but it is a discussion that will come.

I support the position of my colleague from Oregon, and my expression of support is based on substantial experience and knowledge of just what it means to have a system where there is no allowable export from Federal lands—and then seeing the competitive posture as timber from private lands are exported and what happens when the market fluctuates.

I thank the Chair. I thank my colleague from Oregon who is the author of the amendment.

Mr. SHELBY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Packwood amendment No. 1492.

Mr. SHELBY. I would like to inquire of the Senator from Oregon if it is possible to temporarily set aside his amendment in order to bring up an amendment that we do not believe we will have any trouble with.

Could I get the attention of the Senator from Oregon?

Mr. PACKWOOD. Yes. I apologize.

Mr. SHELBY. I was inquiring about the possibility of temporarily setting aside the pending business which is the Senator's amendment in order to bring up an amendment I understand there is no objection to.

Mr. PACKWOOD. Yes. I would like to make a quick 30-second announcement. In talking with the Senators from Washington in the cloakroom and with Senator HATFIELD, I think we are momentarily going to set this amendment aside and reach an agreement on a time agreement on Tuesday, to which Senators ADAMS, GORTON, BENTSEN, I, and Senator HATFIELD are agreeable, and we will not be on this amendment again until Tuesday. So for the moment I will temporarily set it aside. I think we are going to permanently set it aside until Tuesday.

The PRESIDING OFFICER. Without objection, the Senator's request to temporarily set aside the Packwood amendment is agreed to.

The Senator from Alabama is recognized.

AMENDMENT NO. 1481

(Purpose: Outer garments treated as water resistant for purposes of Tariff Schedules)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 1481.

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

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

The amendment is as follows:

Part 1 of subtitle A of title I of the bill is amended by adding at the end the following new section:

SEC. . GARMENTS TREATED AS WATER RESISTANT.

The Additional United States Note 2 to chapter 62 is amended by striking ", lining or inner lining".

Mr. SHELBY. Mr. President, I rise today to offer an amendment which will correct a loophole that exists in the tariff treatment of certain garments entering the United States.

Because of the wording found in additional note 2 to chapter 62 of the harmonized tariff schedule, foreign garment manufacturers are able to import their garments at a 7.6-percent duty compared to a 29.5-percent rate by simply adding an inexpensive water resistant lining to their garments. As a result, American manufacturers are not able to compete with foreign manufacturers, and over 1,000 jobs are in jeopardy in Alabama alone.

This amendment changes the language presently found in the harmonized tariff schedule by striking the words "lining, or inner lining" and ending the note after the words "outer shell".

This simple change should eliminate the loophole that that exists because of the current wording. Foreign garment manufacturers have exploited the tariff and taken advantage of the loophole. This legislation has the interests of all American garment manufacturers in mind.

An example of the inequity that exists is explained in a letter I received from an American garment manufacturer. For example, ladies garments made in America of 30 percent wool and 70 percent synthetic fibers have, in the past, directly competed with similar garments manufactured and imported from foreign countries with 29.5 percent duty rates. However, because of the loophole in the HTS, foreign manufacturers are inserting an inexpensive water resistant lining in their garments to qualify for the 7.6-percent rate. Essentially, these water resistant linings serve no practical purpose other than to qualify the garments for a 21.9-percent quota reduction.

The International Trade Commission has historically had problems classifying products in garment tariffs. While I favor maintaining a separate tariff series for coated fabric items, the application of the existing language to determine quota classifications is impractical. Consequently, a large sector of the garment industry is being threatened.

The International Trade Commission has stated, "it appears the words 'lining or inner lining' are not necessary." The letter goes on to describe the original intention of additional note 2, which was to allow garments made "wholly or almost wholly of fabrics which are coated or filled, or laminated with rubber or plastics" to receive a lower duty rate than those garments not water resistant. This clearly establishes that garments with cheap polyurethane linings are not intended to be given the preferential tariff treatment they are receiving.

Time is a crucial factor. The longer this language remains in the harmonized tariff schedule, the more devastating the effect on the American garment industry. I ask my colleagues to support this legislation and correct the existing inequity.

Mr. President, I have cleared this amendment with the floor managers, with the distinguished chairman of the Finance Committee. I understand it has been cleared with the ranking Republican manager, Mr. PACKWOOD. This basically would eliminate a loophole in the customs regulations which allows foreign manufacturers to receive a 7.6-duty instead of a 29.5-duty by simply adding an inexpensive waterproof lining to the clothes they produce.

[S20AP0-532]BENTSEN

Mr. BENTSEN. Mr. President, as the manager of the bill on this side, I see no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Alabama.

The amendment (No. 1481) was agreed to.

[S20AP0-533]SHELBY

Mr. SHELBY. I move to reconsider the vote by which the amendment was agreed to.

[S20AP0-534]BENTSEN

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

The motion to lay on the table was agreed to.

[S20AP0-535]BENTSEN

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Mississippi is recognized.

Mr. LOTT. I ask unanimous consent that I be allowed to proceed as if in morning business for 10 minutes.

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

The Senator may proceed.

DEFENSE EXPENDITURES

Mr. LOTT. Mr. President, I think things are out of control. I see a stampede abounding in the Congress and hysteria sweeping through the Pentagon. If there has ever been a disorderly retreat, I fear we are seeing it at the Pentagon right now.

I have been among the Members of Congress over the past few weeks and the last 2 or 3 months who have been saying: Yes, the world has changed. It is different. We do need to look at the defense posture of our country. We need to assess the threat, the new and hopefully reduced threat, and decide what we really need, not just in this fiscal year but in the next 3 years, the next 5 years. I indicated very strongly I thought we could get by with less spending for defense.

I do not like to call it a peace dividend because I do not necessarily feel that the word "peace" is what we are looking for. What we are looking for is freedom, because peace without freedom is still not worth very much. Let us call it a freedom dividend.

I felt there would be some savings in the defense area below what we thought we would have to spend just a very few months ago.

I also felt strongly, as a member of the Armed Services Committee, that it should be a thought-out process, a careful, orderly caution, and while we could not save that much in the first year, in outyears we could save billions of dollars. There are those who were quick to move in and say, great, we will spend that here and this someplace else.

As a matter of fact we do not have anything to spend. It would just mean that we would have an opportunity to substantially reduce the deficit without raising taxes. Or if we did have the need to concentrate in certain key areas like drugs, fighting crime, and education, yes, maybe there would be some extra money.

But, Mr. President, in recent weeks and recent days, shrill calls for draconian cuts in defense have become increasingly frequent. I think it is getting out of hand; it is a stampede. These calls have taken on the characteristics of a high-stakes poker game with one big difference. Instead of players raising each other, they are cutting each other. The competition boils down to who can make the most outrageous proposal to cut the defense budget.

I recognize, that the international environment is in the midst of great change, and a large part of this change is a result of what is happening with the Warsaw Pact and the reduction of the conventional threat.

When I was home during the Easter recess period in the State of Mississippi, one thing that surprised me was that the people down there seemed to be more in tune with what is actually happening in the world than I think we are here sometimes. I had people come up to me and say, "Wait a minute, you guys are letting this thing get out of control. You know how dangerous the world is. Now, do you really believe everything the Soviets have been saying? Have they really changed? Have they really reduced this much? They are making some slow changes, but in most crucial areas there has been little change, particularly in the strategic area."

We have seen what is going on right now in the Baltic Republic of Lithuania as Soviet-armored columns rumble through the streets of the capital city of Vilnius by night and Soviet paratroopers occupy selected government buildings by day. Simultaneously, ultimatums designed to create fear are issued almost daily by Moscow to the political leadership in this small republic. Just the day before yesterday, I believe it was, Moscow declared virtual economic war on Lithuania by cutting off oil and gas supplies. Does anybody doubt Gorbachev's willingness to take the next step and use the full power of the Soviet Armed Forces to impose his will if necessary? Other recent signals from the Soviet Union, such as backing away from previously agreed START negotiating positions and raising obstacles to our INF verifi-

cation teams, increased uncertainty within the Soviet leadership itself. This should remind us that change is a two-way street in a system like that in the Soviet Union, and U-turns remain a possibility. Our most important responsibility is to provide for the common defense. If we err, it must be on the side of safety. Remember, our most important social program is to keep our citizens alive and secure.

How all this will play out is anybody's guess right now. My point is that we still live in an uncertain world and we must take care in how we adjust to it. I still think it has to be a fine tuning, a tuning down, but not something where we lose control.

History confirms over and over again that in our euphoria after wars, we disarm unilaterally. We disbanded after World War I, the war to end all wars. We took down our Armed Forces too much and too quickly. It was an irresponsible act that cost us much life and treasure in World War II. We repeated the same mistake and paid a similar price after our Korean involvement. Some people say, the cold war is over. I think the status of the cold war is still in question. But now we see this same irresponsible attitude beginning to develop. Worse yet, it seems like this mentality is catching on with a lot of Members of Congress.

It would appear that all reason and sensibility is being lost. The Halls of Congress are being flooded with budget proposals. I would like to take a look at some of them. The chairman of the House Ways and Means Committee has advocated cutting $150 billion over 5 years in defense, $10 billion in the first year.

The Senate Budget Committee chairman's proposal would reduce our defense effort by $15.2 billion in fiscal year 1991 and a whopping $232.4 billion over 5 years.

And this week, the most unbelievable of all, although I guess I have come to expect it from the House Budget Committee, we received their most outragous defense spending plan. The House budget Committee said that they would reduce the defense effort by $11.5 billion in fiscal year 1991 and an incredible $250.7 billion over 5 years.

If any of you here have personnel or members of your family in the military or have military installations in your State, hold your hat because they are fixing it so that it will all be blown away if we start talking about these kind of numbers. This is 2.8 times more of a cut than the President proposed.

I thought that the President's package really was a reasonable reduction. But as circumstances change, we could come down a few more hundred million. We could do that. But the present euphoria goes way beyond that.

This very morning I heard a proposal from the chairman of the Armed Services Committee, a very respected gentleman, and admired in the committee. He suggested $7 billion in the first year, and over 5 years, a reduction of $130 billion. I think that is closer to where we need to be, but even that number causes me great concern.

I ask my colleagues here, how can we expect our young men and women to make sacrifices in the armed services, to make sacrifices when the Congress fails to lead in this critical area of restructuring. We owe much to these men and women.

Last week I visited Keesler Air Force Base and looked at 2,500 young men and women in the Air Force. They were some of the best looking military people I have ever seen. They had great morale, good attitude, and high quality. Are we now going to be in a position of breaking our commitments to them?

What about the young men and women in our military whose numbers are being reduced, and we are talking about breaking our contracts with them. What about our ROTC graduates and people who want to make a career of the military? We are now saying: "I am sorry about that. We have changed our minds. Get out."

There are those who are always anxious to take money from defense and spend it over in social programs. Do any of us really properly evaluate the training and education that our young men and women receive when they are in the Armed Forces? We are going to lose this if we start talking about cutting our Army back to 540,000 people, which would make the Army basically dysfunctional.

So I think that this slash and burn attitude I see sweeping through the beltway is one that we better stop and take a very careful look at. I think both the services and the Congress are getting a little carried away. The world has changed, but it has not changed that much yet. I hope that our Joint Chiefs, our service secretaries, the Congress, including the Armed Services Committees, will do their best to do what is right and have a plan for the future.

The Budget Committees seem to have a little different attitude. I hope our colleagues will be very careful as we begin this serious process of identifying defense numbers in the Budget Committee and then following with the authorization in Armed Services and Appropriations.

We cannot afford to cut $7 billion more this year for defense. We cannot afford a $250 billion cut in defense over the next 5 years. So I hope that others will join me in hoisting the red flag. This thing needs to be cooled down. Let us be careful how we go forward.

The question is, Are we up to the task in meeting our most important responsibility? We must adequately provide for the common defense as we move toward the 21st century.

Mr. President, does yesterday's House proposal meet this essential test? I think not.

Mr. President, I yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank the Senator from Mississippi very much.

VISIT TO THE SENATE BY SENATOR JANUSZ ZIOLKOWSKI OF POLAND

Mr. JOHNSTON. Mr. President, we are pleased to have visiting with us today, Senator Janusz Ziolkowski, chairman of the Foreign Relations Committee of the Senate of Poland; member of the Presidium of the Senate; Vice President of the Civic Parliamentary Club—Solidarity bloc in the Polish Parliament—leader of the Polish delegation to the Parliamentary Assembly of the Council of Europe; leader of the Polish Parliamentary Group for Cooperation With the European Parliament.

The Senator is indeed a distinguished Senator.

We are glad to have him here and I hope our colleagues will have a chance to shake his hand.

I thank my colleagues for yielding.

Mr. LOTT. I was certainly glad to yield. Maybe we could ask this distinguished leader from Poland what he thinks about the Soviet Union and how much we can rely on the changes that may occur.

FAVORED-NATION STATUS FOR HUNGARY

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1493

(Purpose: To suspend temporarily the duty on pigment red 178)

AMENDMENT NO. 1494

(Purpose: To suspend temporarily the duty on certain acid black powder and presscake)

AMENDMENT NO. 1495

(Purpose: To suspend temporarily the duty on pigment red 149 dry and pigment red 149 presscake)

AMENDMENT NO. 1496

(Purpose: To suspend temporarily the duty on isoindolenine red pigment)

Mr. JOHNSTON. Mr. President, I send 4 amendments to the desk and I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Does the Senator also wish to request that the pending amendment, Packwood amendment No. 1492, be temporarily set aside?

Mr. JOHNSTON. Yes, I so request.

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

Mr. JOHNSTON. Mr. President, these four amendments which I have asked to be considered en bloc. I understand they have been cleared on both sides.

The PRESIDING OFFICER. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes amendments numbered 1493, 1494, 1495 and 1496.

Mr. JOHNSTON. I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1493

On page 59, after the matter preceding line 1, insert the following:

SEC. . PIGMENT RED 178.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"9902.32.10	Pigment red 178 (CAS No. 3049-71-6) (provided for in subheading 3204.17.10).	No change...	No change...	Free...	On or before 12/31/92".

AMENDMENT NO. 1494

On page 59, after the matter preceding line 1, insert the following:

SEC. . ACID BLACK POWDER AND PRESSCAKE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"9902.32.05	Acid black 210 powder and acid black 210 presscake (CAS No. 112484-44-3) (provided in subheading 3204.12.40).	Free...	No change...	No change...	On or before 12/31/92".

AMENDMENT NO. 1495

On page 52, after the matter preceding line 1, insert the following:

SEC. . PIGMENT RED 149 DRY AND PIGMENT RED 149 PRESSCAKE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"9902.32.50	Pigment red 149 dry and pigment red 149 presscake (CAS No. 4948-15-6) (provided for in subheading 3204.17.50).	Free...	No change...	No change...	On or before 12/31/92".

AMENDMENT NO. 1496

On page 59, after the matter preceding line 1, insert the following:

SEC. . ISOINDOLENINE RED PIGMENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"9902.32.30	Isoindolenine red pigment (CAS No. 71552-60-8) (provided for in subheading 3204.17.30).	Free...	No change...	No change...	On or before 12/31/92".

Mr. JOHNSTON. Mr. President, these are amendments to suspend the duty on four different chemicals used by one of my constituents, BASF, a chemical company.

Amendment No. 1: Pigment red 178 is used in automotive coatings to provide bright red colors, similar to the popular bright reds found on many European and Japanese cars. Use of this pigment by U.S. auto producers will enhance their competitive position in the domestic market and allow them to produce cars for export that have the same consumer color appeal as foreign-produced automobiles.

There is no U.S. production of pigment red 178.

Amendment No. 2: Acid black powder and acid black presscake is used to produce both liquid and powder forms of dyestuffs for use in dyeing leather for applications in shoes, upholstery, and garments.

Acid black powder and acid black presscake provide for more rapid uptake and fixation of the dye on the leather and has certain economic and environmental advantages. This material assists domestic leather producers to compete with imported products.

There are no U.S. producers of acid black powder and acid black presscake.

Amendment No. 3: Red pigment 149 is used for coloring synthetic fibers and certain engineering plastics. It offers significant environmental benefits as a replacement for cadmium-based pigments.

U.S. producers of nylon fiber require this type of pigment in order to compete on a world-basis with other non-U.S. producers. Pigment red 149 is also used for coloring ABS resins.

All pigment red 149 dry and presscake is imported from European Economic Community countries. There is no U.S. production of this material.

Amendment No. 4: Isoindolenine red pigment is used as a replacement for molybdenum reds which, as a metal poses some potential environmental risks.

Isoindolenine red pigment is preferred for coating trucks sold into the European market. Use of this pigment could help United States truck and car manufacturers compete in the European truck market.

There is no U.S. production of isoindolenine red pigment.

Mr. BENTSEN. Mr. President, we have examined the amendments here, staff and myself, and do not find any domestic production of the chemicals that he is seeking to enter without duty.

Mr. PACKWOOD. Mr. President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to amendments numbered 1493, 1494, 1495, and 1496.

The amendments (Nos. 1493, 1494, 1495, and 1496) were agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendments were agreed to.

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I thank my colleagues.

AMENDMENT NO. 1497

Mr. KASTEN. Mr. President, on behalf of Senator INOUYE, I send an amendment to the desk and ask for its immediate consideration, and I ask unanimous consent that the pending amendment be set aside.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN] on behalf of Mr. INOUYE proposes amendment numbered 1497.

At the end of H.R. 1594 insert the following: Any country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979 shall cease to be considered designated a "beneficiary developing country" for purposes of receiving benefits under the Generalized System of Preferences [GSP].

Mr. KASTEN. Mr. President, Senator INOUYE is not here and I am proposing the amendment on his behalf. The amendment is self-explanatory after it has been read. I believe the amendment has been cleared by both sides.

● Mr. INOUYE. Mr. President, this is an amendment prohibiting any terrorist country from receiving benefits under the Generalized System of Preferences [GSP]. The revocation of GSP status has the effect of depriving nations of the ability to export duty-free goods into the United States. This ends, in effect, a direct subsidy by the American taxpayer to nations long associated with support for international terrorism.

The reason for this action should be clear to every American. As a nation we can no longer sit quietly as foreign governments, answerable to no law, use our free and open trading system to advance their sinister ends. Today, for instance, Syria receives approximately $84,000 in GSP benefits from the United States taxpayer. This is a paltry sum by comparison to the benefits which most other nations receive, but for a country committed to the support of international terrorism, it

represents a tidy windfall, enabling it to purchase a cache of weapons, place an order for plastic explosives, and support individuals in the commission of heinous crimes.

Mr. President, I am under no illusions about the impact of my amendment on the future of international terrorism. Unfortunately acts of barbarity like the bombing of Pan-Am flight 103 and the hijacking of the *Achille Lauro* will continue. But they will occur without the unwitting support provided by the good people of the United States. My amendment is but a small gesture, nevertheless, I believe it to be a highly visible and symbolic one. It represents a reaffirmation of the principal that the fight against the scourge of international terrorism must be waged on all fronts—political, military, diplomatic and economic. As a nation, as a free people, as the victims of silent killers from Damascus to Tripoli, we are making the statement that GSP benefits are a privilege, not a right. A economic program designed to assist peaceful nations to develop strong, free market economies, should not be used to insidious ends.

Mr. President, I believe my amendment makes an important contribution toward this goal.●

Mr. PACKWOOD. Mr. President, the amendment is cleared on this side.

Mr. BENTSEN. Mr. President, the amendment is cleared on this side. We have no objection.

The PRESIDING OFFICER. Is there futher debate. Hearing none, the question is on agreeing to the amendment.

The amendment (No. 1497) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1498

Mr. KASTEN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

Mr. KASTEN. I ask unanimous consent that this amendment be considered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for himself and Mr. KERRY, proposes amendment numbered 1498.

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

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

The amendment is as follows:

On page 78, at line 14, strike "The Commissioner of Customs" and all that follows through "(2)" at line 24.

On page 79, after line 24, insert the following new paragraph:

"(2) In determining where to establish the operation described in paragraph (1), the Commisioner of Customs and the Commissioner of Immigration and Naturalization shall first determine the viability of establishing such operations in Jamaica. If the Commissioners determine, after full consultations with the Government of Jamaica, that it is not viable to establish pre-clearance operations in Jamaica, they shall so report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, including an explanation of how this determination was reached. Such report shall be submitted to those Committees within six months of the enactment of this Act. Following the submission of such a report, negotiations may be undertaken to establish such operations in another country.".

Mr. KASTEN. Mr. President, I rise today in support of the Kasten-Kerry amendment to the CBI-II bill. This important piece of legislation will help to expand the economic boom in both the Caribbean and in several port cities in the United States generated by the CBI. Our amendment is another of the many ways that through these enhancements to the Caribbean Basin Initiative we hope to tailor it to the specific appropriate needs of the Caribbean.

Our amendment is specifically designed to assist one of the key countries in the Caribbean, Jamaica. Throughout the 1980's and now into the 1990's, Jamaica has been a strong friend of the United States, and an important democratic and free market model for the region. Since the election of Michael Manley as Jamaica's Prime Minister last year, our countries have worked closely together in the war on drugs, and Jamaica has worked closely with us on other initiatives. But, because of reductions in total foreign aid levels, United States aid to Jamaica was slashed in fiscal year 1990. We need to find ways to make up for those losses to Jamaica.

Let me remind my colleagues about Jamaica's contributions in the drug war. Michael Manley has taken the lead in the drug war among countries in the Caribbean, and indeed as far as I know Jamaica is the only country in the Western Hemisphere other than the United States that has developed a comprehensive national antidrug strategy. Jamaica's ganja eradication program is, with United States help, better than ever, even in the face of increased sophistication among the growers and traffickers. Mr. Manley and his Government have worked closely with the United States in trying to stop the flow of drugs into the United States, and we are jointly cooperating to stop the use and dealing of drugs within Jamaica.

This is exactly the kind of effort we need to support. In days when foreign aid continues to decline, we need to find new and creative ways to help.

Our amendment today is designed to do precisely that. This amendment would direct the United States Customs Service to study the viability of establishing the pilot customs preclearance station in Jamaica. The House originally included a restricted preclearance provision in CBI-II, restricting the program only to small countries in the Caribbean, where the impact would be minimal. We propose a more flexible provision which gives the administration and the Customs Service the option to test the preclearance concept in Jamaica, where some of the strictest security measures to guard against drug trafficking have been implemented and where the program would have a significant economic impact on Jamaica.

If preclearance operations are implemented widely in the Caribbean, they will have a major beneficial economic impact on the Caribbean as it seeks to expand American tourism to the region. Customs preclearance stations will also help to give American businessmen an incentive to increase their investment in the tourism sector in the Caribbean—bringing needed jobs to the region. This kind of investment is also important policy goal of the United States. Starting this program first in Jamaica will demonstrate the American investors the enormous potential for investment of a broader program.

I urge my colleagues to support this amendment. I believe it is a small but important step that we can take to help our good friend Jamaica and to increase American investment in the Caribbean.

Mr. KERRY. Mr. President, I rise today in support of this amendment offered by my distinguished colleague, Mr. KASTEN. The amendment will encourage the establishment of a pilot customs preclearance station in Jamaica. Section 2009 of this bill encourages that the Customs Service establish a customs preclearance center in the Caribbean for 2 years as a test, in order to determine if such a center will have a beneficial impact on the economies of countries in the region. This amendment simply encourages the Customs Service to negotiate conditions for this test center with the Government of Jamaica.

Such a preclearance station would potentially have major economic benefits for the country in which it will be placed, and it would have the most beneficial impact for the United States if established in Jamaica. That country is cooperating with us greatly in the war on drugs, and needs strong U.S. support. Prime Minister Michael Manley of Jamaica has proven a strong friend of the United States, and we should be supporting his Govern-

ment. Instead, in fiscal year 1990, Jamaica's foreign aid from the United States was dramatically reduced. We need to find new ways to help Jamaica's weak economy, and this seems to me to be the perfect way to do it.

I would certainly expect that such a center would have a dramatic impact on tourism in the Caribbean, since getting in and out of crowded customs facilities in the United States is probably the worst aspect of travel to the Caribbean.

Some of my colleagues in the Senate have criticized CBI-II for allowing the Caribbean countries to receive trade concessions. The critics said that CBI would give the Caribbean a competitive advantage over American manufacturers and cost American jobs. It seems to me that the opposite has indeed occurred. CBI has created a boom in the U.S. apparel manufacturing trade and has created jobs in both the service sector and in light manufacturing. Such a pilot preclearance station would give us another opportunity to constructively implement the Caribbean Basin Initiative for the benefit of both the Caribbean and the United States. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Texas [Mr. BENTSEN] is recognized.

Mr. BENTSEN. Mr. President, in examining the amendment I think it is a good pilot program and I see no objection to it.

Mr. PACKWOOD. Mr. President, I support the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1498) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I ask unanimous consent the pending amendment be laid aside.

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

AMENDMENT NO. 1499

(Purpose: To extend the temporary duty suspension on cyclosporine)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER] proposes an amendment numbered 1499.

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

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

The amendment is as follows:

On page 17, between lines 21 and 22, insert:

( ) Heading 9902.29.88 (relating to cyclosporine)

Mr. DURENBERGER. Mr. President, this amendment would extend until January 1, 1993, the current duty suspension on the drug cyclosporine that is due to expire at the end of this year.

Cyclosporine is an immunosuppressant drug that has proven to be very important in helping patients survive organ transplant operations and is only available from a foreign drug manufacturer.

Mr. President, I understand this amendment has been cleared on both sides and urge its immediate adoption.

Mr. BENTSEN. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I have no objection.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 1499) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The Senator from Alaska [Mr. MURKOWSKI].

Mr. MURKOWSKI. Mr. President, if the Senator would withhold, I ask unanimous consent that I may proceed as in morning business for 9 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for the purpose of speaking as in morning business for 9 minutes.

TONGASS NATIONAL FOREST

Mr. MURKOWSKI. Mr. President, I noted this morning during the discussion on Earth Day, a statement from my friend and colleague, the Senator from Colorado, regarding the Tongass National Forest which is located in my State of Alaska.

I appreciate my colleague's concern with global warming. I share that concern. However, I do not appreciate the continuing misstatements of fact associating the sustained yield logging in the Tongass with the deforestation practices of Third World countries.

Some of my colleagues would have us believe that the entire 17 million acres of the Tongass Forest is in danger of being lost to logging. Nothing could be further from the truth.

Frequent assertions that the entire Tongass is in danger of being clearcut are misleading and false. One-third of the harvestable old growth timber in the Tongass Forest is designated as wilderness in perpetuity. Another one-third of the forest is off limits to any timber management and is reserved exclusively for fish and wildlife habitat and wilderness recreation, leaving only one-third of the harvestable timber in the forest, less than 10 percent of the total land base, that is available for harvest, and that is scheduled to be harvested over a 100-year period.

This is forest that is so fertile that reforestation takes place naturally, unlike the Third World nations, where deforested lands are turned into agricultural land for farming. In Alaska, it remains forested land which can then be harvested again. This means, Mr. President, that 90 percent of the forest or some 15 million acres will not be subject to timber harvest of any kind.

I think it is important to also note that the Energy Committee recently voted out a bill by a 19-to-0 vote, that is designed to correct any existing forest management problems. The committee bill permanently withdraws 673,000 acres from timber harvest, requires changes to existing contracts, and prescribes no harvest zones along fish streams. It also repeals the $40 million Tongass timber supply fund and the 4.5-billion-board-foot timber supply requirement which were an integral part of the 1980 Tongass wilderness bill.

Since my colleague from Colorado voted with me for the committee bill, he and others are well aware that I am working with all the members of the committee to take action to insure that we have exemplary forest management practices in the Tongass.

Mr. President, I ask the floor leaders if there is anyone else that cares to speak at this time?

Mr. BENTSEN. Mr. President, I have a couple of amendments I would like to present.

Mr. MURKOWSKI. Mr. President, I ask that I be recognized after the floor leader.

FAVORED-NATION STATUS FOR HUNGARY

The Senate continued with the consideration of the bill.

Mr. BENTSEN. Mr. President, I ask the pending amendment be set aside.

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

AMENDMENT NO. 1500

Mr. BENTSEN. 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 Texas [Mr. BENTSEN] proposes an amendment numbered 1500.

Beginning with page 81, line 8, strike all through page 83, line 20.

Redesignate sections 2012 and 2013 as sections 2011 and 2012, respectively.

Mr. BENTSEN. Mr. President, this amendment strikes section 2011 of the bill which is one that establishes a scholarship program for students from CBI countries. It is a worthy objective. It passed through the committee. But the Foreign Relations Committee has objected to it because it relates to matters within their jurisdiction. I appreciate their position, as I have objected to other committees acting on things that were within the jurisdiction of the Finance Committee. Therefore I am offering an amendment to strike the provision.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 1500) was agreed to.

AMENDMENT NO. 1501

(Purpose: Technical Amendment)

Mr. BENTSEN. 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 Texas [Mr. BENTSEN] proposes an amendment numbered 1501.

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

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

The amendment is as follows:

On page 12, strike lines 16 and 17, and insert:

Subheading 6702.90.40 is amended by striking out "Artificial flowers, of" in the article description and inserting in lieu thereof "Of".

Mr. BENTSEN. Mr. President, this is a technical correction. It regards an error that was found in section 1108 of the bill. The wording of that section, which relates to artificial flowers and foliage is not consistent with the bill that was approved in the Finance Committee and therefore I propose this technical amendment to make the bill consistent with the committee's action.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 1501) was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the pending amendment be set aside and I may be allowed to proceed as in morning business for a statement that I anticipate will be about 10 minutes.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

MIDEAST TRIP

Mr. MURKOWSKI. Mr. President, I had the pleasure last week of accompanying a number of my colleagues to the Mideast on a Codel led by Senator DOLE, accompanied by Senator SIMPSON, Senator MCCLURE, and Senator METZENBAUM. It was an extraordinary opportunity to meet with leaders of four Arab nations, as well as leaders of Israel and many Palestinian spokesmen.

As a consequence of some confusion surrounding our trip, I would like to highlight my observations very briefly.

When we went into Syria, into Damascus we met with President Assad. I think, to sum up that experience, it can be stated that Syria wants a comprehensive peace process to occur, and it is the opinion of President Assad that all of the Arab nations must join in the process. It was his opinion that the negotiations that resulted in the Camp David accord some time ago with Israel and Egypt were not in the interest of the Arab nations. He pointed out that it had not led to peace and stability in the region. As evidence, he pointed out, the Iran-Iraq war, the tremendous tensions, the continued import of high-technology weapons in that part of the world. I think it fair to say also that President Assad gave us the impression he wants a closer working relationship with the United States.

In our discussions, he pointed out the assistance of Syria in the TWA terrorism release effort, of that plane that had been held. We pressed hard as a group on the issue of the hostages. President Assad indicated that he would be doubling his efforts to relieve the hostage situation. As a consequence of what we have seen in the last day or two, there is reason to have hope that at least a hostage may be released. Our discussion may have had some impact on initiating even a greater effort by Syria in that regard. We hope so.

I think it fair to say, nevertheless, he did make the statement that he had expended some of his military personnel in this effort and some had been lost as a consequence. I share that with my colleagues simply to communicate the conversation of the leader of Syria.

Our next stop was in Egypt, Mr. President, where we met with President Mubarak and he, too, indicated his support for an international conference, some type of a build-down to reduce the tensions in the Mideast. It was interesting to hear his general statements concerning his belief that Arafat had abandoned terrorism, but yet there were factions associated with the PLO that would basically do anything for money.

It is kind of interesting, in retrospect, as we later traveled on to Israel and met with the leaders in Tel Aviv, to contrast their assessment of Arafat's true intentions. I recall one meeting where Prime Minister Shamir passed over to us an alleged speech that has been entered into the RECORD by my friend and colleague, the Senator from Ohio [Mr. METZENBAUM]—truly, an outrageous terrorist-type speech that, if factual, certainly represents Arafat as one who fosters terrorism.

The caution I would like to share with my colleagues is that we still do not know if, indeed, that speech is factual or, as pointed out by our State Department, a piece of yellow journalism that may not have any foundation. Nevertheless, it raises legitimate questions that should be addressed by this body as to whether or not that particular series of statements by Arafat early in March is representative of him and his PLO group. Also the reality is that we have to judge these leaders by their actions and deeds, not necessarily by their words.

In any event, I think it fair to say President Mubarak was most hospitable and most reassuring in his commitment toward the development of a window of peace in the Mideast. Clearly, the activities that are occurring in Eastern Europe at this time are not going unnoticed in the Mideast and the question, of course, is whether this feeling of progress toward a window of peace can be transferred to the Mideast countries.

It was at the suggestion of our leader, in conversations that we had with our President, that we attempted to go into Iraq. President Mubarak was very supportive of that and made a personal call to President Saddam Hussein in Iraq arranging the meeting. We met with President Saddam Hussein having traveled to Baghdad initially and then were advised he wanted to see us in Mosul. We had to depart in President Hussein's airplane and fly up there. During that time, we had an opportunity to have an extended dialog with the Foreign Minister. It was a rather interesting side trip that we had not anticipated, and we feel there was a direct effort to have us exposed to the Foreign Minister for an hour or thereabouts on the flight up.

At first, our aircraft was not allowed to go up to Mosul. Later, there was a recommendation that the runway would be able to accommodate our airplane. So, as a consequence, our airplane did later follow us. During the time we were meeting with President Saddam Hussein, we made our points loud and clear over the concern about the concentration of weaponry that Iraq had, and with regard to their harsh rhetoric toward Israel. I think we had a very open conversation discussing all aspects of our concerns.

President Saddam responded by saying he felt there was some type of a conspiracy between the United States, the United Kingdom, and Israel, coupled with the western media, to basically undermine him. The offer that he gave us that we all take a separate helicopter and go out throughout the land and see for ourselves was one that we declined preferring, rather, to stay in the extended discussion and get a better idea and a better feel for just what was going on in Iraq.

It is fair to say they have just come off an extended conflict with Iran that, in the peace process, is far from resolved, and they are still in a state of war.

However, the point that he had made that alarmed all members of the Western World on the first of April that if Iraq were attacked by any nation with a nuclear device or by Israel, he would respond with a chemical capability, and, if he were incapacitated, his field commanders would have the authority to initiate a chemcial attack.

Obviously, that is a great concern, and we should not look lightly on it by any means. But then he followed up with an extended statement with regard to concerns that we had stated, one being the whereabouts of an alleged 125- or 130-foot artillery piece that had been sighted on the docks of Great Britain. Also, he raised the issue of the arrest of a United States-Iraqi citizen.

It is fair to state that upon coming back to the United States and investigating the status of the response of Saddam Hussein, the Senator from Alaska questions the adequacy of Saddam Hussein's response. And I cite for the record an article from the Wall Street Journal on April 19, commenting on the fact that these giant pipes bound for Iraq were for a big gun. According to the Government of Great Britain, the Trade and Industry Secretary readily states that he is now "entirely satisfied" that the pipes were part of a gun. Further, the article goes on to say that experts believe that the 132-foot-long pipes, which have a bore of almost 40 inches, could be pieced together to form the barrel of a gun capable of lobbing chemicals several hundred miles. The explanation offered by Iraq's Deputy Foreign Minister is that his government already has long-range missiles and a powerful Air Force and has recently launched a space rocket, and what is the need for that gun.

My purpose in bringing this to the attention of my colleagues is that the President of Iraq, Saddam Hussein, specifically stated to our five-member codel that this was not a gun, that this indeed was part of their oil supply requirements. I think that is significant because one can hardly believe that Saddam Hussein did not know, indeed, what type of equipment this was, and his rationale for misleading five Senators from the United States I think deserves some further examination.

I think it is fair to say that we collectively have severe reservations about the intentions of the leadership in Iraq based on the inadequacy of the explanation, and it is just not the alleged artillery piece, Mr. President; it is other issues such as the explanation offered for the alleged nuclear triggering devices that were picked up by U.K. Customs in violation of U.S. law which prohibits the exportation of these materials.

I would submit for the RECORD the explanation offered by Saddam Hussein, which was a rather lengthy volume of telexes indicating that the materials were to be shipped to the Baghdad Technical University, and I think it would be appropriate for an examination of those documents to determine, indeed, whether these triggering devices were to be utilized for nuclear purposes or simply experiments associated with a university. I dwell on this at some length, Mr. President, for obvious reason.

I ask unanimous consent that those documents be inserted in the RECORD.

CLARIFICATION POINTS ON THE CASE OF CAPACITORS

1. To fulfill the needs of the University of Technology/Baghdad for a power supply to the CO_2 laser system, different companies were contacted by the Ministry of Industry for high voltage capacitors to be used in this unit. An offer was accepted from a British-based company (Euromac) in May, 1989 and an official order was placed in June, 1989 (Annex 1) for a total of 85 of these capacitors at a total cost of U.S. $10,500.

2. These H.V capacitors, in addition to their capability to be used as detonation devices as has been alleged, have many scientific and industrial applications such as:

Power supply for laser systems (ground or airborne).

Power supply for plasma metal cutting machines.

Separation of missile stages for satellite launching. However, our sole purpose as has been confirmed in the end-user certificate (Annex 2) is for the CO_2 laser system (ground and airborne usage).

3. Many open telexes were exchanged with the supplier (Euromac) and the sub-supplier (CSI) regarding technical details and follow-up of the order.

4. By doing so, the Iraqi side did not break any contract or regulations regarding the export of prohibited materials or goods, and has fulfilled its obligations by signing the end-user certificate and providing the supplier and his sub-supplier with all the technical information requested by them openly.

5. It is also well-known that it is the supplier's responsibility (in accordance with the 1980 Incoterm as amended and issued by the I.C.C. of Paris) to provide the export license and perform all the formalities required for the shipment of goods to their destination.

6. However, it would seem clear from the review of some of the telexes by (CSI) that a deliberate attempt was made by official American authorities to frame the Iraqi side in an illegal position, as is explained below:

A request by (CSI) to meet our specialists in London where the specifications of the items were agreed upon, and later confirmed by us in a telex upon CSI request (Annex 3), but approaches were made by Mr. Saunders (allegedly from CSI who appears to be an F.B.I. agent as the American sources confirmed) to inquire about the need for other materials such as switches and special triggering devices which relate to nuclear detonation devices.

A telex dating January 11, 1990 stating the possibility to offer EBW's and neutron generators (allegedly in response to a request from the supplier on our behalf) with reference to problems of exposure to U.S. authorities and the necessity for protection and safety in handling these materials and asking for U.S. delivery point which was in fact overstressed (Annex 4).

The Iraqi side was shocked by the contents of the above telex and protested to the supplier by the telephone. When (CSI) received no answer, another telex was followed by (CSI) to the Iraqi side which dealt on the 23rd of January 1990 (Annex 5) with the subject of capacitors as in the order this time but referring at the end to an offer (of other equipment) and warning exposure to U.S. authorities.

This telex was answered routinely regarding the capacitors, but it was also stated "if we are going to buy anything from you, we will do so according to your ordinary formalities" (Annex 6).

ANNEX 1

DEAR SIRS: We have the pleasure to inform you that your offer by TLX 1273 dated 1/1989 is hereby accepted for the items indicated in the attached list on the following conditions:

1. Order value: USD 10,500.

2. Prices: A. Baghdad by trucks Via Turkey fixed and for subject to fluctuation.

B. F.O.B. supplier airport and dispatch by Iraqi airways and not subject to fluctuation.

3. Delivery period: Immediately after receipt of amount.

4. Payment: A. 100% by remittance in advance from our Embassy in London.

B. 100% by remittance after receiving the goods in our stores within 60 days from the date.

5. Inspection: Testing of goods will be done in our est. if they are found not according to our specification they will be rejected and the supplier must replace with the accepted ones. . . . we remain.

Encl. B. General conditions.

List. C. Special terms for shipment.

AL QAQAA STATE ESTABLISHMENT

Description	Unit	Qty	Unit price	Total price
High voltage capacitors total FOB London airport, USD 10500.	PCS	100	USD 105	USD 10,500.

ANNEX 2

End user certificate

To whom it may concern:

This is to certify that (H.V. capacitors) purchased from (CSI capacitors) located in USA is for the sole use of (CO_2 laser System) for University of Technology, Department of Applied Physics, Baghdad, Iraq.

Yours Faithfully

Dr. ALA. AL MHAIMI
Chairman.

ANNEX 3

Sub/order No. 989/55/226 Pls be informed that we confirm the following new items and specifications according to the minute signed by our representative with CSI Co. on 11th of Sep.

Item	Cost/unit	Qty.	Desc.	Total cost U.S.D.
1	55	15	3UF-3.5 KV (less or) 30 x 63.5 x 108mm.	825
2	55	15	5.5UF-5.0 KV (less or) 30 x 63.5 x 95.3mm.	825
3	55	15	1.0UF-3.5 KV (less or) 33 x 55 x 64mm.	825
4	200	40	1.0UF-5.0KV	8,000
(Less or) 51 x 76 mm.				10,475
Total NID. shipment				10,500

Terms: 25% down, 75% upon shipment.

Items 1-J. Low inductance (below 40NH desirable), 25,000 amps peak, bushing, ground lug/stud.

Item 4. As low inductance as possible, coaxial connectors, CSI to supply male and female connectors, 25,000 amps peak, high reliability single shot application, 10KM altitude, 25 vibration. All capacitors to meet military specifications for humidity, shock and vibration.

FOB: San Diego, CA to Euromac (London).

Delivery: 6-8 weeks ARO.

Best regards,

AL-QAQAA ST. EST.

ANNEX 4

Thanks for your invitation and quick response. Ali Daghir has instructed us to export capacitor order to Euromac which we will do.

Based on info provided me by Ali I have obtained several high speed switches as described in literature provided to you earlier. I have also made inquiries and could offer other similar/related devices to you such as EBW's HV cables and neutron generators if our prices are OK. However, I would need a U.S. based delivery method to do business safely. As I explained to Ali I must return the switches etc. To my source by Jan 25 as he has another customer asking for them. As I have already expended much time and money on this project obviously I would prefer to finalize the deal with you.

My travel to Iraq is tentatively scheduled for late Feb. Many recent newspaper and press stories have appeared in the U.S. which are of concern to me. Protecting myself from any undue exposure to problems here is my main concern and is to our mutual benefit. Thus, since I have made great efforts to safely obtain the equipment, in turn I would ask that you meet me half way by providing a safe and acceptable method of delivering these items to you via a U.S. delivery point. Ali has informed us that you can make such arrangements. I am willing to assist in any manner that would minimize risks to me and my business.

I do hope to be of further assistance and service in the future and await your reply.

Best regards,

DAN SAUNDERS,
CSI Capacitors.

ANNEX 5

The president of CSI has just returned from a long business trip and I have just been able to discuss in person with him the changes in shipping instructions for your capacitor order which were provided to us by Mr. Ali Daghir.

Mr. Daghir had previously assured CSI that an acceptable U.S. delivery contact and means of export would be arranged by you. He promised us that all the required shipping directions and an acceptable U.S. delivery contact would be provided by your representatives when they visited our factory. CSI has already incurred 2,000 USD in excess charges and costs because of the delays in waiting for your engineers' visit. Based upon Mr. Daghir's suggestion, the president of CSI has agreed to store your order in a safe warehouse here until you provide us with a U.S. delivery contact.

The president of CSI is somewhat discouraged because we have delayed other business awaiting your engineers' visit to observe a test of the capacitors as you required. Additional delays have been incurred while we waited for the U.S. delivery instructions. To date we have done everything that Mr. Daghir, your representative, has requested and required. CSI's president deems this to be a very sensitive order and insists that it be handled in a confidential and delicate manner as we are sure you understand.

Based on his many years of experience in electronics, you may be assured that the president of CSI and I, too, understand the specific application for these capacitors in your program and we are most willing to assist you in your endeavors. To achieve this, though, we do need your cooperation and assistance for our mutual protection and success.

With regards to the other equipment which I personally may offer in addition to the CSI capacitors, my offer still stands as before—but I do agree with the president of CSI that our protection and safety from exposure to U.S. authorities is our concern. We would like to believe that that concern is shared by you. The president of CSI believes that this requirement necessitates shipment of this order (due to licensing restrictions) to a safe U.S. contact who can be trusted by us all and who, in turn, could be trusted to safely deliver the parts to you. While the president of CSI has taken this position, let's talk if it presents insurmountable problems to you.

DAN SAUNDERS.

ANNEX 6

Sorry for what happened with the shipment instructions, but it was not our fault as you may be know that we need such capacitors. To be used in a "CO_2 Laser System" project which we construct for the benefit of University of Technology in Baghdad, so we asked Euromac Co. to provide us the materials needed to complete this project, and we told Mr. Ali that if he need an end user certificate we can provide him directly. If we intend to buy anything from you, we will do that according to your ordinary formalities.

Appreciating yr. co. op.

With best regards,

AL-QUAQAA.

Mr. MURKOWSKI. Mr. President, to continue a bit further if I may. In addition to visiting to Syria, Egypt, Iraq, and Jordan we spent, of course, a good deal of time in Israel. We met with Prime Minister Shamir. We discussed the Baker plan, which to me is the most promising hope for the Mideast.

There are differences of opinion among the Israel leadership, and, of course, there is concern over the Palestinian question. To resolve that was very paramount in the discussions. I think it is fair to say that Prime Minister Shamir felt that the Baker plan was too responsive to the Palestinian interests, and that perhaps Perez was more supportive of the Baker plan. The other discussions basically left us with a feeling that in order to take advantage of the window of opportunity that may be in existence in that part of the world, it is certainly in the best interests of Israel to form their new government as soon as possible.

The meeting with the Palestinians was extremely interesting. It occurred in our consulate in Jerusalem. The dialog was very open. In response to a question which I posed, the response of the Palestinians was that the PLO is the only group that can speak for Palestine. They indicated that they would support and accept the Baker plan. I might add that they indicated a concern over their interpretation of Shamir's unwillingness to be flexible.

I think it is fair to say that the Palestinians also indicated that while they wanted the PLO to speak on their behalf, it was not necessary that it be Arafat but could be other spokesmen for the PLO.

Looking at the scene in the Midwest, one finds that looking backward into the history, the religious hatred, really does not lead one to anything progressive. We must look ahead.

Now, there are some other matters that I think bear a general overview. It is the opinion of the Senator from Alaska that the region is a powderkeg. While I feel optimistic that there is an opportunity for peace, the realization that we are increasing the weaponry in that part of the world is evident. NATO is providing, as a consequence of reduction in Europe, some 700 tanks will be going into Egypt to replace their old tanks.

As we look at our foreign assistance program, the FMS, we find more concentration of weapons going to our friends throughout the Mideast, and

clearly with that kind of capability, the reality that we have seen chemical warfare used in the Iran-Iraqi war makes it even more important that they work collectively towards a resolve and the peace process.

I think it is fair to say that all parties want a close relationship with the United States. All are in agreement on a U.S. involvement in the peace process. The Arab leaders want an international conference, a comprehensive settlement involving input from all the countries; they talked about a build-down, of reducing weaponry proportionally.

I think that we have to encourage a real effort for peace before the window closes. I think the best opportunity is aggressive pursuit of the Baker plan. But clearly the United States must seek to get the players together.

We have been told, of course, as I have stated, that the Palestinians are willing to participate. I think we should put them to the test. One of the concerns is that the inability of the Israeli Government to function could be disadvantageous in taking advantage of this window; That is of great concern. I think that was universal in our collective evaluation. Certainly in a new era of peace and security that is breaking out in Europe, the opportunity to apply that in the Mideast is challenging to us all.

A couple of other points, Mr. President. The Senate resolution that has been discussed earlier today by some of my colleagues and was discussed in a letter that came over from four House Republicans to the leader of our delegation, Senator DOLE, merits some observations at this time.

Mr. President, as one who accompanied the delegation in all the discussions, I can say that the resolution that was passed by this body, some 84 or so, including the Senator from Alaska, to address specifically the naming of Jerusalem as the capital of Israel, was not considered from the standpoint of how it would be received in that part of the world.

It is not my intention to debate the merits of that resolution, but it is my intention to focus on the point that indeed we should reflect on these resolutions because oftentimes they are taken much more seriously than we here in the Senate take them, and this is no exception. For example, it is my understanding that there was another recent resolution for which the Soviets have taken us to task.

Clearly, as we see the interpretation of these resolutions throughout the world, it is fair that we give them the debate they deserve. As we look at the contribution that we all want to make toward stability in the Mideast and the role that the revolution plays in that process. I think one can conclude that the intent of the resolution and the issue of, indeed, the capital of Israel, being Jerusalem, is something that is going to have to be negotiated. This was brought out in our meetings in Israel—more specifically with the mayor of Jerusalem, Mayor Kollek—and I quote that portion which I think is significant to clear up any doubts my colleagues may have. I asked the question: "Is there a graceful way to deal with this issue, recognizing its divisiveness, as we try to achieve the peace process, and recognizing the concern, the very legitimate concern, of Israel, the concern of the Palestinians," and, of course, the focusing in of the Arab world on this particular issue.

The mayor of Jerusalem said that he had argued, discussed with one of our colleagues, the merits. He stated that in a few months the substance will not have the significance that it has now, but right now it doesn't help anyone, and it doen't help make Jerusalem the capital at this time, and that it is basically ill-timed.

I want to emphatically state, however, that Mayor Kollek supports Jerusalem being the capital but found the resolution to be simply an ill-timed one.

I want my friends in the support of Israel to recognize this is not a criticism of the issue but simply the realities associated with resolutions of this nature. What we are attempting to do is to bring about some basis for a peace process to begin.

I think the administration is to be commended because of that peace process, as we look at something as definitive as the Baker plan. And that plan, of course, is before the entire Mideast to evaluate and study, and it is going to take discussions. But I think it is fair to say that the criticism directed at Senator DOLE on the manner in which he tried to explain the action that he had been taken is unfounded. I think the general terms that are stated in the article which I have seen, and the letter of which I have a copy does not reflect the sensitivity of the leader, Senator DOLE, from Kansas, in trying to keep a balance with the objective which is a peace process, and the contribution that we might make, as opposed to the interpretation in that letter. As one of five who was there, I know what was said. I know the spirit in which it was said, and the letter to Senator DOLE by our House colleagues does not reflect understanding of what the delegation attempted to contribute.

Let me conclude, Mr. President, by focusing in primarily on where I think the concern has to focus at this time; that is with Iraq. I think it is fair to say that the Iraqis have assumed the lead role in the military defense of the Arab world against Israel. There is exception to that. Obviously, Egypt is an exception. But I think we must remember that Iraq has just emerged from a successful, long and bloody war with Iran in which it demonstrated the will, the ability to use chemical weapons on a large scale. Rightly or wrongly, President Saddam Hussein apparently believes he and the rest of the Arab world to some extent are facing a nuclear armed Israel. In response, he appears to be determined to develop whatever array of modern weapons he can, including ballistic missiles, chemical and biological agents, and evidently huge artillery pieces, and perhaps nuclear weapons.

As I have indicated, the statements from Britain indicate that the pipes seized by the British Government were indeed intended for use in construction of the gigantic gun. The Senator from Alaska intends to get more documentation, but I think it is fair to say that, after coming back and examining sources, I am satisfied that is indeed what it is. I might say I am very disappointed to learn that.

It is very difficult under the best of circumstances to control a shipment of sensitive technology and equipment to avoid an increase in chemical, biological, and nuclear warfare capability concentrated in that part of the world. But unfortunately, there appears to be growing evidence that private firms, some governments, have been willing to provide Iraq with the know-how, and the equipment for advanced weaponry. It is imperative for the security of all mankind that we work collectively to stop this trade in what potentially is a threat of mass destruction for the Mideast.

Mr. President, I am concluding my remarks with the general reference that I think our State Department, our Secretary of State, and President Bush are not only keenly interested in, but absolutely committed to take advantage of this window of opportunity. This is going to take compromise, however. Like all compromises, this will not be entirely satisfactory to anyone.

As a consequence of some of the misunderstanding that has occurred as a result of our trip, particularly with regard to the ticklish issue of the resolve of the capital of Israel, I think it is fair to say that our group is very proud of our leader, Senator DOLE. He attempted to achieve a balance.

To have quotes taken out of context, to have found that an interview that took place here in Washington several weeks ago appeared in the paper in Israel the same day that he was giving statements in Israel obviously, is an effort by some to take advantage not only of the good nature of Senator DOLE but his commitment to support what Israel is attempting to do and the extraordinary achievement of that nation—the gratification of seeing the Israelis accommodate 7,000 to 8,000 Soviet Jews that are emigrating, per

month and the manner in which they are taken care of. I visited that country on a previous occasion, and I stand behind a commitment to the security of Israel. It must be maintained.

Is is our hope that the contribution we might have made will get those leaders to talk to one another again. We had the opportunity to address our concerns in frank and open discussions. Like many of my colleagues, it is fair to say that in the five countries we visited we did not leave with an unspoken thought.

That leaves the Senator from Alaska at a point where I have no further thoughts to convey to my colleagues.

I wish the President a good day.

I yield the floor.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Who seeks recognition?

Mr. MURKOWSKI. 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. BREAUX. Mr. President, last November, I introduced S. 1915, a bill which sought to end the discriminatory application of section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) to U.S.-flag LASH barges, and to eliminate the unfair, oppressive assessment of double duty under that statute on vessel spare parts necessarily imported by U.S.-flag vessel operators from abroad.

These proposals were unanimously supported by all segments of the U.S. merchant marine before the Senate Finance Committee, and with certain modifications to the spare parts section proposed by Senator MOYNIHAN, they were approved by the administration and are now embodied in section 1707 of the bill presently before the Senate for consideration.

I fully support section 1707 of the bill as reported by the Finance Committee, and I urge the Senate to do likewise. I would, however, like to clarify one provision of that section which is not specifically discussed in the Senate Finance Committee report. In this regard, subsection (b)(1) of section 1707 makes the two amendments to section 466 of the Tariff Act of 1930 contained in subsection (a) of the bill applicable to "any entry made before the date of enactment of this Act." Substantially, this provision was also contained in my bill, S. 1915. The word "liquidated" as used in this context is intended to mean "finally liquidated." Thus, the two amendments to section 466 embodied in subsection (a) of section 1707 are intended to apply to any entry made prior to the date of enactment of H.R. 1594 which is not finally liquidated when the bill becomes law. Under established law, an entry is not finally liquidated if it is still the subject of administrative proceedings before the Customs Service or judicial proceedings in the Court of International Trade or some other court of appropriate jurisdiction. For example, Customs Service regulations provide that liquidations are suspended while administrative applications for relief or petitions for review are pending.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

UNANIMOUS-CONSENT AGREEMENT—AMENDMENT NO. 1492

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate resume consideration of the Packwood amendment, No. 1492, on Tuesday, April 24, at 10 a.m.; that there be 1 hour for debate on that amendment; and that any second-degree amendment thereto be relevant to the first degree and be limited to 1 hour equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, I have cleared this on this side and there is no objection.

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, we have been trying for the past few hours to obtain an agreement that would identify and specify the remaining amendments to this bill. Unfortunately we have been unable to obtain unanimous consent for such an agreement and therefore I will not propound any such agreement.

The Senate will be in session on Monday beginning at 2 for further debate on the pending bill. As I previously announced, there will be no rollcall votes on Monday. It is my expectation that the managers will take up several of these amendments that will be acceptable without rollcall votes.

Beginning with the Packwood amendment, No. 1492, on Tuesday, there will be votes and further consideration of this bill. It had been my hope that we could have made more progress today, but because of disputes surrounding the amendment that was offered, we have been unable to make substantial progress.

Accordingly, Senators should be aware, and I now place them on notice, that it is my intention that we complete action on this bill on Tuesday, which means that we are likely to be in for a very long session on Tuesday. Senators should be aware of that. It is my intention that we will remain in session Tuesday until we finish this bill. We have important matters pending.

It is my hope that, thereafter, if we can clear up some other matters, we will be able to proceed to the Panama-Nicaragua bill and move on that next week, as soon as we finish action on this bill, hopefully not later than Wednesday. I think it unlikely that we will complete action on this bill to permit us to proceed any earlier than that to that other bill.

So there will be no further rollcall votes today. The Senate will be in session on Monday beginning at 2 p.m. for further debate and consideration on this bill, with amendments being accepted at that time and further debate.

We will go back to the bill at 10 o'clock, begin with a controverted amendment, one which will require at least one rollcall vote, and if there is a second-degree amendment to it, why, of course, two rollcall votes. And we will continue in session on Tuesday until we complete action on this bill. Hopefully, if other matters are worked out that permit us to proceed in that fashion, we would be in a position to go to the Panama-Nicaragua aid bill on Wednesday morning.

Mr. President, I note the presence of the distinguished Republican leader. I was unaware he was present; otherwise I would have waited.

Mr. President, I yield to him for any comment he may have on this subject.

Mr. DOLE. Let me underscore what the majority leader has said. Hopefully, on Monday we will come in at 2. That afternoon there are 20 or 30 amendments, most of which might be accepted. We will put out a hotline on this side, or at least call personally each of those people who may have amendments that are acceptable so we can do all of that on Monday afternoon.

As the majority leader said, and I concur, we need to finish this bill on Tuesday if we have any hope at all of passing the supplemental that week. It is going to take 1 day in any event. We might be lucky and finish in 1 day.

So I urge my colleagues on this side or members of their staffs who might be listening to determine either from Senator PACKWOOD or Senator BENTSEN, or both, whether or not their amendments are going to be accepted. If any has been cleared on both sides, then plan on being here Monday afternoon between 2 and whatever to offer the amendment. That would leave us only with a few amendments, as I understand, that would have to be voted on on Tuesday.

Mr. MITCHELL. Mr. President, I am advised by staff that 11 amendments were adopted today, so some consider-

able progress was made, although we did not have any rollcall votes. As I indicated in my remarks before the distinguished Republican leader came in, I have been working with him and others in an effort to resolve other matters which will permit us to proceed to the Panama/Nicaragua supplemental on Wednesday, and I hope we could complete action on that on that day.

But that points up the need for completing action on this bill on Tuesday.

So I repeat, so there can be no misunderstanding by Senators with respect to their schedules, on Tuesday it is our intention and I hope very much we will be able to complete action on this bill, which could mean a lengthy session on Tuesday with several votes, and Senators should be prepared for that; votes into the evening, if necessary, to complete action on this bill on Tuesday.

I thank the distinguished Republican leader and, Mr. President, I now yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

TRIBUTE TO SPARK MATSUNAGA

Mr. RIEGLE. Mr. President, with the passing of Spark Matsunaga, the Senate has lost one of its great Members.

I served with Sparky for 10 years in the House of Representatives and we both came to the Senate in 1977. During the past 2½ years I had been honored to serve on the Senate Finance Committee with him.

His work to establish the U.S. Institute for Peace, the peaceful exploration of space, and his efforts on behalf of the people of Hawaii and the United States are well known. Because he worked so hard for peace, talk of his record in combat during World War II was not as prominent. It is hard to believe that this warm, goodhearted, and smiling man was also a combat hero who earned the Bronze Star Medal and two Purple Hearts.

Spark Matsunaga contributed so much to this institution. He was a man who knew how to quietly accomplish many things. He was known for the excellent staff he maintained. He will long be remembered by me as someone whom I genuinely looked forward to working with on many of the great issues of our day. I will miss him, and our country will miss him.

IN CELEBRATION OF EARTH DAY, 1990

Mr. McCLURE. Mr. President, I rise to join with my colleagues in the celebration of Earth Day this coming Sunday, April 22.

I come from a State whose people feel pretty close to the Earth all year round. In Idaho we have many Earth days, and we mark them quietly, in very personal ways: from the farming family giving thanks at the table for God's blessings and nature's bounty, to the logger silently dedicating the fall of a living tree to the betterment of mankind and the improvement of the forest. In Idaho we understand Earth Day very well. We are happy to join in its celebration with our kin and neighbors across this Nation and the world.

Mr. President, this week others in this great body will doubtless talk of tasks that remain before us in the preservation of the Earth. They will portray an urgent need for action to avoid catastrophe and, I fear, some may paint a gloomy picture of the state of our Earth. But we need only recall the predictions of disaster surrounding Earth Day, 1970 to suspect that all is not so bleak. In that year Time magazine told us that 1 million acres of forest land were being paved over every year. Life magazine warned us that, by 1985, the amount of sunlight reaching the Earth would be halved by pollution and that in the early eighties, urbanites would wear gas masks to survive air pollution. Those predictions never came true, fortunately. Their authors, extremists though they were, did help to awaken us to the need for greater efforts to protect the Earth. Such is the value of extremists in any movement. They may spur us to valuable action, if we maintain a reasoned and intelligent course, and if we do not adopt their apocalyptic views as our own.

On this Earth Day let us concede, Mr. President, that we still have much to do to improve our environment. But let us also look beyond the extremists' baleful view to the real and much more hopeful picture of our future, built upon a foundation of man's awakening care and responsibility for the Earth. Let us look upon the many and impressive accomplishments of the last 20 years, since the first formal Earth Day observance. A look at some of what has been done will give us perspective for our future.

America's forests are one place which show our progress. Today our country has 20 percent more trees growing than it did in 1970, because our forest products industry plants an average of 6 million trees a day. That is more wood than is cut and lost to disease or fire. The industry has brought 8 billion dollars' worth of capital equipment for environmental protection since 1970, and it has donated more than 1 million acres of forest land to conservation groups and municipalities. Today, nearly 40 percent of all newspapers and half of the corrugated packaging we use in the United States is recovered for recycling. By 1995, the industry intends to recycle 40 percent of all paper consumed in the United States.

Mining companies operating in America today are the best in the business. They have to be. They have pioneered ways of balancing product demand with environmental values. When I speak of demand, I mean the 40,000 pounds of new minerals needed every year for every single person in America to maintain the lifestyle we enjoy. I mean sheetrock for building, sand and gravel, iron ore, coal, even gold for computer circuitry, and medicines. Opening a mining operation today requires comprehensive studies, reviews, and manpower committed to determining environmental effects. Those studies have sometimes led companies not to open major mineral deposits because of the impact on the natural setting or the surrounding area. In many areas, mining company studies are the first or only comprehensive assessment of the status of flora and fauna. Over the past 20 years, former mining projects have been revegetated, and now play host to bands of deer, elk, and other wildlife. And, of course, many former mining projects now provide us with lakes, recreation areas, and wildlife refuges. Some even hold municipal wastes safely and effectively.

Mr. President, American industry spends more than $32 billion every year to control air pollution. Nearly 75 percent of our Nation's rivers, lakes, estuaries, and coastal waters are now swimmable and fishable, thanks to pollution reduction and control. Industrial sewage discharges declined 71 percent between 1976 and 1981, while municipalities reduced their discharges 46 percent. Cars and other new vehicles emit 96 percent less carbon monoxide and hydrocarbons than they once did. In order to keep pace with the country's energy demand our electric utilities have increased their use of coal by 85 percent since the 1970's, yet sulfur dioxide emissions are down 21 percent. In the past 18 years alone, Mr. President, American industry has spent more than $1.1 trillion—those are current dollars, mind you—on pollution abatement and control. Hundreds of businesses have reduced their output of wastes, not because of Government controls, but because it makes good business sense. These industries have shown the very best kind of corporate citizenship, and they have become environmental leaders by rolling up their sleeves and doing the hard work.

There are many individual examples of pollution reduction, more than I will take time to enumerate. Many shine forth from my own State of Idaho. Such success stories show that it is no accident that Americans have organized and promoted the Earth Day celebration. Few other nations have the time and the resources for a celebration such as this. That luxury is directly the product of a great free-market economy and of our long and proud history of technological progress. Thanks to them, we can point to our record as a world leader in controlling pollution. Our technological prowess now allows us to measure pollution in parts per billion, or even parts per trillion.

One most important fact refutes the alarmist arguments spread by those who would have us retreat to the Stone Age to protect the environment. It is this:

The human animal is the first in history to think about the consequences of its actions, the first to plan for the preservation of our Earth, turning the full force of intellect and, yes, technology to that design. Mankind is a part of nature, as much as any tree or animal. Let us not listen to those who value trees above mankind; those who wish to make a soulless museum of our Earth. On this Earth Day, mankind may take some time to be proud of our accomplishments, and we may look forward to further environmental challenges knowing that we are equal to them. We have proved it, Mr. President. We are proving it every day.

I thank my colleagues for their attention.

WOOD PRODUCTS TALKS WITH JAPAN

Mr. GORTON. Mr. President, last week, another round of wood products market access negotiations with Japan ended without significant progress. The continued stalemate is unacceptable. Achievements have been won in negotiations with Japan on structural impediments, satellites and supercomputers, but the wood products talks lag far behind.

A web of trade barriers preclude American companies from selling wood products in Japan. Those barriers include sky-high tariffs, overly restrictive building codes and a closed distribution system. The deck definitely is stacked against American wood products.

For almost a decade, the United States has sought to eliminate Japanese trade barriers in the wood products industry. In the mid-1980's, market oriented, sector specific negotiations—more commonly known as the "MOSS talks"—achieved only limited success. Last May, the administration designated Japanese wood products trade barriers to be a subject for super 301 negotiations.

Those trade talks are now reaching a critical stage. Just 1 month ago, Japan and the United States were far apart on a series of trade issues relating to wood products, supercomputers, satellites, and broad structural impediments. Significant progress has been made in all but the wood products talks. The deadline for resolving those bilateral trade issues is fast approaching.

The potential gains from successful wood products talks may significantly exceed those from the other sectoral negotiations, especially in terms of American jobs. The elimination of existing Japanese barriers could increase our exports of wood products by more than $1 billion a year and create or maintain thousands of American jobs.

While many of those jobs would be in my home State of Washington, others would be generated across the country. Wood products manufacturing accounts for more than 40,000 jobs in Washington State alone, and exports are an increasingly important element in the changing American economy.

Japanese trade barriers represent the continued triumph of special interests over the welfare of the Japanese consumer.

Those barriers have long protected uncompetitive Japanese businesses from competition by a more efficient and advanced United States wood products industry.

Mr. President, Japanese barriers to American wood products must come down.

The cumulative effect of the intricate web of trade barriers has kept our wood products out of the Japanese market. The U.S. Trade Representative has wisely worked to eliminate the entire range of trade barriers rather than merely one or two of the most egregious practices.

Mr. President, the administration must decide by the end of this month whether to redesignate Japan as a super 301 priority country. The status of the wood products negotiations will be an important consideration in that decision. The American public and Congress are no longer willing to be content with excuses and cosmetic concessions. We demand results.

THE 20TH ANNIVERSARY OF EARTH DAY

Mr. GORTON. Mr. President, on Sunday we will celebrate the 20th anniversary of Earth Day. We know that we are the stewards of the Earth's resources. Only with thoughtful use of these resources can we preserve the opportunity for a bright future for our grandchildren and their grandchildren. That has always been my primary goal during my life in public service.

I am proud to be from a State that realizes how valuable natural resources are, and also is aware of the importance of using and reusing these resources. By proper management of our resources in the Pacific Northwest we have maintained a strong economy and clean environment which guarantees a bright future for our region. An example of Washington's thoughtful stewardship has made the Puget Sound region the most effective recycling area in the country. I commend the people of these communities, who carefully separate their household refuse so it may be used again and again. Washingtonians understand that the future depends on our actions.

This year, Congress will reauthorize the Resource Conservation and Recycling Act. I intend to introduce additional legislation that will further encourage recycling practices. And, I will work to create broader markets for recycled products.

We should consider the 20th anniversary of Earth Day as an opportunity to enhance our effort to preserve this planet for a better future. Wise stewardship of our resources will allow future generations to enjoy the same benefits we have enjoyed.

EARTH DAY

Mr. KOHL. Mr. President, I would like to say just a few words about Earth Day, which takes place this Sunday, April 22. I am very happy to see all the attention which is being focused on the environment in connection with Earth Day. If nothing else, this event provides us all with an opportunity to learn more about what ails the environment around us, and what we can do to make it better. Education is half the battle, and media attention to Earth Day will help us learn more about the numerous environmental problems plaguing the Earth.

But that being said, I just want to express my sincere hope that Earth Day won't be forgotten as soon as it's over. Officially, Earth Day is April 22. But in reality, Earth Day should be every day. Earth Day shouldn't be a one-day celebration, a short holiday. Earth Day should be a state of mind, a way of life for all Americans. Each individual can make a contribution to a cleaner, safer environment.

I think it's encouraging to note that a recent Newsweek poll conducted by Gallup found that while 82 percent of Americans have chosen to recycle newspapers, glass, aluminum, and other materials, 73 percent of Americans don't plan to participate in Earth Day events. That shows me that people in this country really do care

about the environment, and are willing to put up with a little inconvenience to make the Earth a better place. That doesn't mean we shouldn't also recognize Earth Day—it's a wonderful celebration of the environment. But we have to back up our words and slogans with action, each and every day. It's easy to attend an Earth Day rally, but it's not so easy to sort your trash every day, organize a car pool, or maintain a lush lawn and garden without fertilizers and chemicals.

Individual efforts alone, however, aren't enough. A clean environment will require a concerted effort at all levels of government, including international cooperation, and it will take a great deal of help from private industry.

For example, we must be willing to change the Federal Government's spending priorities in a way that helps, rather than hurts, the environment. If we can reduce spending on weapons systems, we can divert those funds to State and local grants for recycling programs to reduce the dangers posed by landfills. Or we can spend the money on sewer construction projects to keep our water resources clean. Or we could invest the dollars in better mass transportation systems, to reduce the amount of automobile pollution and ease traffic congestion. All of those expenditures would create vast numbers of new jobs, helping to replace jobs lost in defense industries. And the dollars we spend now to prevent environmental problems will save us money in the long run, by preventing expensive cleanups of our air, water, and land resources.

State and local governments must do their part, with help from the Federal Government. Our local officials must be willing to mandate strong environmental controls, and be willing to allocate resources to environmental protection. A good example is legislation recently passed by the Wisconsin State Legislature establishing a comprehensive recycling program, which will require the cooperation of local governments throughout the State.

States can also do a great deal to promote energy conservation. State utility commissions can provide economic incentives for individuals and companies to conserve energy, saving consumers' dollars and protecting the environment at the same time. But much more can be done.

But no matter what Government does to protect the environment, and no matter what individuals may hope to accomplish, none of our efforts will be meaningful without help from the private sector. Business and industry are a necessary part of the equation. We can't buy environmentally benign products, unless companies manufacture them, and provide us with accurate, honest information on which we can base our choices. We can't buy ultra-clean cars until the companies invest in the research and development needed to produce them at competitive prices. Many companies are already doing their part, including many in Wisconsin. But more can be done.

Altruism aside, I think corporate efforts in the nineties to protect the environment will yield financial as well as environmental dividends. Consumer knowledge and awareness will continue to expand the market for so-called green products. Finally, the need for more and better environmental technologies has already created new industries and new jobs. Entirely new industries are being created to produce emissions control systems, recycling technologies, and energy conservation systems.

In sum, I hope that the celebration of Earth Day will prompt each and every one of us to alter our daily activities in ways which will improve the environment. That's well and good. We can choose environmentally safe products, in order to encourage their production. And we can recycle, conserve energy, and use public transportation and bicycles. Many will go beyond what is required, to do what is right. But in general, we all need inspiration. We need leadership—from the President, Congress, our Governors and State legislatures, our local governments, and from our corporate leaders. These are the people who can make the biggest difference in the fate of our planet.

So I would just say: let's do what we can in our daily lives to protect the environment. But let's not forget about our ability to change things at the polls, in local, State, and Federal elections. And let's not forget about our ability to influence corporate America with our pocketbooks. Politicians and corporations will respond when the public demands action, and I think the environment deserves nothing less than our very best, on Earth Day and 365 days a year.

A TRIBUTE TO SPARKY

Mr. KERRY. Mr. President, this Easter Sunday, we lost a man who was many things to many people. He was a friend, first and foremost; a peace advocate, a poet, a war hero, a humanitarian, a citizen, and a patriot. That man, of course, was our colleague, Spark Matsunaga. From his beginnings as the son of a poor immigrant family to his final days as a Senator, Spark Matsunaga made a difference for America.

Spark had a very special way of making that which inspired Spark Matsunaga and his personal goals into common goals that benefited all of us. Perhaps it was that this strong and humble man shared the values of most Americans deep down in his soul. In 1984, he established the U.S. Institute of Peace which awards graduate degrees to those who help settle disputes within and among nations, an accomplishment that took 19 years. In 1986 he succeeded in establishing an American poet laureate, a very special deed that was close to his heart, Spark truly believed that poetry was a window of the soul. And, in 1988, he succeeded in passing into law reparations for the interned Japanese-Americans of World War II. That act of decency was long overdue and I'm very happy that I was able to cast my vote for it.

No one should forget that Spark was also a war hero, earning two Purple Hearts and a Bronze Star for his valor in World War II. While he fought for a country that he loved and would have died for, that same country imprisoned his family and neighbors—now that is an extraordinary demonstration of patriotism.

Sparky lived a rich life, rich in good deeds and services to his constituents and our Nation. It is both easier and harder to mourn someone who lived a life as Spark lived his. Easier knowing that this country is better off for his existence, harder because someone with such a rare and good heart should live on and on. Personally I was particularly touched and grateful to Sparky when a few days before the Easter recess he made the painful effort to come to the floor to cast his vote for cleaner air and better health for all Americans in an amendment I had offered to the Clean Air Act. And, I am very happy that I was able to shake his hand and say thank you Sparky that last time.

I would like to extend my deepest sympathy to Spark's wife, Helene and his five children—Karen, Diane, Merle, Keene, and Matthew. Though Spark's physical presence is gone, his spirit remains strong in our hearts and minds.

IN HONOR OF SENATOR SPARK MATSUNAGA

Mr. LIEBERMAN. Mr. President, I rise today in honor of Senator Spark Matsunaga of Hawaii, a great leader and respected colleague. I regret that I had but a short period of time in which to know Sparky Matsunaga. But in that time, I came to know him as a wonderful human being, full of compassion, spirit and love. It is no wonder that he was widely considered to be the most respected and beloved Member of this great body. It was a privilege to learn from him.

My first contact with Sparky Matsunaga was shortly after my election in 1988. Most of my new colleagues were kind enough to call or write and congratulate me, and I appreciate that. But Sparky did them all one—or two—better. First, there was the box of

macadamia nuts, a treat I did not expect, but which I certainly enjoyed. And then there came in the mail a book, named "The Mars Project," written by Senator Matsunaga, and dedicated by him to the memory of his father, Kingoro Matsunaga. The book exists as a testament to Sparky Matsunaga's vision; he saw in Space an opportunity for humankind to advance civilization on Earth. Space-based surveillance represent an opportunity for avoiding conflicts between nations, he wrote. Joint explorations of space represent an opportunity to advance the tide of democracy. Writing about the exploration of other worlds, Sparky said, "Perhaps one of their discoveries, springing from a seed that an earlier generation dared to plant, would be a triumphant awareness of their common humanity."

His eyes were fixed on the stars, and his ears were closely attuned to the concerns of people here on Earth. He was a remarkable public servant, whose life enriched us all. I will miss him.

EARTH DAY

Mr. DOMENICI. Mr. President, as one of the cosponsors of the Senate resolution that designated April 22, 1990 as Earth Day, I rise today to celebrate the 20th anniversary of this great event.

In 1970, an estimated 20 million Americans participated in the original Earth Day, showing their support for protecting the environment.

In 1990, Earth Day is an international event, uniting millions around the globe in recognition that environmental protection is an international issue.

The first Earth Day increased the awareness of all Americans about the need to protect and preserve our environment. It brought about a fundamental change in the way we treat our environment.

In the 20 years since then the Congress has passed 33 major environmental initiatives—including laws to protect the air we breathe and the water we drink, laws to ensure the safe disposal of waste, laws setting aside more open space, laws to protect our fish and wildlife, and a law to protect our archaeological resources, which I authored.

This year, in a fitting reaffirmation of the effort to ensure a clean environment, the Congress has been working on a reauthorization of the Clean Air Act. I was actively involved in 1977 clean air bill and became equally involved in the bill that passed the Senate earlier this month. That is landmark legislation. It is the first clean air bill in 13 years and is a tough measure that will aggressively tackle our remaining air pollution problems—including acid rain, air toxics, and urban smog.

Mr. President, I am fortunate to live in a State of magnificant natural beauty. New Mexicans have a special appreciation of the land. Perhaps because so much of our livelihood is derived from the land, we have been wise stewards of our natural heritage. It is a tribute to the people of New Mexico that so many want to preserve the resources of the State so that future generations can enjoy the New Mexico that we know and love today.

During my time here in the Senate, I have been involved in preserving almost 1 million acres throughout New Mexico as wilderness, in designating El Malpais National Monument and Chaco Culture National Historical Park in New Mexico, and in protecting several of New Mexico's waterways as wild and scenic rivers. Most recently, I introduced legislation in the Senate to create the Petroglyph National Monument and the Organ Mountains National Conservation Area in New Mexico.

I am pleased to have had the opportunity to help protect and preserve the environment of my State, our Nation, and our world. Much has been done, yet more needs to be done.

Protection of the Earth not only requires laws, but also requires citizen involvement of the type we will see this weekend as thousands of New Mexicans are linked with millions of others across the Nation and the globe. We must encourage each individual to take responsibility for protection and preservation of the environment.

A major challenge over the next decade—and for the foreseeable future—will be to find ways to maintain and increase the world's standard of living while at the same time preserving and protecting the world's environment.

Our world is inhabited by 5 billion people today. Within the next generation, the world's population may increase to as many as 10 billion people. Every one of those 10 billion people will seek a better standard of living than exists today.

Our challenge, Mr. President, as Americans and as members of the world community, is to do everything that we can to promote prosperity without pollution.

Furthermore, the environmental problems in Eastern Europe that are now becoming known to us, point out the need to not only worry about future growth, but to also instill in those countries the same environmental ethic that exists among Americans.

On this Earth Day, let each of us commit ourselves to confronting these challenges and making the Earth a better place to live.

IN HONOR OF EARTH DAY—TRIBUTE TO GAYLORD NELSON

Mr. BOREN. Mr. President, This has been a special week in Washington and across the Nation as we join in the celebration of the 20th anniversary of Earth Day. Oklahoma has planned several exciting events for the occasion and I applaud the leaders in our State who have recognized the importance of the day.

Without great leaders, the environmental concerns of my State, our Nation, and the world would often be lost in the sea of issues that confront the Senate daily. My colleagues and I in the Senate were able to pass the Nation's first clean air bill in over a decade thanks in large part to the leadership of Senator GEORGE MITCHELL. I am also very pleased that President Bush recognized the need for leadership and called the international environmental conference that was held this week in Washington. I joined several of my colleagues this past year in writing letters to the White House urging such a conference, and I am greatly encouraged by the commitment made by the administration in hosting this world conference.

Leadership is the answer to our global environmental problems, and I rise today in recognition of a great man and a former colleague who gave us the important leadership we needed to first focus our Nation's attention on the needs of the environment. Senator Gaylord Nelson was the original founder of Earth Day in 1970, and he continues his commitment to the environment today as a national spokesman for the environmental movement and as a senior counselor for the Wilderness Society.

Gaylord Nelson gave a voice to the environmental movement 20 years ago when few other political leaders knew or cared about the dangers posed to a world that continued to rapidly develop without regard for the future. He knew that the central problem would be the question of leadership. In 1963, 7 years before he energized the Nation for the first Earth Day, Senator Nelson was able to convince President Kennedy that a new emphasis was needed on environmental issues. In a letter to the President, Senator Nelson stated:

> Americans in all walks of life are interested in natural resources. However, up to now there has not been any sustaining strong, central organization or leadership. Nevertheless, this interest is amazingly widespread. It cuts across political party lines, economic classes and geographical barriers.

Gaylord Nelson was asking the White House to provide the leadership needed for the environmental movement and President Kennedy responded with several important initiatives, but it was the continuing commitment of the Senator from Wisconsin that

sustained the movement. As President Jimmy Carter wrote in a letter to Gaylord on April 21, 1980:

On April 22, 1970, the environmental movement came of age with that remarkable event called Earth Day. * * * Many of the achievements of the first environmental decade are the result of your personal vision and hard work. You certainly deserve the thanks and gratitude of the entire Nation for your efforts on behalf of a cleaner and more beautiful environment.

Mr. President, I ask unanimous consent to print in the RECORD a brief history of the original Earth Day as described by Gaylord in 1989.

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

BRIEF HISTORY OF EARTH DAY

(By Gaylord Nelson)

In February, 400,000 gallons of crude oil spewed out into the waters near Huntington Beach, California. Pelicans, ducks, sea lions, and other wildlife were coated with oil and died. An oily "mousse" washed up onto the area's exceptional beaches.

For many, particularly Southern Californians, it was impossible not to be reminded of the famous 1969 spill just up the coast near Santa Barbara. I visited Santa Barbara in the summer of 1969 to speak at a water conference, and then flew north to Berkeley to speak at a conservation conference. On the plane I read an article about the use of campus anti-war teach-ins to educate students about the Vietnam War. Suddenly the idea occurred to me: Why not devote a day to a nationwide teach-in on the environment?

Thus was born Earth Day. Eight months later, on April 22, 1970, 20 million people, 2,000 colleges and universities, 10,000 grammar and high schools and 1,000 communities mobilized for the first nationwide demonstrations on environmental problems. Congress adjourned for the day so members could attend Earth Day events in their districts. The response was nothing short of remarkable, and the modern American environmental movement took off.

My major objective in planning Earth Day 1970 was to organize a nationwide public demonstration so large it would, finally, get the attention of the politicians and force the environmental issue into the political dialogue of the nation. It worked. By the sheer force of its collective action on that one day, the American public forever changed the political landscape respecting environmental issues.

The politicians got the message. They responded with a series of major legislative initiatives that have begun to move us in the right direction. There are even glimmers of hope that we, as a society, may be starting to develop a conservation ethic and that the next generation may turn out to be the conservation generation so vital to our future.

Perhaps the most important advance since Earth Day is one of attitude and understanding—the recognition, finally, that human activities have created a global environmental crisis that urgently demands our attention. This is a giant leap forward.

The time has come to stop the arms race and begin the race to preserve the planet.

Mr. BOREN. Mr. President, now, 20 years later, Gaylord Nelson carries on as an inspiring leader in the environmental movement. For his continuing efforts to teach the world about our precious natural resources, for his constant belief in doing what is right rather than what is most popular, and for his determination to see results rather than just discuss global environmental problems, I join my colleagues in saluting our good friend the Honorable Gaylord Nelson of Wisconsin.

NAVAJO URANIUM MINERS

Mr. DOMENICI. Mr. President, last month, I traveled to Shiprock, NM, which is part of the Navajo Nation Indian Reservation. I went there for a hearing on the health problems of the Navajo who worked in the uranium mines of the Southwest from the 1940's to the 1970's.

I became involved in this issue when the problem of lung cancer among uranium miners was brought to my attention by the Navajo Nation 12 years ago. Since then, I have sought to obtain compensation for the Navajo and other uranium miners.

Although mine conditions improved greatly after Federal regulation of the uranium mines was imposed in 1971, many miners who worked in the mines prior to that time were exposed to unacceptably high levels of radiation.

As I looked into the issue, I discovered that many uranium miners, both Indian and non-Indian, suffered from lung cancer and other illnesses that could be related to their exposure to radiation in the uranium mines.

Therefore, in 1978, I introduced the Uranium Miners Compensation Act, the first bill to attempt to provide compensation for uranium miners who contracted radiation-related illnesses. Since that time, I have taken an active role in attempting to provide compensation to those who suffer from radiation-related illnesses.

Mr. President, the U.S. Government has an obligation to provide compensation to the uranium miners. During the time that these miners worked in the uranium mines, the U.S. Government was the sole purchaser of uranium in this country. In effect, the miners were producing uranium for the U.S. Government.

The U.S. Government has a special obligation to provide compensation to Navajo uranium miners because of the trust relationship between the U.S. Government and the Indian people. Under this trust relationship, the U.S. Government has a special duty of care to protect Native Americans and provide for their health care.

The uranium miners performed a service for our Nation. Now many of them have become ill because of that service. It is now time for the U.S. Government to perform a service for the miners.

Just as I have sought to provide compensation to the uranium miners, my distinguished colleague from Utah, Senator HATCH, has sought to obtain compensation for those citizens who lived downwind of the atmospheric atomic testing sites. Senator HATCH has done a tremendous job in leading the effort to show that this Nation can be compassionate and recognize when it has committed a wrong. Over the course of the last several years, he has repeatedly sought through legislation to remedy this wrong.

Recently, Senator HATCH and the Senior Senator from Massachusetts, Senator KENNEDY, led the Labor and Human Resources Committee to draft a bill to provide compensation for both uranium miners and downwind victims of the atmospheric atomic testing program.

Yesterday, the Labor and Human Resources Committee introduced that bill, the National Atmospheric Nuclear Testing Compensation Act (S. 2466). I am pleased to be a cosponsor of this legislation.

The National Atmospheric Nuclear Testing Compensation Act includes findings that uranium miners were exposed to radiation that produced lung cancer and other respiratory diseases and that the U.S. Government has a special trust responsibility to provide care and assistance to Native American uranium miners. The bill includes an apology from the Congress to the uranium miners and their families.

Under the bill, a $100 million trust fund would be established to provide compensation. A Special Master in the 10th Circuit would hear claims and award compensation.

Miners, or their beneficiaries, would be entitled to $100,000 in compensation if they: First, worked in the uranium mines in New Mexico, Arizona, Colorado, or Utah between 1947 and 1971; second, were exposed to 200 or more working level months of radiation; and third, contracted lung cancer or another serious respiratory disease.

Individuals who lived downwind of the atmospheric atomic testing sites, or their beneficiaries, would receive $50,000 if they: First, lived at least 1 year in a downwind area during the times of the atmospheric testing program or lived in the downwind area between June 30 and July 31, 1962; and second, developed leukemia—except chronic lymphatic leukemia—multiple myeloma, or cancer of the bile duct, breast, colon, esophagus, gall bladder, liver—except where cirrhosis or hepatitis B is present—lung, pancreas, pharynx, small intestine, stomach, thyroid, or urinary tract.

An estimated 1,100 to 1,300 downwinders and 250 to 350 uranium miners or their beneficiaries would receive compensation under this bill.

Mr. President, I support compensation for the uranium miners because they performed a service for our Nation. In the course of that service, a number of them suffered grievous injury. Our Government has an obligation to these people, an obligation that it has yet to fulfill. It is time that we recognized that fact and set to work righting the wrong that began over 40 years ago. These men served this Nation well, and it is time for this Nation to serve them well.

Mr. President, the cause of the Navajo uranium miners has been championed for the past 12 years by a man of tremendous integrity and compassion, former Secretary of the Interior Stewart Udall. Secretary Udall, who now lives in New Mexico, has forgone a lucrative career as a Washington lawyer or lobbyist and has instead devoted more than a decade to helping arouse the national conscience and correcting this injustice.

The Washington Post recently published a lengthy tribute to Secretary Udall's quest for justice for the Navajo uranium miners. I ask unanimous consent that the article be printed in the RECORD immediately following my remarks.

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

[From the Washington Post, Apr. 18, 1990]

STEWART UDALL'S WAR OF THE WEST

(By Cynthia Gorney)

SHIPROCK, NM.—At the table of dignitaries he wears a string tie and a forest green corduroy suit, and perhaps some of the Navajo people notice this as they watch from the folding chairs and risers of the Shiprock High School gym: the senators in their sober gray, the tribal officials in their plaid flannel shirts, and the Anglo man in the green corduroy suit. His hair falls sideways across his forehead and covers the back of his collar. His string tie is pinched in by a silver Zuni dancer. He sits with his fingers intertwined and his head slightly bowed, waiting through the soft tongue-sliding sounds of the spoken Navajo that opens the proceedings, and when the microphone is handed to him he looks into the crowd and says white people have an expression that seems to him suitable to repeat. "It's a long road that doesn't have a turn," he says.

He says 40 years have passed since government-ordered uranium mining first came to Navajo land, and that 11 years have passed since he first began trying to sue on behalf of the men who died of lung disease after going to work in the mines. He says that for a long time he was ashamed of the American system of justice. He says he was unable to explain to his Navajo clients why the government had done what it did and then declined to assume either financial or moral responsibility for it, but that perhaps the Congress will do something now to make that right. "I think there is a turn in the road," he says.

He is 70 years old, which makes him of roughly the same generation as many of the men and women gathered before him in the gymnasium, and when the testimony is over, these are the people who press forward and ask him to write down their names. "If you want me to help you, I'll send you a letter," says the man in the corduroy suit, slowly at first, and then faster as he says it again and again; old women hand him driver's licenses, or death certificates smoothed and preserved in small plastic wrappers, and the man in the corduroy suit scrawls on the back of a manila envelope the notes that will enter the file cabinets at home. Died last summer. Died 1964. Cell carcinoma, silicosis, pulmonary fibrosis. "Living," he writes alongside the address of Seymour Tso Sr., from Cameron, Ariz., and Seymour Tso takes back his driver's license, but does not move away.

"You a senator?" asks Seymour Tso.

"No," says the man in the corduroy suit. He smiles a little. His eyes do not lift from the manila envelope he is writing on. "I'm just a lawyer," he says. "I'm just an old man. Just a lawyer."

In the Kennedy and Johnson years, when the newspapers and magazines ran photographs of Stewart Udall hiking or testifying to Congress or swinging his children up onto his shoulders, he wore his hair in a crew cut. "Urges adding more seashore acreage to our national recreation lands," the caption would read, or "On his climb up Mount Fuji in Japan," and always there was the arresting brush of clipped dark hair above the heavy eyebrows and long straight nose. He says now that he wore his hair short because it was a good basketball-player-and-Army-bomber style that he had never bothered to change, but it is hard not to read broader gesture into the abandoning of the crew cut as Stewart Udall, the three-term congressman from Arizona and eight-year secretary of the interior, lets himself into the small study behind his house in Santa Fe to address the morning's work.

His forest green corduroy was fancy wear, for the congressional hearing; today he is in bluejeans and old brown shoes and a mud-colored muffler that covers the shag at the back of his neck. He looks like a mildly rebellious graduate student, except for the lines around his eyes, and at intervals he sounds rather like one too: His last book described Ronald Reagan as "the first overtly anti-conservation president of this century," and the book before that observed with lavish illustrations that Spanish explorers crossed the American West more than 250 years before the Lewis and Clark expedition and were widely ignored in histories favored by what Udall called the "Eastern WASPs."

His next book, which uses terms like "myths" and "cruel irony" and "outright lies," will assail the development of the American atomic age. "You can't believe the simplicity of the lifestyle, when they lived in their hogans, and lived in the traditional Navajo way,' Udall says, using the Navajo word for the rounded houses made of earth "And here the United States government, with this urgency of building a uranium stockpile and [developing] domestic sources—suddenly they find uranium. It's some of the first uranium that was found. And they just crashed through the door. And here's the Cold War, and here's the American industrial system—and these Navajo people don't understand anything."

Since 1978, when Stewart Udall first learned about what appeared to be unusual rates of cancer among Utah families who lived downwind of the 1950s nuclear test sites, he has brought four separate lawsuits against the United States government. Three of the suits were beaten back at the trial or appellate level, and one is scheduled for trial in Las Vegas, Nev., in June. They are complicated lawsuits, full of physicians' reports and epidemiological studies and conflicting accounts of what government officials did or did not do, but in each of the suits Udall and his partner attorneys have argued that the government sacrificed the health of its own citizens—uranium miners, atomic weapons plant workers and the families now referred to as "downwinders"—to the rush for atomic weapons development.

He has written magazine articles while preparing these cases, and taught classes while preparing these cases, and held fundraisers and given lectures and juggled grant money that was paid out as quickly as it came in. He earns some money coordinating environmental conferences for a Robert Redford outfit called the Institute for Resource Management. "I've been just kind of scrambling around, trying to make a living, but there were a couple of bleak years, I'll tell you," Udall says. "You gamble your time, and the money you have to spend for expenses, and it's a drain. I had a couple of years there when I had an income—I was doing things—but I didn't pay any income tax. That will tell you something."

This spring, for the first time since New Mexico Sen. Pete Domenici first introduced a similar measure 12 years ago, the Congress may finally move toward approval of legislation that would offer monetary payments to uranium miners and downwinders—"partial restitution to these individuals," in the wording of one of the bills, "for the burdens they have borne for the Nation as a whole." The legislation has powerful sponsorship now, including Sens. Orrin Hatch (R-Utah) and Ted Kennedy (D-Mass.), and if it is signed into law it will establish a fund to provide compensation to the families of people who died or became ill from what was believed to be disease induced by the radiation of nuclear testing or uranimum mines. Like the Atomic Veterans Act and the U.S. compact that offered reparations in the Micronesian islands where Americans tested nuclear weapons, the law would work by presuming, for people who could prove they lived or worked in the affected areas, that certain kinds of illnesses were caused by radiation exposure.

For the families of uranium miners who suffered or died from these illnesses, the payment is now set at $100,000. For the families of down-winders the payment is set at $50,000. The House and Senate bills include provisions for attorneys' fees too, but after 11 years Udall is not exactly waiting for Washington to start flinging money at the lawyers who brought these suits in the first place. "I've lived with this so long, I'm kind of numb," he says. "The more I go through these old files, the more the pathos just seeps into you. I just feel that it's good for the people and good for the country to say, 'Well, we did recognize a wrong,' and they were paid something, even thought it's modest. And as far as the lawyers and all the rest of us are concerned, we don't go home emptyhanded. And that's right too."

The prospect of actually earning income from the uranium cases seems mostly to bemuse Udall, who is "going through these old files," as he puts it, because he has no legal secretary who might go through the files for him. The closest he keeps to a formal office is one smallish room at the Archaelogical Conservancy, a nonprofit organization that acquires sites for archaelogical exploration; Udall serves as chairman of the Conservancy's board, and his big cluttered Conservancy desk confronts a massive photograph of North Cascades National Park,

which was created out of 500,000 acres of Washington state forest while Udall was secretary of the interior. There is a black-and-white of Redwoods National Park too, and a coffee table ordered up by President Johnson in 1968. Beneath the coffee table's surface, immobilized under glass, are 80 of the fountain pens Johnson used to sign other Interior Department-promoted legislation into law while Udall was the secretary.

Each pen is labeled—*Wilderness Bill, Endangered Species Act, Air Pollution Funds, Federal Coal Mine Safety Act*—but it takes some maneuvering to read the labels, since the table is piled with memorandums and books about radiation and the American Southwest. "My thesis is, you can go home again, and that's what I've done," Udall says. "I think it's sad that so many congressmen and senators and Cabinet members don't go home."

That they occasionally stay behind while satisfying certain standards of tangible recompense—this is not lost on Udall either, and in fact he recently attended a Washington dinner at which he found himself seated among former government officials who now maintain offices somewhat fancier than his. Very nice jobs they have too, Udall say consultants and professors and attorneys with handsome hourly fees. "But I'm the only one who hangs around with Robert Redford and Jacqueline Onassis," Udall says, the half-smile meant to make sure one understands he is making fun of himself; Onassis was the editor on Udall's Spanish explorers book,. "Instead of material rewards, you take what you can get."

AMONG THE ROCKS

On a winding dirt road that has temporarily vanished under snow and scattered red rocks, a Navajo mining official named Perry Charley is bouncing a muddy four-wheel-drive over land his mining maps call Tsetah, which is Navajo for "among the rocks." When he pulls to a stop, the four-wheeler heaving up to a small plateau that is not road at all, Charley climbs from the driver's seat and stands for a moment in the snow. He is a long way from anything that makes any noise, but when Charley leans down and flicks a small switch, a clicking starts up: steady at first, and then more rapid as Charley steps forward over the rocks. What he is holding is called a scintillometer, Charley says; most people know this kind of device in the form that was more commonly used a decade ago. Then it was called a Geiger counter.

And as the clicking accelerates below Charley's hand, he swings the scintillometer in the direction of a man-sized opening in the rock face before him. It has been 20 years since anyone worked this mine, but at the entrance to the tunnel lies an empty Fritos bag. "When it's cold, they still bring sheep in here, and put something over the entrance," Charley says. "And you have a pretty well-in sulated shelter. Unfortunately, it's radioactive."

Although he had served as titular supervisor of the federal bureaus that oversee both mines and Indian reservations, Stewart Udall says it was 1978 when he first began examining reports of disease among men who had worked the uranium mines carved in this fashion from the rock of the four-state Colorado Plateau. Udall was a private citizen then, an attorney and lecturer who occasionally worked with Navajo businesses, and on a visit to the reservation he began talking to tribal officials about what appeared to be uranium miners' spectacularly high rates of lung cancer and other debilitating illness. "It was a horror story," he says. "And I said, 'They have a lawsuit.' "

Udall insists he was not inspired by a conviction that he ought to have resolved the miners' problems while he was interior secretary; he says nobody ever alerted him to the radiation in the mines. He says he did not begin learning the details of radiation disease and the American atomic weapons program until 1978, when at the urging of some Southwestern relatives, he joined forces with a Tucson attorney named Dale Haralson and began background research on behalf of the Utah families who believed their cancers had been set off by nuclear test fallout. "The thing that was quite clear from the beginning was that there had been a coverup, and there had been a lot of lying going on," he says. "All of us in those first months were kind of grouping our way in. We didn't see the enormity of it for quite a while."

He was living in Washington then, still settled with his family into their contemporary McLean place that overlooked the Potomac, but every time he flew west to gather material for his lawsuits, Udall was coming home. The Phoenix telephone directory lists 26 Udalls, and all of them are related to Stewart; the wildly complicated family tree goes back to a 19th-century Mormon settler and includes ranchers, doctors, lawyers, church elders, polygamists, judges, mayors and the occasional congressmen, like Stewart Udall himself, whose seat was vacated in 1961 with his Interior Department appointment and promptly filled by his younger brother, Morris. "The Udalls and the Goldwaters—we were sort of the first families, politically," Udall says. "That's what they used to write in the 1960s."

Udall's father was an Arizona judge who served on the state Supreme Court, and his mother an outspoken woman with an abiding interest in Indian culture. He had grown up in a small dry town near the Arizona-New Mexico border, completed the two years' missionary work expected of young Mormon adults, and flown in bombers over Italy during World War II; by the time he ran for Congress he was championing liberal causes like aggressive school desegregation, and in his years at Interior Udall built a reputation as an unabashed ally of what would come to be called the environmental movement. "Henry Thoreau would scoff at the notion that the Gross National Product should be the chief index to the state of the nation," Udall wrote in his 1963 bestseller "The Quiet Crisis," "or that automobile sales or figures on consumer consumption reveal anything significant about the authentic art of living."

So it was startling but not at all unimaginable, he says, to find himself a decade later compiling interviews and memorandums that suggested to Udall a massive moral failing on the part of the government he had once served. "I saw the government through a different lens by the end of the 1970s than I did when I was a fresh young congressman, with all the patriotism of World War II," Udall says. "I was bitter that the government wouldn't admit that gross mistakes were made, and people were sacrified."

Accompanied by longtime friend Bill Mahoney, a Phoenix attorney who had played high school basketball against the young Stewart's team, Udall began visiting the Navajo reservation chapter houses where men like Perry Charley would translate into English the accounts of uranium miners or their widows. Charley's own mother was one of the widows; he says his father, who died in 1986, was ordered 20 years earlier to stop working in uranium mines after company doctors told him he had disabling lung disease. "They didn't tell him he was eligible for worker compensation, they didn't tell him he was eligible for a lot of insurance," Charley says. "They just cleared him out."

As a boy Charley watched the miners line up outdoors when the green Public Health Service vans came to the reservation now and then to measure and make notes. "I remember standing out there as a little kid, giggling, because there they were stripped to the waist," he says. His father received no warning diagnosis during his working years, Charley says; it was not until he was fired that mining company doctors named for him the diseases Perry Charley says eventually killed him. "Radiation fibrosis, lung fibrosis," Charley says, with the facility of someone who has spent a lot of time navigating the old linguistic passage between Navajo and the English of the post-Atomic Age. "Both caused by exposure to radioactivity."

The very concept of "radioactivity" was difficult to work into Navajo; both Charley and Albert Hale, a bilingual Navajo attorney who joined Udall in early work in the case, tried to use the image of steam to explain in Navajo how an invisible substance might have entered a person's body. Hale would describe a kind of steam carrying particles, particles that might lodge for many years in the lungs and then wake and cause cancer, lo doo naa zhihii, which translates out of Navajo as "the sore that never heals." "You saw how little people knew," Udall says. "And the extent to which they were utterly dependent on the government and the mining companies to tell them."

His office files fattened with interview notes and printed studies and copies of correspondence dating back to 1950, and gradually Udall began piecing together the angry thesis he would lay out in court. The letters and memorandums described for Udall a drama he thought bore the weight of Greek tragedy: Here were field experts for the United States government writing urgent warnings 40 years ago that the Southwestern uranium mines contained dangerous levels of radon gas, which as it decays attaches to dust particles that can settle in a miner's lungs. "Such high concentrations are almost certain to cause serious trouble," a U.S. Public Health Service engineer named Duncan Holaday wrote in 1951 to the head of a mining company, "even though ten years or more may have to elapse before it develops."

In the postwar United States, large-scale uranium mining was new business, rushed into the Colorado Plateau by government officials eager to build the American atomic weapons program without reliance on imported uranium. No American studies correlated long-term uranium mine work with lung disease, but scientists had known since the 19th century that lung cancer killed many of the miners who had worked central European mines later found to contain high levels of radon. What Udall and Mahoney intended to show was that Atomic Energy Commission officials knew from the start that the Southwest uranium mines were dangerous—but that in the Cold War quest for American uranium, the miners were never warned about these dangers, even as Public Health Service doctors examined the men and monitored their lungs for scientific data.

The mines were privately owned, Udall says, but they were under the supervision of government agencies that both purchased the uranium and knew what safety measures would have lowered the radon levels inside. And by the time adequate safety standards were mandated at the mines, Udall says, it was 1967 and the uranium mining was on its way to shutting down. "The real tragedy was that mine ventilation was widely used technology," Udall says. The most dramatic improvements might have come from relatively simple installations, he says: "Hell, it was just *fans*."

Navajo surnames accumulated in Udall's lists of prospective plaintiffs: Yazzie, Begay, Charley, Nahkai. By the time of the 1983 U.S. District Court trial in Phoenix, Udall and Mahoney had gathered the health records of more than 200 former Navajo uranium miners who had been killed or disabled by lung disease. They had the accounts of men who drank the water that ran through uranium mines, who had eaten lunch in the mines and breathed facefuls of dust and come home at the end of the day to strip off their radioactive clothes and lay them atop the family laundry. "He used to hang his clothes by our beds, and all the dust would fall down into our clothes," the widow Pearl Nahkai was to testify at the congressional field hearing in Shiprock, her voice rising to a wail as Perry Charley translated into English from the rapid Navajo in which she described the work days of her miner husband. "We never knew the dust he was covered with was dangerous."

The Navajos' records were particularly striking, since lung cancer rates on the Navajo reservation had been unusually low before the onset of uranium mining, but Udall had also begun representing in a separate case the widows of 30 white miners who had mined uranium in Utah. Public Health Service surveys estimated that about 15,000 white and Indian miners worked the Southwest uranium pits through the mid-1960s, and among the 4,200 examined from the 1950s on in the PHS miners study, the death rate from lung cancer was five times higher than the expected average.

Government attorneys argued that some of the miners smoked cigarettes, that the link between their mining and the lung diseases remained unproven, that the government was legally exempt from this kind of lawsuit.

They argued that medical studies of the miners were part of a government effort to learn whether their health might actually be imperiled, and how appropriate safety standards might be determined. And when U.S. District Judge William Copple handed down his ruling in 1984, he found for the government and dismissed the Navajo miners' case. If a private citzen is harmed by the actions of government employees who were using their "discretion" in the execution of public policy, Copple ruled, the citizen cannot sue the government.

Udall had a phrase of considerable bitterness for this doctrine: "The king can do no wrong." His downwinders lost to it too; in 1986, two years after a U.S. district judge in Utah set national precedent by finding that some of the downwinders' cancers had been caused by goverment negligence in the nuclear testing program, an appellate court reversed the decision and said the government was immune from lawsuit over its actions in the tests.

And the white miners' widows from Utah, who did receive a settlement from the private mining companies they had sued, were also turned away in their effort to sue the government. Only this year's Las Vegas suit, which Dale Haralson will try with Udall on behalf of atomic test site workers who contracted cancer, remains to be litigated; every one of the other suits had by the late 1980s been thoroughly defeated in court. "This wasn't just losing cases," Udall says. "When you have put years of your life into something—when you've made that kind of commitment—it's a devastating experience, that's all."

He found it both heartening and frustrating that the trial judges who studied his evidence agreed with him that radiation had caused some of the cancers—that the government's quest for atomic superiority had indeed claimed American lives. "This tragedy of the nuclear age . . . cries out for redress," Copple wrote in his ruling dismissing the Navajos' suit. "Such relief should be addressed by the Congress."

The Congress appears to be paying attention; this month the Senate Judiciary Committee approved one version of the legislation that would provide lump sum payments to families of both miners and downwinders. It is not perfect legislation, from Udall's perspective, and the Justice Department has argued against some versions of the bills on the grounds that they might offer money to people whose illnesses could not definitively be linked to radiation exposure. But if the bills were signed into law, then some Southwestern families would receive both money and a kind of apology from the United States, and that is more than Udall has been able to wrest from the government in 11 years of trying.

"You have this old thing in athletics about character building," Udall says. "But if Congress would, in its—"

He hesitates for a moment; the word does not come to him. "If it would do something," Udall says. He is up from his chair, hands in his jeans pockets, pacing the living room. "It would be a good ending. Not the best ending. The best ending would have been that this would never have happened in the first place. And the second best would be that our system of justice would work. And the third ending, which at least will take a little of the bad taste away, would be to have a 'compassionate payment'."

Udall does not imagine his life might change much even if Congress does vote the way he hopes; he and his wife moved to Santa Fe last year from Phoenix, and they are living in an adobe rental while plans begin on a house an architect is designing for them. The site abuts a mountaintop, a grand sweep of Santa Fe and the mountains off to the west and north, and when they move, Udall plans to walk the two miles to and from his office as often as he can. He likes walking in Santa Fe, with the adobe walls and the narrow curving streets and the luminous air that makes painters put wild colors on their canvases, "People live simple lives here," he says. "It's wonderful. They're so glad to be here, they get by on much less. I'd rather make $30,000 and live here than $60,000 and live in New York or Washington.

And it is also possible, Udall observes, that even now the long road has no turn. "I'm not sitting here assuming this is done," Udall says. "this whole thing is going to land on the President's desk. It looks to me like that's where the final decision will be made, and we may all go home empty-handed, still. I try to be optimistic. But I've had so many disappointments, it's hard to keep your optimism up."

AN OPEN LETTER TO PRESIDENT BUSH

Mr. MOYNIHAN. Mr. President, Earth Day 1990 is almost upon us. Especially in light of that fact, I rise today to recognize a group of students from the Carrie E. Tompkins School in Croton-on-Hudson, NY, who have brought to my attention their serious concerns for the environment. These fourth-grade ecologists have made their concerns known by producing a 7-minute videotape entitled "An Open Letter to President Bush," a copy of which I have also forwarded to the White House.

While the open letter is an impressive achievement, the depth of knowledge that it evidences is just as significant. For these children have clearly mastered one of the difficult concepts of environmentalism. It is an international issue, a global imperative. How we behave at home affects both neighboring communities and neighboring nations. The students' efforts are most inspiriting.

To provide a framework for their efforts, they founded YES, the Young Ecologists' Society. They have raised money through recycling to purchase an acre of rain forest in Belize, and have adopted a whale. Indeed, their efforts were featured on Soviet television.

Mr. President, I commend the students and their teachers. And, of course, their parents. I do feel confident that we shall be leaving the environment to a responsible generation. And the ethic of responsibility is what best defines environmentalism. I urge all of my colleagues to view this videotape, and would be most pleased to provide it to them.

I thank the Chair.

EARTH DAY

Mr. MOYNIHAN. Mr. President, as we all know, this Sunday marks the second observance of Earth Day. This is a day for us to reflect on what we mean by "environmentalism." The first and best modern exposition of this idea was written by Aldo Leopold in "A Sand County Almanac": "an ethic dealing with man's relation to land and to the plants and animals that grow on it."

Two decades have passed since the first Earth Day of April 22, 1970. Much has happened in the intervening years. The Environmental Protection Agency was established in 1970 by President Nixon—and was ravaged during the early 1980's by President Reagan. But the EPA has survived and is slowly maturing. It seems near to certain that later this year, the Congress will elevate the EPA to a Cabinet level agency—The U.S. Department of the Environment.

Also in the two preceding decades, the Congress has enacted major environmental legislation. These laws have had as their goal the protection of the public health, and the preservation of the air, water, and soil.

In the two decades since the first Earth Day, we have learned much about what we call "the environment." The recent debate on the Senate floor over amendments to the Clean Air Act has shown that many problems are as yet unsolved. Clearly, the scope of our environmental awareness has expanded—from local issues, to regional and national problems, to global concerns. Citizens are no longer only concerned about the river running through their town or the local landfill although these are often issues that arouse strong emotions. Modern environmentalism is as much concerned with the stratosphere and the global climate.

I have said before that environmentalism is, above all, an ethic of responsibility. We are responsible for providing to posterity an environment to sustain and succor future generations as it does us. In the modern age, this can be among the most demanding of responsibilities. There are costs to be borne if we are to act responsibly. And of course, the costs are all too easily put off. It is not uncommonly argued that no price is too high for the protection of the environment. Try telling that to the coal miner, or auto worker who may lose his or her job as a result. Nevertheless, the costs, whether monetary or human, must be borne.

This ethic of responsibility led me to sponsor legislation to establish a national policy for the conservation of the Earth's biological diversity. The bill S. 2368 is a companion to a similar bill which has been introducted in the House by my good friend Congressman JAMES SCHEUER.

The bill recognizes that the plants and animals that grow on the earth are necessary for man's survival. Humanity uses these resources for food, clothing, and shelter. We must conserve these resources for those who follow us.

It is estimated that 25 to 50 percent of the Earth's species may become extinct during the next 30 years. Sadly, many of the losses may go unnoticed. The bill should help us understand the magnitude and impact of such loss.

It would establish a National Center for Biological Diversity and Environmental Research. This Center would be the focal point for research, data compilation, and dissemination of information on biodiversity. The bill would also create an interagency working committee to develop a coordinated Federal strategy for the conservation of biological diversity. A National Scientific Advisory Committee would oversee the implementation of the national strategy.

I would not argue that all extinctions of plant and animal species are preventable, or that we should make an effort to do so without limit. Extinction is a natural phenomenon. Ecological systems are dynamic—they are always evolving and changing. But the things we do, we should do knowingly. Only recently have we begun to recognize the often subtle impacts of our activities—how human activity can unintentionally upset delicate ecological balances.

The ecosystem in which we live is dynamic and resilient. Poke it here, and it bulges out somewhere else. It can take much of our abuse and show little sign of wear. But we have been surprised. Since 1975, it has been theorized that chlorofluorocarbons could harm the stratospheric ozone layer. But no one had expected the first manifestations to occur over the polar regions as is now suspected.

Clearly, there is still much to be learned—both about the Earth and the atmosphere, and about the plants and animals that inhabit it. About 1.4 million species of plants and animals have been identified and given scientific names. But there may be between 5 million and 80 million species all told. We do not yet know the true diversity of the Earth's biological community to the nearest order of magnitude. And we are losing many of these plants and animals even before we can learn their potential value or how they fit into the ecological niche.

As an ethic of responsibility, environmentalism must be founded on facts. Rhetoric should be based on knowledge, not emotion. Science—understanding—must guide policy. We must understand, and be able to explain, the effects of our actions to protect the environment—and, when challenged, we must be able to prove it. We must be able to account for the costs and to measure the benefits. We must not fear the facts—we must welcome them—for they are the basis for responsible actions.

But the technical issues are complex, and our understanding is incomplete. Knowledge is a long-term investment. The understanding of man's relation to land and the plants and animals that grow on it is never complete. It evolves. This is the scientific method, where theories are advanced, tested, refined and retested.

Continuing support for environmental research, environmental monitoring, data collection, and analysis is just one of the costs of our acting responsibly.

Indeed, I have included in the recent clean air bill an amendment to require economic impact analyses of the clean air requirements. That effort contemplates analysis on a scale never before performed. It may take decades—even generations—to develop the needed methodology, and to collect and analyze the necessary data. We mean to be around, worrying about such matters for a long time.

Earth Day 1990 is a cause for celebration. But it is a cause for work and for reflection as well. We must not only talk about preserving the environment, we must act—and act responsibly. The ethic of responsibility demands that we go beyond rhetoric. We must all take action to preserve and protect our environment—as individuals, as legislators, and as a nation and a world.

The theme for this Earth Day is to "think globally, act locally." To do so, we must know the facts. The consequences of our actions are often complex, but this should not lead to indecision and inaction. We must take responsible actions, based upon the science as we understand it. And we must continue to invest in expanding our knowledge. As knowledge grows, actions can be adapted.

Twenty years from now, we may have a third Earth Day. I hope those who look back on today will say that we have acted and invested well. An ethic of responsibility requires nothing less.

I yield the floor.

JIM WHITTAKER AND MOUNT EVEREST EARTH DAY 20—THE INTERNATIONAL PEACE CLIMB

Mr. KENNEDY. Mr. President, as we commemorate Earth Day this Sunday, a team of American, Soviet, and Chinese mountain climbers is making its way up Mount Everest and hopes to reach the summit next month.

The expedition, called the "International Peace Climb," is being led by Jim Whittaker, who in 1963 became the first American ever to climb Mount Everest. This current ascent is a demonstration of the international cooperation, commitment and teamwork that can be achieved when people of different nations and ideologies work together.

On April 22, we celebrate the 20th anniversary of the first Earth Day. In nations around the world, citizens will meet in their communities to seek better solutions to the myriad environmental problems that pose increasingly serious threats to the future of our planet.

Jim Whittaker and the International Peace Climb remind us that environmental problems know no political, geographical or cultural boundaries. They can only be overcome if all of us work together. In their journey to the peak, Jim Whittaker's team is collecting trash and debris that previous Everest expeditions have left behind on the slopes. From the highest mountain to the lowest valley to the deepest sea,

the worldwide environmental cleanup is beginning.

I commend Jim Whittaker and the entire international team for their extraordinary effort. May their example inspire each of us to climb the Mount Everests in our own lives and nations, and make our planet safe for future generations. I ask unanimous consent that the members of the team and an article about the climb may be printed in the RECORD.

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

MOUNT EVEREST EARTH DAY 20
INTERNATIONAL PEACE CLIMB TEAM MEMBERS

UNITED STATES

Jim Whittaker, Warren Thompson, Stephen Gall, Robert Link, Edmund Viesturs, Ian Wade, LaVerne Woods, Thomas Armstrong, Timothy O'Brien, Mark Tucker, Patricia Riley, Matt Krogh, Keren Su, Kurt Papenfus, M.D., Barbara Fromm, George Johnson, Egil Krogh, Jr., Ray Nichols, Michael Weidman, Laszlo Pal, Stephen Marts, John Yeager, Paul Thorndike, J. Daniel Bariault, Rusty Brennan, Matthew Krogh, Dianne Roberts.

SOVIET UNION

Vladimir Shatayev, Ervand Ilyinsky, Mistislav Gorbenko, Ekaterina Ivanova, Anatoly Moshnikov, Alexander Tokarev, Andrei Tselischev, Victor Volodin, Vitaly Medvedev, Edward Lipen.

CHINA

Losang Dawa, Luo Ze, Gyal Bu, Da Qimi, Ren Na, Gui Sang, Lou Tse, Ying Dao Shui, Losang Xue Deng, Wang Chia.

[From the Christian Science Monitor, Mar. 1, 1990]

MOUNTAINEERS GEAR UP FOR SUMMIT

(By Laura Van Tuyl)

Sometime on April 22—Earth Day, 1990—the top leaders of the Soviet Union, the United States, and China will receive an unusual phone call.

Crackling over the radio-to-satellite connection will come the voices of a Soviet, a Chinese, and an American mountain climber perched atop the world's highest peak—Mt. Everest.

Their message? Only by international friendship and cooperation can the highest goals on Earth be reached: world peace and a clean environment.

If the weather stays clear and the climbers' strength holds out, Jim Whittaker's dream will come true. After five years of planning, the world will witness the first international "Peace Climb," coinciding with the 20th anniversary of Earth Day.

"We'd be lucky if we could do it, but it's a good goal," says Mr. Whittaker with an air of modesty. The world-renowned mountaineer, and leader of the expedition, admits the extreme dangers of such a feat. He climbed to the summit in 1963—the first American to do so. But the very fact that these citizens will "rope up" together and form a team of people whose lives depend on one another is a symbolic act worth striving for, he says.

Under Whittaker's guidance, five teams will each have a chance to reach the 29,000-foot summit. Each three-person team will consist of one Soviet, one Chinese, and one American climber.

The 50-member, 3-month expedition will also "clean the world from the highest point down," says the ruddy Whittaker in an interview. "We've got big duffel bags we're going to fill with garbage that's been left there by previous expeditions—I left it there in 1963! That was the ethic back then—we didn't care about the environment."

Mt. Everest, on the border of Nepal and Tibet, is a veritable "junkyard," he says, with more than two tons of debris—old tents, cooking gear, empty oxygen bottles—scattered across its snowy slopes. Workers will load the refuse on yaks and haul it down to about 17,000 feet, where the Chinese have given them permission to bury it in specified areas.

Whittaker shuns the idea that the Peace Climb has lost any of its relevance due to *perestroika* and the sudden crumbling of communism in the East bloc.

"I think the timing is turning out to be fantastic," he says excitedly. "What about China? Everyone's still terrified about what's happening over there. My feeling is we don't want to have another Cold War with them like we've had with the Soviets."

Last summer, a practice climb on Mt. Rainier in Washington was almost canceled because of the Tiananmen Square crackdown. The shakedown climb was crucial to test equipment, build teamwork, and train the Chinese, who are less experienced in climbing technique than the Soviets and Americans.

Fortunately, the climbers (some from Beijing, some from Tibet) were able to leave, though the delay cut one week off the shakedown climb. A few months later, a second climb on Mt. Elbrus in the Soviet Caucasus went ahead as planned.

During training, an important lesson was overcoming language barriers. It was decided that English would be used for climbing commands and words such as "avalanche" and "falling."

"One of the Soviet climbers had an English translation book," says Whittaker, laughing, "but it was all nautical terms, so he said things like, 'Where do we drop anchor?'"

While communication is key, "on a mountain, you've got high winds, and you're 100 feet away from each other on a rope, so it's mostly grunts and signals. . . . If there's any really technical thing, they can radio down to an interpreter."

The practice climbs also let climbers sort out what food to bring. Tibetans live on yak-butter tea and a gruel-like substance made from wheat and legumes, says Whittaker. "They'll eat some of our food, but they prefer their own, which will be provided for them." The Soviets, however, "are more in tune with our style of eating," he adds. The 15,600 meals provided by the Americans for the expedition include potatoes and rice, dried fruit and nuts, fish, beef stew (in aluminum pouches), and 2,000 pounds of Kool-Aid.

Organizing the Peace Climb was not easy for Whittaker, who donned the robes of a diplomat to persuade the Soviet and Chinese governments to go along with the idea. Initially, the Chinese thought the project had merit, explains Whittaker, "but they said, 'We haven't had Soviets here for 30 years! We don't want to invite them if they don't want to come.'"

The Soviets didn't want to lose face either, he adds. "They said, "We don't want to invite ourselves unless we're sure the Chinese will have us.'" After months of shuttle diplomacy, Whittaker finally persuaded each country of the other's good faith.

Engendering enthusiasm and cooperation are among Whittaker's strong points, says Dr. Barry Bishop, who ascended Mt. Everest with Whittaker in 1963, and now heads the committee for research and exploration at the National Geographic Society. In addition, he says, "he has a dynamic personality to go with sound physical and technical abilities."

While the Peace Climb has already prompted good feelings among its participants, there have been practical benefits as well:

The Americans have educated the Soviet and Chinese teams about the ethic of "leaving only your footprints behind," says Whittaker, including throwing paper and wrappers inside one's tent rather than on the ground. And in meetings with Chinese officials, it was agreed that all future expeditions to Mt. Everest will leave a "damage deposit" for the mountain. "If they don't clean up their debris, then the monies they've put down will be used to pay the Tibetans to clean up."

With the political conflict behind China and Tibet, it was significant that Chinese officials asked the Tibetans to climb and worked with them to carry the project forward, Whittaker says.

The Peace Climb demonstrates grass-roots activism. "Any good political movement starts with the citizens," says Whittaker. "That's how the Berlin Wall came down."

FIFTY TONS OF FALLING SNOW AND ICE

Getting down Mt. Everest is just as tough as climbing to the top. Jim Whittaker, the first American to reach the summit and leader of the upcoming Mr. Everest International Peace Climb, recalls one moment during his historic 1963 climb.

After 20 minutes on the summit, Whittaker and Nawang Gombu, his Sherpa guide, started down over a cornice of snow and ice with a 70-degree slope and a 10,000-foot drop.

"I was anchor man for Gombu who was 60 feet in front of me, going down the track I laid on the way up. The rope was almost taut. Suddenly, the cornice broke off right in front of me and took half the track out and came out right behind Gombu—50 tons of snow and ice dissolved in a roar on the Kangshung face!"

In a stupor from lack of oxygen, "I simply looked down and thought 'Gee, I better move over a foot.' Two days later down at base camp, I got goose flesh. If we'd gone down that thing, no one would ever know what had happened to us."—L.V.T.

THE ANTICS OF A MISGUIDED DESPOT

Mr. PELL. Mr. President, many of my fellow Senators have been disappointed, if not surprised, by the drumbeat of disclosures in recent weeks indicating that Iraq's thoroughly unpleasant leader, Saddam Hussein, seems determined to make that nation a full-fledged outlaw.

We have all read recent press reports regarding Iraqi efforts in the fields of chemical, biological, and nuclear weapons. Saddam Hussein has lent credence to it all by mouthing vile threats to use chemical weapons

against Israel. Since Iraq already has used chemical weapons repeatedly against Iran, in clear violation of international law, and has felt free to gas its own citizens, the Kurds, these recent threats have to be taken seriously.

We also must treat seriously apparent efforts to get parts for nuclear devices and other weapons, no matter how bizarre the reports may sound.

Unfortunately, Saddam Hussein's rantings have struck a responsive chord in some quarters of the Arab world. I would urge those in that part of the world to beware the siren song of this fellow, for his is not the way to a fair peace but to conflict and continued suffering.

Frankly, I believe that responsible Arab leaders will see through Saddam Hussein and recognize him for what he is—a murderous despot lacking common sense, who is leading his nation along a very risky course in which the lightest penalty he can expect is ostracism by much of the civilized world.

Mr. President, the world is becoming increasingly aware of and disgusted by Saddam Hussein's activities. In this connection, I would like to bring to the attention the text of a resolution approved earlier this month by the European Parliament. I ask unanimous consent that the text of the resolution be printed in the RECORD following my remarks.

Thank you, Mr. President.

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

RESOLUTION

The European Parliament,

A. Having regard to the genocide policy ruthlessly and consistently applied by the Iraqi regime against the Kurdish people and recalling the chemical bomb attacks carried out by the Iraqi Air Force on the civilian population of Halabja on 17 March 1988, causing 5,000 deaths,

B. Having regard to the responsibility that lies with the foreign states which have equipped and are still equipping the Iraqi Army with deadly offensive weapons for its genocide policy against the Kurdish people, unclassified,

C. Deeply shocked at the barbarous decree issued by the Iraqi Revolutionary Command Council on 28 February 1990, abolishing all forms of punishment for men who kill female members of their family—mothers, daughters, sisters, aunts, nieces or cousins—who have committed adultery,

D. Recalling execution on 15 March 1990 of Mr. Farzad Bazoff, a British journalist, on the orders of Saddam Hussein and on a false conviction of espionage,

E. Taking a serious view of the Iraqi attempt to import nuclear weapon components, as reported in London on 28 March 1990, which confirms the Iraqi regime's intention of equipping itself with nuclear weapons, despite having signed the International Nuclear Non-Proliferation Treaty,

F. Denouncing the statement on 2 April 1990 in which Saddam Hussein put into words the threat to deploy chemical weapons against the population of the state of Israel,

G. Recalling its many previous resolutions on human rights violations in Iraq,

(1) Condemns Saddam Hussein's regime for its aggressive attitude to foreign countries and the Iraqi population and in particular for the massacres perpetrated against the Kurdish people;

(2) Insists that it is imperative that member states, through the foreign ministers meeting in European political cooperation, consider ways of preventing Iraq from acquiring nuclear weapons in defiance of its obligations under the Nuclear Non-Proliferation Treaty, and submit proposals to this end at the review of the working of the treaty in August 1990;

(3) Calls on all member states immediately to impose a ban on the export and delivery to Iraq of all material essential for the production of weapons of mass destruction;

(4) Calls on the Secretary-General of the United Nations to make the necessary arrangements for the convening of the U.N. Security Council as soon as possible so that consideration may be given to an appropriate response by the international community to the treaty posed by the Iraqi regime to world security;

(5) Urges in this context the member states to promote cooperation with other states, especially with permanent members of the Security Council, willing to consider joint measures to prevent Iraq from acquiring more weapons of mass destruction;

(6) Calls on the Council and the foreign ministers meeting in European political cooperation to take the appropriate measures vis-a-vis Iraq;

(7) Instructs its President to forward this resolution to the Commission, the Council, the foreign ministers meeting in European political cooperation, the governments of the member states, the Secretary-General of the United Nations and the Iraqi Government.

STUDENTS PLEAD FOR THE ENVIRONMENT BEFORE INTERNATIONAL COURT OF JUSTICE

Mr. MOYNIHAN. Mr. President, I rise today to commend a group of ambitious, scholarly high school students, five of whom are from New York State.

Today, at the International Court of Justice in The Hague, Netherlands, a group of 15 high school students, 5 each from Northport High School in Northport, NY, Antwerp International School, Antwerp, Belgium, and School No. 1129, Moscow, U.S.S.R., will present "A Treaty to Decrease the Deforestation and to Encourage the Reforestation of the Globe." This is truly an historic occasion, the first time that high school students have made such a presentation before the International Court of Justice.

I take great comfort in the accomplishments of these students. First, I would cite the students' recognizance of the fact that we are speaking of global issues, topics worthy of international attention. Even as the administration continues to resist participation in international efforts to address global warming, these students have chosen an international arena in which to discuss the plight and protection of our forests. Which leads me to my second point, one of international law.

I have spoken of international law many times on this floor. And of how our Nation seems to have lost sight of its longstanding, well-conceived commitment to international law. I have tried to impress—admittedly, often without effect—upon my colleagues in this body and the administration that international law is in fact useful and can in this post-cold war era help to establish the more normal world order we are seeking, an order similar to the one Woodrow Wilson envisioned at the beginning of this century. These young students are doing the same. Quite possibly with more effect.

They are applying international norms of conduct to an issue which may ultimately be resolved only through such norms. Remarkably prescient. I do hope their work will set some sort of example for our Government and like governments around the world, all of whom would do well to be as cognizant of international law and as mindful of environmental issues as these fine youngsters are.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 644. An act to amend the Wild and Scenic Rivers Act by designating segments of the East Fork of the Jemez and Pecos Rivers in New Mexico as components of the National Wild and Scenic Rivers System.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 644. An act to amend the Wild and Scenic Rivers Act by designating segments of the East Fork of the Jemez and Pecos Rivers in New Mexico as components of the National Wild and Scenic Rivers System.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, April 20, 1990, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 242. Joint resolution designating the week of April 22 through April 28, 1990, as "National Crime Victims Rights Week."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2821. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the President's third special impoundment message for 1990; jointly referred pursuant to order of January 30, 1975, as modified by order of April 11, 1986, to the Committee on Appropriations, the Committee on Budget, and the Committee on Armed Services.

EC-2822. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation entitled "The Fiscal Agent Reimbursement Act of 1990"; to the Committee on Appropriations.

EC-2823. A communication from the Acting Director of the Defense Security Assistance Agency, Department of Defense, transmitting, pursuant to law, information concerning the Department of the Navy's proposed letter(s) of Offer and Acceptance to Turkey for Defense Articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-2824. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on Allied Contributions to the Common Defense; to the Committee on Armed Services.

EC-2825. A communication from the Principal Deputy Comptroller of the Department of Defense, transmitting, pursuant to law, a contract award report for the period May 1, 1990 to June 30, 1990; to the Committee on Armed Services.

EC-2826. A communication from the Deputy Assistant Secretary of the Department of the Air Force, transmitting, pursuant to law, notice of the conversion of the Security Police and Fire Operations at Indian Springs Air Force Auxiliary Field, NV, to performance by contract; to the Committee on Armed Services.

EC-2827. A communication from the Secretary of Defense, transmitting, pursuant to law, the unclassified version of the 1990 Joint Military Net Assessment reflecting conditions as of the end of January 1990; to the Committee on Armed Services.

EC-2828. A communication from the Secretary of Defense, transmitting, pursuant to law, the annual report of the Department of Defense Reserve Forces Policy Board for fiscal year 1989; to the Committee on Armed Services.

EC-2829. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report entitled "Alternative Methods of Funding Public Housing Modernization"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2830. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on the Rural Housing Demonstration Housing Program; to the Committee on Banking, Housing, and Urban Affairs.

EC-2831. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the Electric and Hybrid Vehicles Program for fiscal year 1989; to the Committee on Commerce, Science, and Transportation.

EC-2832. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notification of an extension of time for issuing a final decision in Finance Docket No. 31387, Canadian National Railway Company—Lease from Grand Truck Western Railroad Company; to the Committee on Commerce, Science, and Transportation.

EC-2833. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to reauthorize and amend the Coastal Zone Management Act of 1972, as amended, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-2834. A communication from the Deputy Under Secretary of Commerce (Travel and Tourism), transmitting, pursuant to law, the fiscal year 1991 marketing plan of the U.S. Travel and Tourism Administration; to the Committee on Commerce, Science, and Transportation.

EC-2835. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayment of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2836. A communication from the Secretary of Energy, transmitting a draft of proposed legislation entitled the "Waste Isolation Pilot Plant Land Withdrawal Act"; to the Committee on Energy and Natural Resources.

EC-2837. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2838. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2839. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the Office of Surface Mining Reclamation and Enforcement for 1988 and 1989; to the Committee on Energy and Natural Resources.

EC-2840. A communication from the Director of the Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, a draft environmental assessment of the proposed North Las Vegas land transfer; to the Committee on Energy and Natural Resources.

EC-2841. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on abnormal occurrences at licensed nuclear facilities for the fourth calendar quarter of 1989; to the Committee on Environment and Public Works.

EC-2842. A communication from the Chairman and Directors of the Tennessee Valley Authority, transmitting, pursuant to law, the annual report of the Authority for fiscal year 1989; to the Committee on Environment and Public Works.

EC-2843. A communication from the Under Secretary of Commerce (Oceans and Atmosphere), transmitting, pursuant to law, the report of the National Oceanic and Atmospheric Administration report entitled "Stratospheric Ozone: The State of the Scence and the NOAA's Current and Future Research"; to the Committee on Environment and Public Works.

EC-2844. A communication from the Acting Administrator of General Services, transmitting, pursuant to law, an amended report of building project survey for the consolidation of the Internal Revenue Service national office in suburban Maryland; to the Committee on Environment and Public Works.

EC-2845. A communication from the Board of Trustees of the Federal Hospital Insurance Trust Fund, transmitting, pursuant to law, the 1990 annual report of the Board; to the Committeee on Finance.

EC-2846. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the recommendations for Medicare Volume Performance Standard rates for fiscal year 1991; to the Committee on Finance.

EC-2847. A communication from the Secretary of State, transmitting, pursuant to law, a report on the activities of the United Nations Educational, Scientific and Cultural Organization since the United States withdrawal on December 31, 1984; to the Committee on Foreign Relations.

EC-2848. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60 day period prior to April 12, 1990; to the Committee on Foreign Relations.

EC-2849. A communication from the Secretary of State, transmitting, pursuant to law, a Presidential determination and certification to permit United States contributions to the International Fund for Ireland and Northern Ireland; to the Committee on Foreign Relations.

EC-2850. A communication from the Director of the Peace Corps, transmitting a draft of proposed legislation to authorize appropriations for activities under the Peace Corps Act for fiscal year 1991, and for other purposes; to the Committee on Foreign Relations.

EC-2851. A communication from the President of the National Endowment for Democracy, transmitting, pursuant to law, the first annual report of the Endowment under the Inspector General Act Amendments; to the Committee on Governmental Affairs.

EC-2852. A communication from the Secretary of the Commission of Fine Arts, transmitting, pursuant to law, the annual report of the Commission under the Inspector General Act Amendments; to the Committee on Governmental Affairs.

EC-2853. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "Attracting and Selecting Quality Applicants for Federal Employment"; to the Committee on Governmental Affairs.

EC-2854. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-190 adopted by the Council on March 27, 1990; to the Committee on Governmental Affairs.

EC-2855. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-191 adopted by the Council on March 27, 1990; to the Committee on Governmental Affairs.

EC-2856. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit: Federal Crop Insurance Corporation's Fiscal Year 1988 Financial Statements"; to the Committee on Governmental Affairs.

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. LEVIN (for himself and Mr. JEFFORDS):

S. 2479. A bill to reduce funding for the MX rail-garrison missile system; to the Committee on Armed Services.

By Mr. D'AMATO (for himself, Mr. MACK, and Mr. WILSON):

S. 2480. A bill to restrict United States assistance for the Republic of Iraq until that country opens to international inspection sites suspected of being involved in the production of nuclear, chemical and biological weapons and ratifies the Convention on Biological Weapons; to the Committee on Foreign Relations.

By Mr. THURMOND:

S. 2481. A bill to amend title 18, United States Code, with respect to possession of materials involving sexual exploitation of minors; to the Committee on the Judiciary.

By Mr. CRANSTON (by request):

S. 2482. A bill to clarify the eligibility of certain minors for burial in national cemeteries and to authorize use of flat grave markers in a section of Florida National Cemetery.

S. 2483. A bill to amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes; to the Committee on Veterans' Affairs.

S. 2484. A bill to amend title 38, United States Code, to improve the housing loan program for veterans by reducing administrative regulation, enhancing the financial solvency of such program and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CHAFEE (for himself and Mr. PELL):

S. 2485. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide financial assistance for the operation and maintenance of State veterans' cemeteries, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ARMSTRONG (for himself and Mr. SYMMS):

S. 2486. A bill to amend the Internal Revenue Code of 1986 to provide civil damages for certain unauthorized determinations of income tax; to the Committee on Finance.

By Mr. HARKIN:

S. 2487. A bill to provide for the establishment of a program to provide incentives and assistance to agricultural producers to reduce the potential for contamination for degradation of surface water and ground water, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BOSCHWITZ:

S. 2488. A bill for the relief of Michelle Ellen Prusinski; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. BOSCHWITZ, Mr. HARKIN, Mr. PRYOR, Mr. FOWLER, Mr. DASCHLE, Mr. CONRAD, Mr. KERREY, Mr. BAUCUS, Mr. MITCHELL, Mr. SASSER, Mr. DECONCINI, and Mr. FORD):

S. 2489. A bill to improve the nutritional health of needy Americans, to provide emergency food assistance, to authorize several vital nutrition programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LUGAR:

S. 2490. A bill entitled the "Pesticide Safety Improvement Act of 1990"; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DANFORTH (for himself, Mr. BOND, Mr. DOLE, and Mr. WALLOP):

S.J. Res. 295. A joint resolution proposing an amendment to the Constitution of the United States to prohibit the Supreme Court or any inferior court of the United States from ordering the laying or increasing of taxes; to the Committee on the Judiciary.

By Mr. SPECTER:

S.J. Res. 296. A joint resolution designating August 7, 1990, as "National Neighborhood Crime Watch Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself and Mr. JEFFORDS):

S. 2479. A bill to reduce funding for the MX rail-garrison missile system; to the Committee on Armed Services.

(The statement of Mr. LEVIN and the text of the legislation appear earlier in today's RECORD.)

By Mr. D'AMATO (for himself, Mr. MACK, and Mr. WILSON):

S. 2480. A bill to restrict United States assistance for the Republic of Iraq until that country opens to international inspection sites suspected of being involved in the production of nuclear, chemical and biological weapons and ratifies the Convention on Biological Weapons; to the Committee on Foreign Relations.

RELATING TO THE PRODUCTION OF NUCLEAR, CHEMICAL, AND BIOLOGICAL WEAPONS BY THE REPUBLIC OF IRAQ

Mr. D'AMATO. Mr. President, I rise to introduce with my good friend, Senator MACK, a bill to impose economic sanctions against Iraq. These sanctions will remain in place until Iraq opens to international inspection sites suspected of developing or producing nuclear, chemical, and biological weapons. Until that happens, we should call upon all nations to join us in imposing economic sanctions against Iraq.

In the last 2 weeks, the press has reported on: First, the arrest of six men attempting to smuggle nuclear triggers to Iraq, second, the seizure of the components of a super cannon being smuggled to Iraq under the guise of oil equipment, third, the development of biological weapons by Iraq, and fourth, President Hussein's—the Butcher of Baghdad's—threat to wage chemical warfare against Israel.

Mr. President, when I talk about a cutting off and imposing economic sanctions with Iraq, people may say, "Well, what does the United States do with Iraq? Why should we do this?" I will try to answer those two questions.

First of all, last year and continuing into this year, this country purchased, on an average, almost a half-million barrels, 500,000 barrels of oil a day from Iraq. That is more than $2 billion worth of oil that we purchase from Iraq every year. OPEC is flooded. Let them put that oil on the market. Why should we be subsidizing a madman who threatens the use of chemical warfare, who has used chemical warfare against his own people, who has used it against the Kurds, who has used it in the Iranian conflict, and who threatens to use it again? It does not make sense.

So here we are, last year, 447,000 barrels of oil per day, to be precise. We do not have to have them compete and put that on the oil markets of the world for bringing down the cost of energy. I suggest that is not a bad thing. But if we are importing over $2 billion worth of oil from the Butcher of Baghdad, I think it is outrageous. Let me tell you how much further we have gone. I do not know if the American people know this.

We are talking about terrorists, being benevolent, and maybe allowing some hostages out, and who is behind this thing? The Iraqis, Syrians, where on bended knee are the Iranians. I wonder what kind of policy we have. The news media of the world is focusing in on this. We are being played along with that family and all of those hostages. Maybe we will get one out. That would be nice. What about the others? Does that minimize what is taking place?

Take a look at it. Last year we provided $700 million in loan guarantees and insurance to Iraq—$500 million was used for loans to purchase grain here in this country. I think that is outrageous. I think it is inexcusable. We are subsidizing a terrorist nation.

We have been given to understand that this year he is looking for a $1 billion loan guarantee—$1 billion.

So while we talk about the problems that we are having with the terrorist nation, while we are living in fear that he is building chemical warfare plants, that he is looking for a delivery system now, where he is looking to hold Israel hostage and has made the threats that he has, he is looking to develop nuclear capabilities, what do we do? We look to assistance.

This bill would put an end to this. It would halt all assistance, defined as "any assistance which is provided by grant, sale, loan, lease, credit, guaranty, or insurance" provided by the United States Government to Iraq.

It would require all United States directors sitting on boards of all multilateral lenders to vote against assistance to Iraq.

It would suspend trade preferences and apply additional duties on goods.

I think it is time that this country used every influence it has against Hussein to halt the deadly course which he is set upon.

Yes, economic pressure is one of those ways. Our Nation should be in the forefront letting him know that he cannot have our benefits and be a terrorist nation because that is what he is. Let him sell his oil and ply his trades elsewhere. We should make it absolutely clear that his activities cannot and will not be tolerated.

As Hussein has claimed, the press has maligned him, and he should be eager to open the suspected sites to international inspection, ratify the Convention on Biological Weapons, and contribute to peace in a meaningful way.

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

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

S. 2480

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

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) indisputable evidence exists that Iraq used chemical weapons both in its war with Iran and against its own Kurdish minority;

(2) Iraq has sought through means legal and illegal to acquire the technology necessary to develop and build nuclear weapons;

(3) Iraq has flaunted its obligations under the Geneva Convention and the Nuclear Non-Proliferation Treaty;

(4) Iraq has failed to ratify the Convention on Biological Weapons and may be developing such weapons; and

(5) President Hussein has threatened, without provocation, to destroy the State of Israel by using chemical weapons.

SEC. 2. RESTRICTION ON ASSISTANCE FOR IRAQ.

(a) RESTRICTION ON ASSISTANCE.—Unless the President certifies to the Congress that the Government of Iraq has opened suspect sites to international inspection and ratified the Convention on Biological Weapons, no United States assistance (including funds appropriated before the date of enactment of this Act) may be furnished for Iraq.

(b) DEFINITION.—For the purposes of this section, the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government to any foreign country, including—

(1) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of such Act);

(2) sales, credits, and guaranties under the Arms Export Control Act;

(3) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(4) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities; and

(5) financing under the Export-Import Bank Act of 1945.

SEC. 3. SUSPENSION OF MULTILATERAL ASSISTANCE.

Unless the President makes the certification described in section 2(a), the Secretary of the Treasury shall instruct the United States executive directors of the International Monetary Fund, the International Bank for Reconstruction and Development, and the International Development Association to vote against any loan or other utilization of the funds of their respective institutions to or for Iraq.

SEC. 4. SUSPENSION OF AIR TRAVEL.

(a) IN GENERAL.—Unless the President makes the certification in section 2(a)—

(1) the President shall direct the Secretary of Transportation to revoke the right of any air carrier designated by the Government of Iraq under the air transportation agreement between the United States and that country to provide service pursuant to that agreement;

(2) the Secretary of State shall terminate that agreement in accordance with the provisions of that agreement;

(3) upon termination of that agreement, the Secretary of Transportation shall prohibit any aircraft of a foreign air carrier owned, directly or indirectly, by the Government of Iraq or by nationals of that country from engaging in air transportation with respect to the United States; and

(4) the Secretary of Transportation shall provide for such exceptions from the prohibition contained in paragraph (3) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(b) DEFINITION.—For purposes of this section, the terms "aircraft", "air transportation", and "foreign air carrier" have meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

SEC. 5. DENIAL OF TRADE PREFERENCES AND IMPOSITION OF ADDITIONAL DUTY.

Notwithstanding any other provision of law, unless the President makes the certification described in section 2(a)—

(1) the President shall terminate, withdraw, or suspend any portion of any trade agreement or treaty to the extent the agreement or treaty requires the provision of nondiscriminatory (most-favored-nation) trade treatment to Iraq,

(2) Iraq shall be denied nondiscriminatory (most-favored-nation) trade treatment by the United States and the products of Iraq shall be subject to the rates of duty set forth in rate of duty column number 2 of the Harmonized Tariff Schedule of the United States,

(3) the provisions of title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) shall not apply with respect to the products of Iraq,

(4) the products of Iraq that do not receive duty-free treatment on the day before the date of enactment of this Act shall be subject to an additional duty at the rate of 50 percent ad valorem.

By Mr. THURMOND:

S. 2481. A bill to amend Title 18, United States Code, with respect to possession of material involving sexual exploitation of minors; to the Committee on the Judiciary.

ANTI-CHILD PORNOGRAPHY POSSESSION ACT OF 1990

Mr. THURMOND. Mr. President, I rise today to introduce legislation which will greatly enhance our Nation's efforts to eradicate child pornography. The Anti-Child Pornography Possession Act of 1990 prohibits the possession or viewing of child pornography.

In the 100th Congress, the Senate passed the Child Protection and Obscenity Enforcement Act of 1988 by a unanimous vote of 97 to 0. Shortly thereafter, it was enacted into law. This important legislation, which I introduced with 44 cosponsors, was carefully drafted to give Government a strong weapon for fighting child pornography and obscenity. Although pleased that this act was signed into law, it is now vitally important that our past legislative success be strengthened.

Mr. President, protecting our children from the heinous crime of sexual exploitation must be undertaken with strong resolve. There are no assets more precious than the youth of our Nation. Yet, our children face a constant threat of becoming victims of this heinous crime. When children are used for illicit pornography, no stone should be left unturned to ensure these acts do not recur and that those who commit and further them are severely punished. We cannot ignore the harm to these innocent victims as the harm to them and loss to their families is immeasurable.

Congress, in order to insure that our children are protected from further harm, must continue to reexamine our laws as the child pornography industry constantly undertakes efforts to circumvent them. We must continue to strengthen our Nation's criminal laws in order to stamp out this vice at all levels in the distribution chain. Since the child pornography market has, in large part, been driven underground, we cannot solve the problem by only attacking the production or distribution of child pornography.

This bill meets this challenge by expanding the scope of prohibited activities relating to child pornography.

Under current law, it is a crime to knowingly transport, distribute, receive or reproduce any child pornography which has traveled in interstate or foreign commerce. Unfortunately, those who simply possess or view this material are not covered by current law. This bill addresses this insufficiency because those who possess and view child pornography encourage its continual production and distribution. The "Anti-Child Pornography Possession Act of 1990" makes it a Federal offense to knowingly view or possess sexually explicit conduct involving minors. Violators of this legislation would be subjected to as much as 10 years imprisonment.

Mr. President, this should not be a controversial measure. Nineteen States have found it necessary to proscribe the possession of this heinous material. It is time the Federal Government did so as well.

In fact, there can be no question about the constitutionality of this legislation. On April 18, the U.S. Supreme Court ruled, in the case of Osborne versus Ohio, that given the seriousness of child pornography, the possession and viewing of such material may be proscribed. The Court noted that the compelling interests of protecting the physical and mental well being of minors and in destroying the market for child pornography certainly outweigh the de minimis value of this material. In fact, the Court noted that such laws encourage possessors to destroy the illicit material which, available evidence suggests, may be used by pedophiles to seduce other children for production of child pornography.

In closing, the sexual exploitation of a child is one of the most heinous crimes any person can commit. Those who posses and view this material comprise the market for this underground industry. Frankly, I am at a loss to find acts which are more despicable, heinous, and deserving of such serious penalties than the sexual exploitation of our young people. This measure is crucial to stemming the flow of vicious crimes against children and the exploitation of them. Tough penalties for the possession, viewing, and dissemination of this material will be a deterrent to those who would use children to produce this illicit material. Those who steal the innocence away from our children must face harsh punishment. I urge Members of this body to support this legislation and any Senator who wishes to cosponsor this legislation can contact either my staff or the committee.

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. 2481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Anti-Child Pornography Possession Act of 1990".

SECTION 1. That section 2252(a) of Title 21, United States Code, is amended—

(1) by striking "or" after the end of paragraph (1);

(2) by inserting "or" after the ";" at the end of paragraph (2); and

(3) by adding at the end of paragraph (2) the following new paragraph:

"(3) knowingly possesses or views any visual depiction that has been transported or shipped in interstate or foreign commerce, or has reason to know that such visual depiction will be transported or shipped in interstate or foreign commerce, by any means including by computer or mail, if—

"(A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(B) such visual depiction is of such conduct;".

By Mr. CRANSTON (by request):

S. 2482. A bill to clarify the eligibility of certain minors for burial on national cemeteries and to authorize the use of flat grave markers in a section of Florida National Cemetery; to the Committee on Veterans' Affairs.

NATIONAL VETERANS CEMETERIES

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2482, a bill to clarify the eligibility of veterans' children for burial in national veterans' cemeteries and to authorize flat markers in a portion of one such cemetery. The Secretary of Veterans Affairs submitted this legislation by letter dated April 13, 1990, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the April 13, 1990, transmittal letter.

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

S. 2482

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

SECTION 1. That paragraph (5) of section 1002, title 38, United States Code, is amended by adding the following to the end thereof:

For purposes of this paragraph, a "minor child' is a child under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution.

SEC. 2. Notwithstanding section 104(c)(2) of title 38, United States Code, the Secretary may provide for flat markers in that section of the Florida National Cemetery in which, as of July 29, 1988, pre-placed graveliners had been installed.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, April 13, 1990.

Hon. DAN QUAYLE,
President of the Senate, Room 212, the Capitol,
Washington, DC.

DEAR MR. PRESIDENT: I am forwarding draft legislation to clarify the eligibility of veterans' children for burial in our national cemeteries, and to authorize flat markers in a portion of one such cemetery. I respectfully request its introduction and enactment.

Among those authorized interment under 38 U.S.C. § 1002 of title 38, United States Code, are the minor children of veterans and certain others eligible for national-cemetery burial. The term "minor child" is not further defined statute, a situation we seek to remedy.

When Congress enacted the National Cemeteries Act of 1973, transferring from the Department of Army to VA the responsibility for operating national cemeteries, it reenacted without change the prior title 24 provisions regarding eligibility. The Department of Army, in exercising its authority, had interpreted title 24's "minor child" provision as including children under age 21. Because Congress indicated an intent that similar eligibility rules should apply under VA's stewardship of the cemetery system, this Department employs in its regulation (38 C.F.R. § 1.620(g)) the same definition as had Army, with one exception. Our regulation permits recognizing as minor children others under age 23 while they are attending approved educational institutions, in keeping with the general definition of "child" for title 38 purposes.

We request that this definition be codified in order to avoid confusion. The title 38 definition of "child" (38 U.S.C. § 101(4)) is in one significant respect more restrictive than our definition of "minor child" for purposes of burial eligibility. Under section 101(4) an individual is generally not considered a "child" after reaching age 18 unless, as indicated above, pursuing an education (in which case age 23 is the upper limit). We do not believe Congress intended to so limit burial eligibility.

Because enactment of our proposal would effect only a technical clarification of the law as currently being applied, there would be no attendant costs or savings.

The second purpose for our bill is to address a situation involving a portion of only one of our cemeteries, Florida National Cemetery. This cemetery, which opened in 1988, was designed before legislation requiring upright grave markers went into effect. As part of the construction project, pre-placed graveliners were installed in a large section of the cemetery. These are for graves measuring three feet by eight feet, an insufficient size to accommodate upright markers. The original plan had been to employ flat markers throughout the new cemetery. Between one and two million dollars was invested in the pre-placed graveliners.

Because of current law requiring the use of upright markers, VA is not burying in this section of the cemetery. Our legislation would provide authorization to employ flat markers in only that portion so that the land and the existing graveliners can be used. Veterans' families would be offered the option of burials in that section, or in the remainder of the cemetery where upright markers would continue to be used.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this legislative proposal to the Congress.

Sincerely yours,

EDWARD J. DERWINSKI.

By Mr. CRANSTON (by request):

S. 2483. A bill to amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' EDUCATIONAL ASSISTANCE IMPROVEMENTS ACT

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2483, the proposed Veterans' Educational Assistance Improvements Act of 1990. The Secretary of Veterans Affairs submitted this legislation by letter dated April 12, 1990, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the April 12, 1990, transmittal letter and enclosed section-by-section analysis.

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

S. 2483

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

SECTION 1. SHORT TITLE: REFERENCES TO TITLE 38, UNITED STATES CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Educational Assistance Improvements Act of 1990".

(b) REFERENCES TO TITLE 38.—Except as otherwise specifically provided, whenever in the Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; references to title 38, United States Code; table of contents.

TITLE I—EDUCATIONAL ASSISTANCE AND VOCATIONAL REHABILITATION PROGRAM IMPROVEMENTS

Sec. 101. Accepting Alternate Secondary School Credentials For Montgomery GI Bill Eligibility.

Sec. 102. Vocational Rehabilitation for Disabled Servicepersons Pending Discharge.

Sec. 103. Extension of the Period Preceding Automatic Disenrollment Under Chapter 32.

Sec. 104. Provision for Certain Individuals to Eliminate an Overpayment by Performing Work-Study Services.

TITLE II—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Sec. 201. Clarification that an Honorable Discharge is a Requirement for Chapter 30 Participants.

Sec. 202. Elimination of Rehabilitation Subsistence Allowance Advance Payment.

Sec. 203. Deletion of Provision for Advance Payment of the Work-Study Allowance.

Sec. 204. Clarification of Education Programs for Which Expenses Incurred by State Approving Agencies Will be Reimbursed.

TITLE I—EDUCATIONAL ASSISTANCE AND VOCATIONAL REHABILITATION PROGRAM IMPROVEMENTS

SEC. 101. ACCEPTING ALTERNATE SECONDARY SCHOOL CREDENTIALS FOR MONTGOMERY GI BILL ELIGIBILITY.

(1) Section 1411(a)(2) is amended by striking out "(or an equivalency certificate)" and inserting in lieu thereof "(or the equivalent as determined pursuant to regulations prescribed by the Secretary concerned)".

(2) Section 1412(a)(2) is amended by striking out "(or an equivalency certificate)" and inserting in lieu thereof "(or the equivalent as determined pursuant to regulations prescribed by the Secretary concerned)".

(3) Section 1418(b)(4) is amended by striking out "(or an equivalency certificate)" and inserting in lieu therof "(or the equivalent as determined pursuant to regulations prescribed by the Secretary concerned)".

(4) Section 2132(a)(2) of title 10, United States Code, is amended by striking out "(or an equivalency certificate)" and inserting in lieu thereof "(or the equivalent as determined pursuant to regulations prescribed by the Secretary concerned)".

SEC. 102. VOCATIONAL REHABILITATION FOR DISABLED SERVICEPERSONS PENDING DISCHARGE.

Section 1502(1)(B) is amended by striking out "for a service-connected disability" and all that follows through "determines" and inserting in lieu thereof "or receiving outpatient medical care, services, or treatment for a service-connected disability pending discharge from the active military, naval, or air service, and the Secretary determines that—

"(i) the hospital (or other medical facility) providing the hospitalization, care, services, or treatment either is doing so under contract or agreement with the Secretary concerned or is under the jurisdiction of the Secretary concerned; and

"(ii) the person is suffering from a disability which".

SEC. 103. EXTENSION OF THE PERIOD PRECEDING AUTOMATIC DISENROLLMENT UNDER CHAPTER 32

Section 1632(b)(1) is amended by inserting before the comma "and at the end of one year thereafter has not filed a claim for utilizing such entitlement".

SEC. 104. PROVISION FOR CERTAIN INDIVIDUALS TO ELIMINATE AN OVERPAYMENT BY PERFORMING WORK-STUDY SERVICES.

(a) IN GENERAL.—(1) Section 1685 is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraph (2) of this subsection, the Secretary may, notwithstanding any other provision of this title or of any other law, enter into or modify an agreement made under this section with an individual whereby the individual agrees to perform services of the kind described in clauses (1) through (5) of subsection (a)(1) of this section and agrees that the Secretary shall deduct the work-study allowance otherwise payable for such services, as provided in subsection (a) of this section, from the amount which the individual has been determined to be indebted to the United States by virtue of such individual's participation in a benefit program under this chapter, chapter 30, 31, 32, 35, or 36 (other than an education loan under subchapter III) of this title, or chapter 106 of title 10, United States Code.

"(2)(A) Subject to subparagraph (B) of this paragraph, the provisions of this section (other than those provisions which are determined by the Secretary to be inapplicable to an agreement under this subsection) shall apply to any agreement authorized under paragraph (1) of this subsection.

"(B) For the purposes of this subsection, the Secretary may—

"(i) waive, in whole or in part, the limitations in subsection (a) of this section concerning the number of hours and periods during which services can be performed by the individual and the provisions in subsection (b) of this section requiring the individual's pursuit of a program of rehabilitation, education, or training;

"(ii) waive or defer charging interest and administrative costs pursuant to section 3115 of this title on the indebtedness to be satisfied by performance of an agreement under this subsection, which charges otherwise would accrue during the pendency of the agreement, in accordance with such terms and conditions as may be specified by the Secretary in the agreement; and

"(iii) notwithstanding the indebtedness offset provisions of section 3114 of this title, waive, adjust, or defer until the termination of an agreement entered into by an individual under this subsection the deduction of all or any portion of the amount of indebtedness covered by the agreement from future payments to the individual as described in section 3114 of this title.

"(3)(A) Subject to the provisions of subparagraphs (B) and (C) of this paragraph, an agreement authorized under this subsection shall terminate in accordance with the provisions of this section and the terms and conditions expressed in the agreement which are consistent with this subsection.

"(B) In no event shall an agreement under this subsection continue in force after the total amount of the individual's indebtedness described in paragraph (1) of this subsection has been recouped, waived, or otherwise liquidated.

"(C) Notwithstanding the provisions of subparagraphs (A) and (B) of this para-

graph, if the Secretary finds that such individual was without fault and was allowed to perform services described in the agreement after its termination, the Secretary shall, as reasonable compensation therefor, pay the individual at the applicable hourly minimum wage rate for such services as the Secretary determines were satisfactorily performed.

"(4) The Secretary shall promulgate regulations to carry out this subsection.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—(1) Section 1685(a) is amended in paragraph (2) by inserting "and subsection (e) of this section" after "subsection";

(2) Section 1685(b) is amended by inserting before "utilize" in the first sentence ", subject to the provisions of subsection (e) of this section,";

(3) Section 3114(a) is amended by inserting before the comma "and section 1685(e) of this title"; and

(4) Section 3115(a) is amended by striking out "section 3102" and inserting in lieu thereof "sections 1685(e) and 3102".

TITLE II—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 201. CLARIFICATION THAT AN HONORABLE DISCHARGE IS A REQUIREMENT FOR CHAPTER 30 PARTICIPANTS.

Section 1411(a)(3) is amended—

(1) by redesignating subclause (C) as subclause (D); and

(2) by striking out subclauses (A) and (B) and inserting in lieu thereof the following:

"(A) continues on active duty;

"(B) is discharged from service with an honorable discharge;

"(C) is released after service on active duty characterized by the Secretary concerned as honorable service and is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list; or".

SEC. 202. ELIMINATION OF REHABILITATION SUBSISTANCE ALLOWANCE ADVANCE PAYMENT.

(a) IN GENERAL.—Section 1508 is amended by striking out subsection (i) in its entirety.

(b) Conforming Amendments.—Section 1780 is amended by—

(1) striking out in the subheading for subsection (d) "or subsistence";

(2) striking out in subsection (d)(1) "or subsistence";

(3) striking out in subsection (d)(2) "or subsistence allowance, as appropriate,"; and

(4) striking out in subsection (e) "or subsistence".

SEC. 203. DELETION OF PROVISION FOR ADVANCE PAYMENT OF THE WORK-STUDY ALLOWANCE.

Section 1685(a)(1) is amended by striking out the last sentence thereof.

SEC. 204. CLARIFICATION OF EDUCATION PROGRAMS FOR WHICH EXPENSES INCURRED BY STATE APPROVING AGENCIES WILL BE REIMBURSED.

Section 1774(a)(1) is amended by striking out "chapters 106 and 107" and inserting in lieu thereof "chapter 106".

SECTION-BY-SECTION ANALYSIS

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

NOTE: The terminology in the draft bill reflects the conversion of the Veterans Administration to the Department of Veterans Affairs (VA) pursuant to Public Law 100-527. This bill assumes that appropriate technical and conforming amendments to title 38, United States Code, mandated by section 14 of Public Law 100-527 have been made.

Section 1

Subsection (a) provides that the draft bill may be cited as the "Veterans Educational Assistance Improvements Act of 1990."

Subsection (b) provides that, unless otherwise specified, whenever in the draft bill an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Subsection (c) sets forth the table of contents for the draft bill.

TITLE I—EDUCATIONAL ASSISTANCE AND VOCATIONAL REHABILITATION PROGRAM IMPROVEMENTS

Section 101

This section would amend the Montgomery GI Bill secondary school completion requirements (sections 1411(a)(2), 1412(a)(2) and 1418(b)(4) of title 38 and section 2132(a)(2) of title 10) by eliminating the reference to an equivalency certificate. Instead, an individuals would have to have certain alternate school credentials accepted by the Armed Forces, pursuant to regulations promulgated by the Secretary of the military department concerned.

The current law provides that, to be considered eligible for the Montgomery GI Bill, an individual must have a secondary school diploma or an equivalency certificate. We believe that the secondary school requirement was intended to assist the military in obtaining high caliber personnel and, therefore, the requirement should conform to the standards acceptable to the Armed Forces.

Section 102

This section would amend section 1502(1)(B) of title 38, United States Code, to expand eligibility for chapter 31 training and rehabilitation for certain persons being treated for service-connected disabilities pending discharge from active duty, to include persons who—

1. are receiving care, services or treatment on an outpatient basis, and

2. are being treated at Department of Defense (DOD) expense in facilities not controlled by that Department.

Under existing law, a service-disabled person who, pending discharge from active duty, is being treated in either a private facility or a government facility other than one operated by DOD, such as a PHS clinic or VA hospital, is not eligible for chapter 31 benefits. However, such person would be eligible for authorized vocational rehabilitation services under this amendment.

Since the affected individuals are on active duty, it is usual and appropriate for DOD to be responsible for all medical care costs incurred. Thus, even in the case of treatment by another Federal agency, DOD would either directly pay for those costs or enter into some kind of sharing or mutual exchange of services agreement. This assures that each agency is ultimately responsible only for the costs of its own clients.

The unique nature of various disabilities may require DOD to obtain assistance from specialized facilities of other agencies or from private facilities. Frequently, servicepersons placed in those facilities are among the most in need of vocational rehabilitation, and early consideration of that assistance is essential to assure reasonable success of rehabilitation. This amendment will enable VA to extend the advantages of such early consideration to service-disabled persons who are otherwise eligible but who, due to their geographical location or nature of disability, are receiving medical care in a non-DOD facility on an inpatient or outpatient basis.

Section 103

This section would amend chapter 32 of title 38 to extend by 1 year the date on which certain eligible veterans are automatically disenrolled under that subsection. This would make allowance for situations involving pending claims.

Currently, section 1632(b)(1) requires automatic disenrollment of a veteran from the contributory GI Bill at the end of his or her applicable delimiting period if the veteran has not used any or all of his or her entitlement by that date. This requirement has been construed to bar payment of chapter 32 benefits to a veteran who files a claim for such benefits after his or her delimiting date, for education or training pursued before such date, even when the claim otherwise would be considered timely filed under other provisions of law and regulation.

This amendment would correct this situation by deferring the date of automatic disenrollment until the expiration of the latest date on which a veteran in such circumstances could timely file a claim.

Section 104

This section would amend section 1685 to add a new subsection (e) which would permit an individual to enter into an agreement to perform work-study services and have the allowance otherwise payable therefor credited to his or her outstanding overpayment of VA administered education, rehabilitation, or training benefits. The Secretary would be authorized to waive certain of the work-study program eligibility requirements and limitations, as well as certain title 38 debt collection requirements, consistent with the objective of eliminating the individual's indebtedness. The amendment will enable individuals, even those who are no longer eligible for or entitled to such benefits, to perform needed, worthwhile services in repayment of their debts. This would benefit both the Government and the individual since many such individuals have the time, but not the money, to provide for this purpose.

TITLE II—ADMINISTRATIVE PROVISIONS

Section 201

This section would amend the Montgomery GI Bill service separation conditions for chapter 30 entitlement purposes (section 1411(a)(3)(A)) by clarifying that a release from active duty service characterized by the Secretary concerned as honorable service is a requirement for individuals placed on the retired list, transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or placed on the temporary disability retired list.

Current law does not expressly specify that honorable service is rquired for the above-mentioned categories. Terminology clarifying congressional intent in this area would avoid administrative complexities.

Section 202

This section would amend provisions of sections 1508 and 1780 of title 38 to eliminate the Secretary's authority to make advance payments of subsistence allowances under chapter 31.

Under current law, certain veterans who are eligible to receive educational assistance allowances under various VA programs, or rehabilitation subsistence allowances under

chapter 31 of title 38, United States Code, may, upon request, be provided an advance payment equal to as much as 2 months' educational assistance allowance or subsistence allowance, respectively, prior to actual entry into a program of education or vocational rehabilitation. These advance payments are intended to assist veterans in paying a portion of tuition and fees which many schools require prior to the commencement of training and to meet living expenses during initial periods of training.

In view of the fact that the VA pays all of a chapter 31 participant's training costs, advance payment of subsistence allowance is not warranted. In addition, since chapter 31 participants are eligible to recieve advances from the Revolving Fund under section 1512 of title 38, there is little need for the current statutory authorization for advance payments.

Section 203

This section would amend section 1685 of title 38, United States Code, by eliminating a provision in subsection (a)(1) which requires the advance payment of a portion of the work-study allowance payable to an individual participating in the veteran-student services program authorized under that section.

Under current law, in return for a veteran's promise to perform a specified number of hours or work under a work-study agreement, an amount equal to 40 percent of the total payable under the agreement is paid to the veteran-student prior to the performance of any services. Remaining amounts become payable on an incremental basis once the individual has completed performance of the number of hours of work which formed the basis for the advance payment.

Overpayments in the work-study program totaled $447,785 during Fiscal Year 1988 creating liability for some 2,170 new debtors. In Fiscal Year 1989, overpayments equaled $326,728 with 1,682 new debtors. In many of these cases, the debtor dropped out of school so that administrative collection by offset is not feasible. Moreover, since the average work-study overpayment is relatively small, recovery through enforced collection generally is not cost-effective.

Enactment of this proposal would virtually eliminate accounts receivable in this program and would result in limited administrative cost savings for the Department; i.e., less than $100,000 in any fiscal year.

Section 204

This section would delete the erroneous reference to chapter 107 of title 10 found in section 1774(a)(1) of title 38.

Currently, VA will reimburse State approving agencies for the payment of reasonable and necessary expenses incurred by such agencies in ascertaining the qualifications of educational institutions under certain listed education benefit programs. Chapter 107 is listed as one of these programs.

Chapter 107 includes the authority for the test program commonly identified as the "Section 901 Program." This program is not subject to title 38 course approval criteria since chapter 107 specifically provides for payment of benefits for pursuit of accredited courses regardless of whether they are so approved. Consequently, the State approving agencies have no course approval responsibility for purposes of the chapter 107 program for which they may be reimbursed.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, April 12, 1990.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes." I request that this measure be referred to the appropriate committee and promptly enacted.

This measure, entitled the "Veterans' Educational Assistance Improvements Act of 1990," would make a number of amendments to the education and vocational rehabilitation programs administered by the Department of Veterans Affairs, to facilitiate the administration of the programs and make certain provisions more equitable.

Title I of the draft bill would amend the Montgomery GI Bill (MGIB) to broaden the secondary school credentialing requirements necessary for entitlement; expand availability of vocational rehabilitation services for certain disabled servicepersons pending discharge; extend the automatic disenrollment period under chapter 32 to 1 year following the end of the delimiting period in certain circumstances; and permit certain veterans to eliminate an education benefit overpayment by performing work-study services.

Title II of the draft bill contains administrative provisions that would clarify that an honorable discharge or release from active duty is a requirement for all chapter 30 MGIB participants; remove VA's authority to make advance payments of chapter 31 rehabilitation subsistence allowances; modify the title 38 work-study program by eliminating the authority to make advance payments; and remove an erroneous reference to chapter 107 from the list of education benefit programs for which State approving agencies receive reimbursement of certain expenses.

The cost or savings implications of these proposals are estimated to be insignificant for VA.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this legislative proposal to the Congress.

Sincerely yours,

EDWARD J. DERWINSKI.

By Mr. CRANSTON (by request):

S. 2484. A bill to amend title 38, United States Code, to improve the housing loan program for veterans by reducing administrative regulation, enhancing the financial solvency of such program, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS HOUSING AMENDMENTS ACT

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2484, the proposed Veterans' Housing Amendments Act of 1990. The Secretary of Veterans Affairs submitted this legislation by letter dated April 12, 1990, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the April 12, 1990, transmittal letter and enclosed section-by-section analysis.

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

S. 2484

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 "Veterans' Housing Amendments Act of 1990".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

REVISION OF LOAN FEE

SEC. 2. (a) Section 1829(a) (as amended by Public Law 101-237, § 303), is amended by—

(1) Striking out paragraph (2) in its entirety, and inserting in lieu thereof,

"(2) The amount of such fee shall be

"(A) 1.75 percent of the total loan amount; or

"(B) in the case of a loan made under section 1811 or 1833(a) of this title, or for the purpose specified in section 1812(a)(1)(F) of this title, 1 percent of the total loan amount."

(2) Striking out paragraphs (3) and (4) in their entirety; and

(3) Redesignating paragraph (5) as paragraph (3).

(b) Section 1829(c) (as amended by Public Law 101-237, § 303), is amended by—

(1) Inserting "for a service-connected disability, or combination of disabilities, rated as 30 percent or more," in paragraph (1) immediately after "compensation)" and

(2) Striking out in paragraph (2) "and subsection (a)(3) of this section".

(c) Section 1825(c)(2)(D) (as added by Public Law 101-237, § 302) is amended by—

(1) Striking out "subsections (a)(3) and" and inserting in lieu thereof, "subsection"; and

(2) Striking out "subsections (a)(4) and" and inserting in lieu thereof, "subsection".

(d) Notwithstanding any other provision of law, with respect to any loan closed on or after January 1, 1990, but before October 1, 1990, there shall be credited to the Guaranty and Indemnity Fund established by section 1825 of title 38, United States Code, the amounts specified in subsection (c)(2)(A) of such section and section 1829(c)(3) of such title. Those credits shall represent the only government credits to that fund with respect to such loans, without regard to the amount of any downpayment made by the veteran.

SUNSET FOR MANUFACTURED HOME LOAN PROGRAM AND REVISION OF CLAIM PAYMENT PROCEDURES

SEC. 3. (a) Section 1812 is amended by—

(1) Striking out subsection (1) in its entirety, and redesignating subsection (m) as subsection (1);

(2) inserting after subsection (1), as redesignated by subsection (a) of this Act, following new subsection:

"(m)(1) Except as provided in paragraph (2) of this subsection, the Secretary may not guarantee a loan under this section unless such loan was closed

"(A) before October 1, 1990; or

"(B) pursuant to a guaranty commitment issued by the Secretary before October 1, 1990.

"(2) Paragraph (1) of this subsection shall not apply to a loan to refinance, pursuant to subsection (a)(1)(F) of this section, an existing loan guaranteed, insured, or made under this section.";

(3) Striking out the second sentence of paragraph (3) of subsection (c); and

(4) Inserting at the end of subsection (c) the following new paragraph:

"(6) A holder of a loan guaranteed under this section shall have the election of submitting a claim under such guaranty to the Secretary based upon:

"(A) the value of the property securing the loan, as determined by the Secretary, upon receiving the Secretary's valuation; or

"(B) the actual proceeds from the liquidation sale of the property securing the loan.".

(b) Section 1811 is amended by—

(1) Striking out "or 1812(a)(1)(F)" in subsection (b);

(2) In subsection (d)(2)—

(A) Striking out subparagraph (B) in its entirety; and

(B) Striking out "(A) Except for any loan made under this chapter for the purpose described in section 1812 of this title, the" and inserting in lieu thereof "The";

(3) Striking out "or 1812" each place it appears in subsections (a), (b), (c), and (g);

(4) Striking out "or manufactured home loans, as appropriate," in subsections (c)(1) and (d)(1); and

(5) Striking out ", as appropriate" at the end of subsections (c)(1) and (g).

TECHNICAL CORRECTION REGARDING PROPOSED CONSTRUCTION

SEC. 4. Section 1085(a) is amended by striking out "approved" both places it appears, and inserting in lieu thereof, "appraised".

EXTENSION OF LENDER REVIEW OF APPRAISALS

SEC. 5. Section 1831(f)(3) is amended by striking out "1990" and inserting in lieu thereof, "1991".

PUBLIC AND COMMUNITY WATER AND SEWERAGE SYSTEMS

SEC. 6. Section 1804 is amended by—

(a) striking out subsection (e) in its entirety; and

(b) redesignating subsection (f) as subsection (e).

TIME LIMIT FOR HOUSING DEBT WAIVER

SEC. 7. Section 3102(b) is amended by inserting at the end thereof, "An application for relief under this subsection must be made (1) within 180 days from the date of notification of the indebtedness by the Secretary to the debtor, or within such longer period as the Secretary determines is reasonable in a case in which the payee demonstrates to the satisfaction of the Secretary that such notification was not actually received by such debtor within a reasonable period after such date; or (2) September 30, 1992, if notice of such debt was provided before October 1, 1990.".

PROCEDURES ON DEFAULT AND PROPERTY MANAGEMENT

SEC. 8. (a) Section 1832(a)(4) is amended by striking out clause (C) in its entirety.

(b) Section 1832(c) is amended by—

(1) Inserting in paragraph (1)(C)(ii) "(including losses sustained on the resale of the property)" immediately after "resale"; and

(2) Striking out paragraph (11) in its entirety.

(c) Section 1833(a) is amended by—

(1) Striking out paragraph (6) in its entirety; and

(2) Redesignating paragraph (7) as paragraph (6).

DIRECT LOAN REVOLVING FUND

SEC. 9. (a) Subchapter III of chapter 37 is amended by striking out section 1823 in its entirety.

(b) Section 1824 is amended by—

(1) Striking out "chapter," in the first sentence of subsection (b), and inserting in lieu thereof, "chapter and direct loan operations under section 1811 of this title,"; and

(2) Inserting after "chapter" in clause (3) of subsection (c), "and direct loan operations under section 1811 of this title (including all moneys in the revolving fund established by section 513 of the Servicemen's Readjustment Act of 1944 on the effective date of the Veterans' Housing Amendments Act of 1990)".

(c) Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall have no liability to repay to the Secretary of the Treasury any sums, or interest on any such sums, advanced to the Secretary of Veterans Affairs (formerly known as the Administrator of Veterans Affairs) for purposes of the revolving fund established by section 513 of the Servicemen's Readjustment Act of 1944, except as provided by section 1824(d) of title 38, United States Code.

(b) Section 1811(k) is amended by striking out "and section 1823 of this title" both places it appears.

OFFSET OF FEDERAL TAX REFUNDS AND SALARIES FOR HOUSING LOAN DEBTS

SEC. 10. Section 1826 is amended by—

(a) Striking out "No" and inserting in lieu thereof:

"(a) Except as provided in subsection (b) of this section, no"; and

(b) Inserting at the end thereof the following new subsection:

"(b) This section shall not apply to the reduction of a refund of Federal taxes by the Secretary of the Treasury pursuant to section 3720A of title 31, United States Code, or a deduction from the current pay account of an employee of the United States or member of the Armed Forces or Reserve of the Armed Forces pursuant to section 5514 of title 5, United States Code.".

CERTIFICATES OF VETERAN STATUS FOR NATIONAL HOUSING ACT BENEFITS

SEC. 11. Subchapter III of chapter 37 is amended by inserting at the end thereof the following new section:

"§ 1835. Certificates of veteran status under the National Housing Act

"(a) For purposes of this section, the term "HUD Secretary" shall mean the Secretary of Housing and Urban Development.

"(b) The Secretary shall, at the request of the HUD Secretary, without any reimbursement, certify to the HUD Secretary whether an applicant for assistance under the National Housing Act or any other law administered by the HUD Secretary is a veteran.".

EXEMPTION FROM LOBBYING REPORTING REQUIREMENTS

SEC. 12. Subchapter III of chapter 37 is amended by inserting after section 1821 the following new section:

"§ 1822. Exemption from lobbying reporting requirements

"The application for or obtaining of a loan guaranteed, insured, or made under this chapter shall not be deemed as the requesting or receipt of a Federal contract, grant, loan, loan guaranty, loan insurance, or cooperative agreement for purposes of any other law that requires persons requesting or receiving a Federal contract, grant, loan, loan guaranty, loan insurance, or cooperative agreement to report or declare payments made to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a member of Congress.".

DOWNPAYMENT REQUIREMENT

SEC. 13. Section 1810(b)(5) is amended by—

(1) Inserting "the lesser of (i)" immediately after "exceed"; and

(2) Striking out "title;" and inserting in lieu thereof, "title, or (ii) the actual amount to be paid by the veteran for the purchase, construction, repair or alteration of the property, minus an amount equal to four one-hundredths of the difference obtained by subtracting $25,000 from the actual amount to be paid by the veteran for the purchase, construction, repair or alteration of the property;".

TABLE OF SECTIONS

SEC. 14. The table of sections for subchapter III of chapter 37 is amended by—

(a) striking out the items relating to sections 1822 and 1823 and inserting in lieu thereof:

"1822. Exemption from lobbying reporting requirements.

"1823. [Repealed.]"; and

(b) inserting at the end thereof the following new item:

"1835. Certificates of veteran status under the National Housing Act.".

EFFECTIVE DATES

SEC. 15. (a) The amendments made by sections 2(a), 2(b) and 13 of this Act shall apply to all loans closed on or after October 1, 1990.

(b) The amendments made by section 8(b)(1) of this Act shall apply to all liquidation sales conducted on or after October 1, 1990.

(c) The amendments made by sections 3, 6, 9, and 10 of this Act shall take effect October 1, 1990.

SECTION-BY-SECTION ANALYSIS

DRAFT BILL—VETERANS' HOUSING AMENDMENTS ACT OF 1990

TECHNICAL NOTE: Unless otherwise clearly indicated, all references to sections, chapters, etc., in the bill and this analysis are deemed to refer to provisions in title 38, United States Code.

Section 2—Revision of Loan Fee

Subsection (a) would increase the fee imposed by section 1829 on veterans obtaining loans guaranteed, insured or made by the Department of Veterans Affairs (VA) for conventionally built houses to 1.75 percent of the loan amount. The fee discount currently provided for veterans making downpayments would be repealed. The fees on

vendee loans, manufactured housing loans, and loan assumptions would not be altered.

Subsection (b) would restrict the exemption from the fee now granted to veterans eligible to compensation for a service-connected disability to only those veterans rated 30 percent or more disabled.

Subsection (c) would make conforming amendments.

Subsection (d) would restrict the government credit to the Guaranty and Indemnity Fund (GIF) for loans guaranteed by VA between January 1, 1990, and October 1, 1990, to the two credits, each one being equal to 0.375 percent of the loan amount, as required by section 1825(c)(2)(A), plus the amount of any fee waived for disabled veterans. No additional credit would be made for veterans who made a downpayment of 10 percent or greater.

Section 3—Sunset for Manufactured Home Loan Program and Revision of Claim Payment Procedures

Subsection (a) would not permit VA to guarantee loans for manufactured homes under section 1812 after October 1, 1990, except pursuant to a commitment issued by VA before that date. An exception is made for loans to refinance, at a lower interest rate, existing VA manufactured housing loans.

This subsection would also repeal the restriction that claims on VA guaranteed manufactured housing loans can only be paid after the liquidation of the security property. The loan holder would be granted the election of using the current procedures, of filing a claim immediately after receiving VA's valuation of the security property.

Subsection (b) would make conforming amendments.

Section 4—Technical Correction Regarding Proposed Construction

Would clarify section 1805(a), which requires a limited warranty from builders on loans for newly constructed homes purchased with VA financing, by changing the term VA "approved" to VA "appraised" construction.

Section 5—Extension of Lender Review of Appraisals

Would extend the sunset for section 1831(f), which authorizes lenders to review the appraisal report, from October 1, 1990, to October 1, 1991.

Section 6—Public and Community Water and Sewerage Systems

Would repeal section 1804(e) which prohibits VA from guaranteeing loans for newly constructed residences in areas not served by public or community water and sewerage systems where local officials certify that the establishment of such systems is feasible. It would also make a perfecting change.

Section 7—Time Limit for Housing Debt Waiver

Would amend section 3102(b) to impose a time limit of 180 days after receiving notice of a housing loan debt for a veteran to request that VA waive that debt. Veterans who received notice of debts before October 1, 1990, would have until September 30, 1992, to request waiver.

Section 8—Procedures on Default and Property Management

Subsection (a) would make permanent the foreclosure information and counseling requirements contained in section 1832(a)(4), now set to expire March 1, 1991.

Subsection (b) would make permanent the claim payment and property acquisition provisions (the so-called "no-bid" formula) contained in section 1832(c). The current sunset for these provisions is October 1, 1991.

This subsection would also revise the definition of "net value" to require VA to take into account the losses sustained on the resale of properties in determining whether or not to acquire a foreclosed property.

Subsection (c) would make permanent the vendee loan and property management provision contained in section 1833(a). The current sunset for these provisions is December 31, 1990.

Section 9—Direct Loan Revolving Fund

Subsection (a) would repeal section 1823 which provides for a Direct Loan Revolving Fund (DLRF).

Subsection (b) would amend section 1824 to provide that the existing Loan Guaranty Revolving Fund (LGRF) would pay for direct loan operations. The balance in the DLRF would be transferred to the LGRF. Future directional proceeds would be deposited into the LGRF.

Subsection (c) would write off any obligation VA has to repay moneys previously advanced by the Treasury to the DLRF.

Subsection (d) notes a perfecting amendment.

Section 10—Offset of Federal Tax Refunds and Salaries for Housing Loan Debt

Would amend section 1826 to permit VA to collect all debts arising out of the housing loan program by offsetting the debtor's Federal tax refund or Federal salary.

Section 11—Certificates of Veteran Status for National Housing Act Benefits

Would add a new section 1835 which provides that VA will, at the request of the Secretary of Housing and Urban Development (HUD), issue certificates of veteran status to persons seeking benefits under the National Housing Act or other programs administered by HUD. VA will not be reimbursed by HUD for performing this function.

Section 12—Exemption from Lobbying Reporting Requirements

Would add a new section 1822 which provides that persons applying for or obtaining loans guaranteed, insured or made by VA will not become subject to requirements contained in 31 U.S.C. § 1352 that persons obtaining loans exceeding $150,000 which are guaranteed, insured or made by a federal agency must disclose their lobbying activities.

Section 13—Downpayment Requirement

Would require most veterans obtaining VA guaranteed loans for the purchase, construction, repair or alteration of a property to make a downpayment. The downpayment would be 4 percent of the amount by which the actual costs for such purchase, construction, repair or alteration exceeds $25,000.

Section 14—Table of Sections

Would make conforming amendments to the table of sections for subchapter III of chapter 37.

Section 15—Effective Dates

Subsection (a) would make sections 2(a) (increasing the loan fee), 2(b) (restricting the fee exemption to veterans 30 percent or more disabled), and 13 (downpayment requirements) of this bill apply to all loans closed on or after October 1, 1990.

Subsection (b) would make section 8(b)(1) (revised definition of "net value") of this bill apply to all liquidation sales conducted on or after October 1, 1990.

Subsection (c) would make sections 3 (manufactured home loan amendments), 6 (water and sewerage systems), 9 (Direct Loan Revolving Fund) and 10 (offset for housing loan debts) of this bill effective October 1, 1990.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, April 12, 1990.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend title 38, United States Code, to improve the housing loan program for veterans by reducing administrative regulation, enhancing the financial solvency of such program, and for other purposes." I request that this measure be referred to the appropriate committee and promptly enacted.

This omnibus measure, entitled the "Veterans' Housing Amendments Act of 1990," would make a number of amendments to the Department of Veterans Affairs (VA) Housing Loan Guaranty Program to reduce administrative regulation, reduce the risk and costs of this program, and enhance revenues.

The Congress recently enacted the Veterans' Benefits Amendments of 1989, Public Law 101-237. Title III of that measure made a number of changes to the home loan program, including the creation of a new fund, known as the Guaranty and Indemnity Fund (GIF), which finances operations, other than administrative expenses, for all housing loans guaranteed under 38 U.S.C. § 1810 on or after January 1, 1990. That statute also revised the fees veterans pay, and provided for a government credit to the GIF for each loan guaranteed.

The intent of Public Law 101-237 was to provide a financing mechanism that would improve the solvency of the VA home loan program. Current projections indicate that appropriations will be required by 1995 to sustain operations. In light of that recognition, we urge that the initiatives contained in this draft bill be enacted. Combined, these initiatives will obviate the need for appropriations well beyond Fiscal Year 1995.

Section 2 of the draft bill would amend section 1829 of title 38, United States Code, to increase the loan fee to 1.75 percent of the loan amount. At present, that section imposes a fee of 1.25 percent for most veterans who obtain housing loans guaranteed by VA. Veterans who make a 5 percent downpayment pay a fee equal to 0.75 percent of the loan amount, and veterans who make a downpayment of 10 percent or more pay a fee of 0.5 percent. This proposal would eliminate the discounts for downpayments. (As discussed below, section 13 of the draft bill requires a downpayment be made by most veterans.)

Under current law, service-connected disabled veterans receiving compensation, or who would be entitled to compensation but for the receipt of retirement pay, are exempt from paying this fee. The draft bill would limit this exemption to those veterans rated at least 30 percent disabled. Currently, approximately 57 percent of compensation eligible veterans are rated as less than 30 percent. We are not proposing to alter the fee exemption currently granted to surviving spouses of veterans who died from a service-connected disability.

Under current law, persons who receive vendee loans from the VA in connection with the purchase of real property from the VA pay a fee of 1 percent, and persons who

assume loans under 38 U.S.C. § 1814 pay a fee of 0.5 percent. VA is not proposing to change those fees.

As we discuss below, section 3 of the draft bill would curtail the VA manufactured home loan program. Since that section would still permit manufactured housing interest rate reduction refinancing loans, section 2 of the draft bill continues the 1 percent fee for such loans.

The fee is collected at the time of loan closing, and may be financed with the loan. Proceeds from the fee for most new loans are deposited into the GIF. The fees on manufactured housing loans and some vendee loans are deposited into the Loan Guaranty Revolving Fund (LGRF), 38 U.S.C. § 1824.

Public Law 89-358, which originally granted VA home loan benefits to post-Korean conflict veterans, required collection of such a fee. That provision was repealed by Public Law 91-506 in 1970. The Omnibus Budget Reconciliation Act of 1982, Pub. L. No. 97-253, § 406, reimposed a fee of one-half of 1 percent for loans to veterans closed after September 30, 1982. The Deficit Reduction Act of 1984, Pub. L. No. 98-369, § 2511, increased the fee to 1 percent. The Veterans' Benefits Amendments of 1989, Pub. L. No. 101-237, § 302, enacted the present fee structure.

The VA home loan program has been and continues to be of great importance to present and former members of the Nation's Armed Forces who seek to become homeowners. We are mindful that the cost to the taxpayers of operating the program and paying claims on loans resulting in foreclosure are significant. Since the loan guaranty program provides a unique benefit for a select group of beneficiaries, we believe that this group should bear a portion of the cost of providing the benefit through a modest, one-time fee. In view of our estimate regarding the future needs of the new GIF, we believe an increase in the fee is appropriate.

Enactment of section 2 of the draft bill would product collections of 109.5 million in Fiscal Year 1991, and a total 5-year savings of approximately $529 million. The 5-year projection is as follows:

Savings

[In thousands of dollars]

Fiscal year:	*Amount*
1991	109,527
1992	102,437
1993	102,383
1994	105,816
1995	108,758

Section 3 of the draft bill would prohibit VA from guaranteeing most manufactured housing loans closed on or after October 1, 1990, unless VA issued a commitment before such date. The only exceptions would be loans to refinance existing VA guaranteed manufactured housing loans at a lower interest rate pursuant to 38 U.S.C. § 1812(a)(1)(F), and loans for manufactured housing permanently affixed to the lot which are considered real property pursuant to 38 U.S.C. § 1810(a)(9).

For the past decade, the default rate on VA guaranteed manufactured home loans has been 28.8 percent, as compared to 7.6 percent on VA loans for conventionally built houses. Although manufactured home loans generally have represented 3 percent of new loan activity, in the last fiscal year they represented 11 percent of the total number of claims paid, or 6.5 percent of the dollar amount of claims paid. This high rate of foreclosures in the VA manufactured housing loan program has adversely affected the solvency of the loan guaranty program, and has resulted in substantial debts being established against veterans. We have concluded that, on balance, this program is not providing a viable benefit to veterans and its continuation is not justified in view of its substantial costs.

Terminating manufactured housing loans as proposed by section 3 of the draft bill would produce savings of $300,000 in Fiscal Year 1991, and a 5-year savings of over $19 million as follows:

Savings

[In thousands of dollars]

Fiscal year:	*Amount*
1991	300
1992	1,700
1993	3,800
1994	5,700
1995	7,600

Veterans wishing to purchase manufactured homes which are permanently affixed to the site and treated as real estate under State law will still be able to obtain guaranteed loans through VA's regular home loan program. Those who wish to purchase manufactured homes which are not eligible for VA financing will still be able to finance the purchase through the HUD program or with a conventional loan. Also, veterans who have already obtained VA guaranteed manufactured home loans would still be able to obtain VA guaranteed interest rate reduction loans.

Paragraphs (3) and (4) of section 3(a) of the draft bill would alter the claim payment procedure for existing manufactured housing loans. Currenty, 38 U.S.C. § 1812(c)(3) prohibits VA from paying a claim under the guaranty on a manufactured home loan until after the security property has been resold by the loan holder. The holder must credit the account indebtedness with the proceeds of the resale of the unit or with the minimum resale price provided by VA, whichever is greater. (If the difference between the account indebtedness and the amount to be credited is greater than VA's guaranty liability, a maximum claim is payable.)

The draft bill would repeal the requirement that the holder must wait until the security is liquidated before filing its claim with VA. Rather, the bill would give holders the option of filing a claim immediately upon receipt of VA's valuation. Holders electing that option would assume the risk of loss if they are unable to sell the security property for the amount of VA's value estimate. They would also retain any profit obtained from selling the security for more than VA's valuation.

VA experience in reviewing manufactured home loan terminations indicates that repossessed homes are not always disposed of in a prompt and efficient manner. Lenders must rely on dealers to sell these homes in most areas. The dealers have many such homes to sell and little financial incentive to sell the VA loan repossessions, since a larger profit is obtained in their sale of new homes.

Our experience also shows that VA's minimum resale price, which represents the estimated value of the home at repossession, generally equals or exceeds the eventual resale price. Field stations sometimes review and lower this minimum resale price in response to reports that holders are unable to sell the unit for that value. Such reductions are currently appropriate if the holder can provide documentation to show that the value VA has placed on the unit is greater than actual market value.

If lenders were permitted to file their claims upon receipt of VA's resale price, these problems would be avoided. This procedure will reduce the size of claims since VA would not reimburse lenders for costs incurred after repossession, including accrued interest and sales commission. Adoption of this modification would generally result in an unchanged or reduced VA claim payment and veteran's liability to the Government. It should also reduce lender losses on repossessions.

Although VA believes that loan holders will find this simplified procedure to be attractive, under the draft bill holders would retain the option of using the present procedure which provides them with some protection against further loss on the resale of the security.

VA estimates the following savings to VA from the enactment of this revision in the manufactured home loan claim payment procedure:

[In thousand of dollars]

Fiscal year	Outlay savings	Budget authority savings
1991	$4,500	$4,500
1992	3,600	3,600
1993	3,000	3,000
1994	1,900	1,900
1995	600	

The estimates assumed 50 percent of lenders will elect to file their claims upon receipt of VA's resale price. If fewer lenders choose the new option, savings will decline. Also, the savings to VA from paying lender claims up to 1 year earlier than is currently done would be partially offset by Treasury's increased borrowing costs for that period.

Section 4 of the draft bill would make a clarifying change to 38 U.S.C. § 1805(a). Section 1805 currently provides for VA review of the plans and specifications of new homes prior to construction, and requires the builder to provide the veteran with a limited warranty. That section refers to properties being "approved" by VA. The draft bill would change the term "approved" to "appraised." VA values the proposed construction, but does not actually approve the plans and specifications. Rather, VA generally relies on the appropriate unit of the State or local government to ensure that newly constructed homes comply with local building codes. VA believes that referring to VA "approved" construction is misleading.

Enactment of this proposal will not result in any additional costs or savings.

Section 5 of the draft bill would extend for 1 year; i.e., until October 1, 1991, the sunset for VA's authority to permit lender review of appraisals. Public Law 100-198, enacted December 21, 1987, authorized VA to permit lenders, under certain conditions, to review appraisals. In implementing this authority, VA is aware of, and most concerned with appraisal abuses that have been uncovered in other federally insured lending and banking programs. VA, therefore, took great care to study this issue, and carefully drafted the guidelines for this lender review of appraisals.

Proposed regulations were published for public comment in the Federal Register on May 11, 1989. Comments received have been thoroughly reviewed, and final regulations

to implement this program should be issued shortly. Since lenders will not be able to begin to use this new authority until later this year, we are proposing to extend the sunset until October 1, 1991, in order to give this new program a fair test.

Section 6 of the draft bill would repeal the requirement for a statement of local officials regarding the feasibility of public or community water and sewerage systems as a condition to the VA guaranty of loans for the purchase of newly constructed homes.

Currently, under 38 U.S.C. § 1804(e), the VA may not guarantee loans for newly constructed residences in areas where local officials certify that the establishment of public or community water and sewerage system is economically feasible unless the dwellings are served by such systems. Since enactment of this section in 1965, conditions have changed significantly. Federal, State, and local laws now adequately address the subject of individual water and sewerage systems as an alternative to public and community water systems. These certification requirements place an additional burden on local officials and program participants without materially benefiting the veteran.

Enactment of this proposal would result in administrative savings of less than $100,000 in any fiscal year.

Section 7 of the draft bill would impose a time limit during which a veteran may request waiver of a loan guaranty debt. Generally, a veteran would have 180 days from the date of the notice of the debt to file a waiver request. This amendment is consistent with subsection (a) of section 3102 of title 38 which imposes the same limit on requesting waivers of all other debts to VA. Under subsection (b) of that section, however, no time limit is imposed on requesting waiver of a home loan debt. This creates several problems, especially when a request for waiver is made on a loan program debt after it has been referred for collection through litigation. If such a waiver request is filed, all collection action must be stopped until a decision is made on the waiver request. If the request for waiver is subsequently denied, then we must go through the time-consuming and costly process of referring the case a second time for collection.

To reduce hardship and prejudice to veterans who may have relied on the current law, any veteran who received notice of a home loan debt prior to October 1, 1990, would have until September 30, 1992, to request a waiver.

Enactment of this proposal would result in insignificant administrative benefits savings of less than $1 million in any fiscal year and insignificant administrative savings of less than $100,000 in any fiscal year.

Section 8 of the draft bill would make permanent the foreclosure information and counseling requirements contained in 38 U.S.C. § 1832(a)(4), the claim payment and property acquisition provisions contained in 38 U.S.C. § 1832(c), and the property management and vendee loan provisions contained in 38 U.S.C. § 1833(a). It would also make one modification in the so-called "no-bid" formula.

Subsection 8(a) of the bill would remove the March 1, 1991, sunset for the provisions requiring VA to provide veterans in default with information and, to the extent feasible, counseling regarding alternatives to foreclosure and what the veteran's liabilities may be following foreclosure. Foreclosure should always be a last resort. Where various alternatives exist, VA believes the veteran should be made aware of these options. We, therefore, believe the requirement of the law for VA to provide notice and, when possible, counseling, should be made permanent.

VA also urges that the sunset be removed from the provisions originally added by section 2512 of the Deficit Reduction Act of 1984 (DRA), Public law 98-369, which determine the VA's claim liability under a home loan guaranty, when the VA may acquire the property which secured the loan, and the conditions under which VA would sell properties it acquired. Since that time, a number of modifications have been made to these provisions.

Section 1832(c) of title 38 requires the VA to establish a net value for the security property. "Net value" is the fair market value minus costs the VA would incur, if it acquired the property, to acquire, manage, and dispose of such property. Generally, the VA may acquire the property if the net value exceeds the unguaranteed portion of the loan, and the loan holder acquires the property for the lesser of net value or the veteran's total indebtedness. In such cases, net value also represents a minimum amount the loan holder must credit to the veteran's indebtedness in determining the VA's guaranty liability. This provision has provided a useful framework to determine when it is cost-effective either to acquire a VA guaranteed property at foreclosure or to pay the full guaranty amount. The provisions of 38 U.S.C. § 1832(c) are currently set to expire on October 1, 1991.

The Administration believes, however, that one significant cost factor which is not now being considered in computing the net value of a property should be added. This is the loss VA sustains on the resale of acquired properties that result from market forces, such as a decline in resale value.

In making the determination as to whether or not property should be acquired, all potential costs of acquisition and disposition need to be considered. VA currently only takes estimated out of pocket cash expenditures and administrative costs into consideration.

At the time the DRA was enacted, it was believed acquired property would be resold for full market value, and VA would recover its costs plus the amount paid for the property. Experience has shown, however, that this is not always the case. VA has incurred substantial losses in the resale of some acquired properties. During FY 1989, VA resold 35,865 acquired properties, with an average loss of $6,538 per property.

These additional losses on property resale can be projected from VA's property resale experience. VA must take such losses into account in order to obtain a true picture of the costs of acquiring and disposing of a property. This amendment will allow VA to assess more accurately the cost-effectiveness of acquiring a property.

Revising the definition of net value as proposed will produce a total outlay savings of $80.5 million in Fiscal Year 1991, and a total 5-year outlay savings of $446 million as follows:

Fiscal year	LGRF outlay savings	GIF outlay savings	Total outlay savings
1991	$76,300	$4,200	$80,500
1992	13,200	33,200	46,400
1993	11,000	62,700	73,700
1994	5,000	117,700	122,700
1995	−10,100	132,100	122,000

The DRA amendments were enacted to reduce the Government's losses on foreclosure of VA guaranteed loans and the subsequent resale of VA acquired properties and ensure that the VA home loan program would continue to provide a viable benefit for veterans and lenders. Experience has shown that these procedures have worked well. The basic framework created by DRA, as amended, and now codified at section 1832(c), is sound and should be continued and made permanent with the modification we are recommending.

Section 1833(a) of title 38, United States Code, regulates the management and sale of properties VA acquires from loan holders following foreclosure. The statute requires VA to sell at least 35 percent of such properties, but not more than 50 percent, for cash. The remainder are sold with VA providing seller financing which is generally referred to as a "vendee loan." The statute also requires the sale of vendee loans. Beginning October 1, 1990, if VA sells vendee loans without recourse, they must be sold for 100 percent of par. There are no restrictions on the sale of vendee loans with recourse. VA is now selling such loans to a trust which securitizes the loans. Since our sale to the trust involves limited recourse, the without recourse limitations do not apply.

This subsection also generally requires a 5 percent downpayment on vendee loans. VA may waive the downpayment requirement in areas where higher loan amounts are necessary in order to market the properties competitively. Further, VA is permitted to include in a vendee loan an additional amount for property rehabilitation. The downpayment requirements do not apply in rehabilitation loan cases. Finally, VA is authorized to make vendee loans at below market interest rates where market conditions justify such action.

Section 1833(a) currently has a sunset of December 31, 1990. VA believes these provisions should also be made permanent.

Section 9 of the proposed legislation would terminate the Direct Loan Revolving Fund (DLRF), and merge it into the LGRF. The DLRF was established to fund VA's program of making direct loans to veterans under 38 U.S.C. § 1811. Direct loans were generally made to veterans living in rural areas or small cities and towns where housing credit for guaranteed loans was not generally available. Beginning with Fiscal Year 1981, the Congress has placed severe limits on the direct loan program in the VA's annual appropriation act. VA has been permitted to only make direct loans to disabled veterans in connection with specially adapted housing, pursuant to 38 U.S.C. § 1811(i). VA has been further limited to making no more than $1 million in such loans per fiscal year.

In addition, the moneys in the DLRF have been transferred over the years to the LGRF to help cover the large losses sustained by the latter fund. At present, the DLRF has a balance of approximately $2.5 million. The only source of revenue for this fund is the repayment of principal and interest on outstanding direct loans or the proceeds from the sale of such loans. VA estimates the outstanding principal on such loans to be $57 million.

In view of the low volume of direct loan activity and the low balance in the DLRF, VA believes there is no purpose to maintaining a separate direct loan fund. Not having to maintain two separate accounts will reduce administrative workload and reduce accounting errors.

Merging these two funds would have the following budget impact on the LGRF:

[In thousands of dollars]

Fiscal year	Obligation costs	Outlay savings	Budget authority savings
1991	$1,900	$14,100	$26,700
1992	1,600	10,900	10,700
1993	1,300	8,300	8,200
1994	1,000	6,300	6,200
1995	700	4,800	...

Section 9(c) addresses another issue related to the DLRF. Over the years, the Secretary of the Treasury has been authorized to advance to the DLRF moneys for the operation of the VA direct loan program. As originally enacted, the direct loan program was to expire June 30, 1951. After that, as loans were paid off, VA was to repay the Treasury the moneys which had been advanced. The program was extended a number of times, until 1970 when the VA home loan program, including the direct loan program, was made permanent. During the 1980s, as explained above, the direct loan program was limited by the Congress, and the DLRF balances were used to cover shortages in the LGRF. For all intents, and purposes, the DLRF is depleted. There still exists on the books, however, an "unpaid loan" of over $1.7 billion from the Treasury to VA.

The Department of the Treasury has advised us they consider the unpaid advances to the DLRF to be a debt owing to the United States that they cannot waive. Since the direct loans funds have already been used as a substitute for direct appropriations to the LGRF, there is no way VA can satisfy this "debt" without either an appropriation of $1.7 billion, or a congressionally mandated write-off. Section 9(c) of the draft bill contains such a write-off.

Section 10 of the proposed legislation would amend section 1826 of title 38, United States Code, to expand VA's authority to collect housing loan debts by offsetting a debtor's Federal tax refund or Federal salary. Currently, section 1826 prohibits offset by any non-VA Federal payment to satisfy an indebtedness to VA arising out of the loan guaranty program unless the debtor consents in writing, or a court has determined that the debtor is liable to the VA. Since a significant number of VA guaranteed loans are foreclosed nonjudicially, these requirements are often not met.

Under section 3720A of title 31, United States Code, which was enacted by the Deficit Reduction Act of 1984, Pub. L. No. 98-369, § 2653, past-due debts to Federal agencies may be referred to the Secretary of the Treasury for collection by offsetting against refunds of Federal taxes due the debtor.

The Debt Collection Act of 1982, Pub. L. No. 97-365, § 5, amend section 5514 of title 5, United States Code, to authorize Federal agencies to offset debts to Federal agencies from the pay account of Federal employees and members of the Armed Forces, including the Reserves.

VA believes these enactments established a policy of collecting Federal debts in this manner. Therefore, conforming amendments should be made to section 1826 of title 38.

VA estimates that enactment of this proposal would generate collections of approximately $28 million in Fiscal Year 1991, and produce administrative costs of less than $100,000 in any fiscal year.

Section 11 of the draft bill would authorize VA to process, without reimbursement, requests for certificates of veteran status for persons seeking benefits under the National Housing Act. That Act, which is administered by the Department of Housing and Urban Development (HUD), provides lower downpayment requirements for veterans. Pursuant to a 1966 agreement between VA and HUD, VA has been issuing these certificates. The agreement called for HUD to reimburse VA $1.25 per certificate for VA's processing costs. In recent years, however, HUD has declined to reimburse VA for these costs. As a service to veterans, VA has continued to issue these certificates.

Technically, VA should not be administering statutes other than title 38, United States Code, for other agencies without reimbursement. We recognize, however, that VA personnel have the knowledge and expertise to determine veteran status, and it is a logical extension of VA's mission to aid veterans to continue to certify veteran status to HUD. We believe we can continue to perform this function with current staffing levels. Further, in view of the relatively small sums involved, we do not believe it is cost-effective to gather data from field stations and prepare and transmit quarterly vouchers to HUD.

Enactment of this section would not result in significant costs.

Section 12 of the draft bill would exempt housing loans guaranteed, insured, or made by VA from the lobbying reporting requirements of 31 U.S.C. § 1352 which was added by section 319 of Public Law 101-121. That law prohibits certain government contractors or recipients of government assistance from using appropriated moneys for lobbying, and requires certain lobbying disclosures from those persons. That statute does not apply to loans which are $150,000 or less. The conference report (House Report 101-264) stated that the $150,000 threshold "serves to exempt . . . individuals who seek Federally-insured loans (for the purchase of personal residences, for example) from these provisions."

There is no statutory or VA-imposed regulatory ceiling on the amount of a loan VA will guarantee. For all intents and purposes, however, custom and practice in the lending industry and secondary market limits VA guaranteed loans to four times the guaranty amount. Until recently, the maximum guaranty was $36,000. Therefore, VA guaranteed loans rarely exceeded $144,000. In enacting Public Law 101-237, the Congress recognized that in certain high cost areas of the Nation $144,000 was not sufficient for many veterans to purchase satisfactory housing. Therefore, that enactment increased the guaranty to 25 percent on loans exceeding $144,000 to a maximum guaranty of $46,000. This new guaranty will support loans of up to $184,000.

VA supports the concept behind the lobbying restrictions and disclosures mandated by Public Law 101-121. The Congress recognized, however, that the purchase of a single family home with a federally guaranteed loan has not been the subject of abuse that lead to the enactment of that statute. Therefore, the Congress expressed an intent to exempt such borrowers from the burdens imposed by the law. We see no reason why certain veterans should now be subject to those burdens simply because they reside in areas with high housing costs.

Section 13 of the draft bill would require veterans to make a modest downpayment on VA guaranteed home loans having an initial principal balance above $25,000.

Currently, VA loans for the purchase or construction of a home do not require any downpayment so long as the loan amount does not exceed the reasonable value of the property as determined by VA. VA is proposing to requre a downpayment of 4 percent of the amount of the housing cost that exceeds $25,000. For example, if a veteran is purchasing a home for $75,000, the veteran would be required to make a $2,000 downpayment, as follows:

$75,000
−25,000
50,000
×.04
2,000

Assuming the property has a reasonable value of at least $73,000, the veteran could obtain a loan for $73,000. That figure may, however, be increased by the amount of the loan fee if the veteran elects to finance such fee.

Generally, loans involving downpayments are more secure; this is particularly true in periods of low housing appreciation, as is projected for the next decade. In view of the high costs to the Government of loan foreclosures, we believe requiring such a modest downpayment is a reasonable measure to reduce the risks associated with VA housing loans while still providing the most generous Federal housing guarantee program. Veterans will have more equity in their properties and will be less likely to default. Thus, the proposal would not only reduce long-term Federal liabilities; it would also assist veterans in retaining their homes during periods of low housing appreciation.

VA estimates that requiring this downpayment would produce the following savings:

Savings

[In thousand of dollars]

Fiscal year	*Amount*
1991	$473
1992	6,063
1993	22,017
1994	31,784
1995	43,742

A section by section analysis of the draft bill is also enclosed.

The Office of Management and Budget advises that there is no objection to the submission of this legislative proposal to the Congress and that its enactment would be in accord with the program of the President.

Sincerely yours,

EDWARD J. DERWINSKI.

By Mr. CHAFEE (for himself and Mr. PELL):

S. 2485. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide financial assistance for the operation and maintenance of State veterans' cemeteries, and for other purposes; to the Committee on Veterans Affairs.

VETERANS CEMETERY PARTNERSHIP ACT

● Mr. CHAFEE. Mr. President, today, I am introducing legislation that aims to use existing funds to expand the State Cemetery Grant Program.

The Veterans Cemetery Partnership Act will expand the State Veterans

Cemetery Grant Program, in order for State cemeteries to receive Federal grants to defray the cost of up to 50 percent of their expenses for operation, maintenance, and initial equipment.

It also eliminates the $150 plot allowance that the Department of Veterans Affairs now pays directly to State veterans cemeteries each time a veteran is buried there—only for those State cemeteries that receive grants under my legislation.

The State Cemetery Grant Program, which was established in 1978, is designed to assist any State in establishing, expanding or improving State-owned cemeteries for veterans. Currently, States may apply for grants to cover up to 50 percent of these costs, which primarily involve land acquisition and construction.

Unfortunately, the Federal Government cannot realistically assume the full burden of providing veterans cemeteries for all veterans who wish to be buried with their comrades-in-arms. As a result, there are 12 States, including Rhode Island, that do not have a national veterans cemetery, and 5 more whose national cemeteries are closed to new interments. In addition, there are nine large States whose national cemeteries are too far away from the homes of many veterans and their families. As a result, State veterans cemeteries play a critical role in serving the needs of veterans.

Since the State Cemetery Grant Program was created, only 18 States have applied for 38 grants to establish new cemeteries or expand or improve existing ones. These grant awards have averaged about $600,000.

Many States are reluctant to take advantage of this program because they will not be able to afford the full cost of establishing new cemeteries, and may be forced to abandon or sell State-owned veterans cemeteries because of the inability to maintain them. Thus, there is money left over in the State Cemetery Grant Program budget that we can put to good use.

My bill does not call for the expenditure of any additional funds. Of the funds available to the State Cemetery Grant Program since its inception, almost $4 million has remained unspent. I believe this leftover money should be used to help State veterans cemeteries pay for their operation and maintenance.

Elimination of the plot allowance paid to State Veterans cemeteries would consolidate all Federal aid to State cemeteries into one account. Right now, part of the assistance State cemeteries receive come from the State Cemetery Program, while another part, the plot allowances, comes out of the Department of Veterans Benefits—two different offices at the Department of Veterans Affairs.

It would also eliminate a technicality in the current law governing the payment of death benefits. At present, this technicality in effect prevents State veterans cemeteries from getting reimbursed for the burial of veterans whose deaths are attributed to service-connected causes.

Perhaps most important, this provision transforms an entitlement into a grant. Although the end result—Federal assistance to State veterans cemeteries—is the same, changing an entitlement into a grant is philosophically very important: it bolsters the Federal-State partnership that was created by the State Cemetery Grant Program. Instead of the Federal Government giving the State a handout, the two are working together to ensure that veterans' needs are met.

In any year that a State does not receive a grant for the maintenance and operation of its veterans cemeteries, it would continue to receive plot allowances from the DVA's Department of Veterans Benefits. Burial benefits that are now paid directly to the surviving families of veterans will remain unaffected by my legislation.

The Federal Government stands to benefit from an extension of the State Cemetery Grant Program partnership as well. First, such an extension encourages the States to assume a responsibility that the Federal Government cannot. Second, the States are historically more cost efficient in their construction and administration of facilities such as veterans benefits. Thus, perhaps the Federal Government would be able to learn something from the State through the Veterans Cemetery Partnership Act.

I believe many veterans have the perception that the Federal Government has forgotten them and their fine service to their country. Perhaps the simplest and most important thing we can do to ensure that veterans are remembered is to provide places where we can go to reflect on their heroism and sacrifice in the name of freedom—places where our veterans will be honored by us forever.

If the Federal Government cannot do this itself, it must ensure that the States are able and willing to provide and maintain these resting places of honor.

I urge all Senators to join me in supporting the Veterans Cemetery Partnership Act.●

By Mr. ARMSTRONG (for himself and Mr. SYMMS):

S. 2486. A bill to amend the Internal Revenue Code of 1986 to provide civil damages for certain unauthorized determinations of income tax; to the Committee on Finance.

UNAUTHORIZED DETERMINATIONS OF INCOME TAX

● Mr. ARMSTRONG. Mr. President, think back over some of the cases of Internal Revenue Service abuse of a taxpayer that have come to your attention. How often has the abuse occurred while the taxpayer and the Service were attempting to determine the tax actually owed and how often has it occurred when the Service is trying to collect the tax? If your constitutents are like mine, a large number of cases arise in the determination stage of a tax dispute.

How often have your constituents said they feel cheated because they have no recourse for IRS wrongdoing? As part of the taxpayer bill of rights passed in 1988, the Senate took a great step toward giving the taxpayers a fair play by granting them the right to sue the Federal Government in Federal district court for damages if in connection with the determination or collection of any Federal tax an IRS employee carelessly, recklessly, or intentionally disregards any provision of or regulation promulgated under the Internal Revenue Code.

A tax case essentially goes through two stages. In the first stage, the Service, the taxpayer and, sometimes, the courts determine the amount of tax owed. Once it is established that additional tax is owed, the case moves on to the second stage in which the Service attempts to collect the tax.

Unfortunately, the conference report deleted the reference to acts taken in determing the amount of tax, leaving taxpayers with no recourse in a great many instances. I find this unacceptable, and so I am introducing as part of my series called fair play for taxpayers a bill extending a taxpayer's right to sue to include IRS acts that occur in the determination of any Federal tax.●

By Mr. HARKIN:

S. 2487. A bill to provide for the establishment of a program to provide incentives and assistance to agricultural producers to reduce the potential for contamination or degradation of surface water and ground water, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL WATER QUALITY INCENTIVE ACT OF 1990

● Mr. HARKIN. Mr. President, I am today introducing the Agricultural Water Quality Incentive Act of 1990 which will establish a voluntary program providing incentives to encourage agricultural producers to implement, improve, and maintain agricultural production practices designed to protect water quality. The program will emphasize the use of cost-effective, proven practices that will, in addition to helping prevent pollution of our water resources, enhance farm profitability and productivity. The bill will also allow the entry of land pre-

senting water quality problems into the Conservation Reserve Program.

The incentive program established in this legislation will be the first full-scale program focusing on agricultural production practices in order to help producers address water quality problems associated with agriculture. Federal water quality efforts related to agriculture have thus far almost exclusively sought to bring about changes in land use patterns, primarily through taking land out of crop production and devoting it to vegetative cover.

While land use change can be an effective means of addressing water quality problems, and indeed a part of this bill provides for using the Conservation Reserve Program for water quality problems, taking land out of production is fairly expensive proposition. In any event, the vast majority of farmers have established land use patterns that are unlikely to change significantly any time soon.

This legislative will establish a broadly based program of incentives available to a wide range of agricultural producers in order to encourage and assist them in implementing, improving, and maintaining practices on land in production that will achieve major reductions in the potential for contamination or degradation of surface water and ground water. The program will emphasize the use of practices that improve farm profits and productivity.

These are the major features of this legislation:

Water quality management plans.—Producers participating in the Agricultural Water Quality Incentive Program will develop and carry out farm water quality mangement plans containing specific goals and objectives that will ensure major reductions in the potential for contamination or degradation of surface water or ground water by sediment, fertilizers and other crop nutrients, agricultural chemicals, salts, animal wastes, or other pollutants associated with agricultural production. Plans may cover all or a part of a farm.

The program should be administered by USDA to facilitate compliance with, or significant progress toward attainment of, environmental quality objectives established by State and Federal laws. However, it is not my intention that the program would be administered in order only to meet minimum water quality standards established by law or that the program would be available only where water quality problems currently exist according to water quality standards. The program has a broader purpose of achieving major reductions in the potential for contamination or degradation of surface water or ground water.

Technical assistance.—Technical assistance for developing and carrying out the plans will be provided by the Soil Conservation Service, the Extension Service, and, where determined appropriate by USDA, private agricultural consultants.

Incentive payments.—Producers participating in the program will receive annual incentive payments over a period of 3 to 5 years on a per acre basis for implementing, improving, or maintaining agricultural production practices in accordance with approved farm water quality management plans. In establishing the level of the incentive payments, USDA will consider the cost and effort involved in implementing, improving, or maintaining the practices for which incentive payments are made. USDA will provide incentive payments at levels sufficient to cause enrollment in the program sufficient to reach the specified acreage goals. The available information from a similar Iowa program indicates that moderate levels of incentive payments are sufficient to encourage enrollment.

Contracts.—Producers will enter contracts which describe the agricultural production practices that will be implemented, improved, and maintained, as well as any practices that are to be avoided, in order to carry out and achieve the goals and objectives specified in the farm water quality management plan. The contracts will include schedules and standards for implementing, improving and maintaining the practices described in the contracts, and will specify the obligations of USDA, including the payment of incentive payments.

Emphasis on farm profitability and productivity.—A key element of the incentive program is it emphasis on practices that improve the bottom line for farmers. To the maximum extent possible, contracts under the program will include the use of agricultural production practices that enhance farm profitability and productivity through reducing waste and inefficiency in the management and use of fertilizer and crop nutrients, animal wastes, and other organic materials, and agricultural chemicals.

Examples of practices that might be included in the program are soil testing, crop and field monitoring, and scouting for weeds and pests, improved management practices for the application and use of fertilizer and other crop nutrients, agricultural chemicals, animal wastes and other materials, changes in tillage operations, and improved recordkeeping. Farmers in Butler County, Iowa participating in Iowa's Integrated Farm Management Demonstration Program averaged $15 to $20 more an acre in net profit by lowering their production costs using the kinds of practices included within the incentive program established by this bill.

TERM OF CONTRACTS

Contracts under the program will require the producer to continue and maintain any practice for which an incentive payment is made for a period of not less than 5 crop years. Contracts may be revised as the circumstances may warrant.

ACREAGE LEVELS

USDA will enter into contracts with producers to place not less than 3 million acres of cropland in the program during the 1991 crop year with annual increases to a total enrollment of not less than 50 million acres of cropland during the 1995 crop year.

PRIORITY FOR PROGRAM ENROLLMENT

USDA will give priority to including in the program lands identified by USDA, in consultation with EPA and State water quality officials, as land on which agricultural production creates the potential for contamination or degradation of surface water or ground water. USDA will also give priority to enrolling land in the program in order to facilitate the participation by producers in demonstration or model farm programs designed to demonstrate and provide education on the practical application of agricultural production practices included in the Agricultural Water Quality Incentive Program.

USE OF COMMODITY CREDIT CORPORATION

The facilities, services, authorities and funds of the Commodity Credit Corporation will be used to carry out the program.

Use of conservation reserve for water quality objectives.—Cropland on which agricultural production creates the potential for contamination or degradation of ground water or surface water, such as land containing drainage wells, sinkholes, or related features, may be enrolled in the Conservation Reserve Program if the land cannot be adequately managed under the Agricultural Water Quality Incentive Program. USDA may purchase easements on land placed in the Conservation Reserve Program for water quality purposes.

Mr. President, this bill directly addresses the most serious environmental issue facing agriculture, and it deals with the problem through incentives rather than placing additional burdens on farmers. Moreover, the program established in this legislation can be carried out at a reasonable cost in relation to the seriousness and scope of the concern over agriculture's impact on water quality. I ask unanimous consent that the text of my bill be printed in full in the RECORD.

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

S. 2487

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 "Agricultural Water Quality Incentive Act of 1990".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) PRODUCER.—The term "producer" has the same meaning given such term in the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(2) PROGRAM.—The term "Program" means the Agricultural Water Quality Incentive Program established under section 3.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 3. ESTABLISHMENT.

(a) IN GENERAL.—The Secretary shall establish and implement a program to be known as the "Agricultural Water Quality Incentive Program" to encourage agricultural producers to implement, improve and maintain agricultural production practices that are designed to achieve major reductions in the potential for contamination or degradation of surface water or ground water as a consequence of agricultural production, with emphasis given to practices that enhance farm profitability and productivity.

(b) FARM WATER QUALITY MANAGEMENT PLANS.—A producer participating in the Program shall develop and implement a Farm Water Quality Management Plan that shall contain specific goals and objectives that will ensure that a major reduction is achieved in the potential for contamination or degradation of surface water or ground water by sediment, fertilizers and other crop nutrients, agricultural chemicals, salts, animal wastes or other pollutants associated with agricultural production.

(c) TECHNICAL ASSISTANCE.—The Soil Conservation Service, the Extension Service, and, where determined appropriate by the Secretary, private agricultural consultants shall provide technical assistance for the development and implementation of Farm Water Quality Management Plans under subsection (b).

(d) INCENTIVE PAYMENTS.—The Secretary shall provide incentive payments to a producer under section 6 for the implementation, improvement and maintenance of agricultural production practices in accordance with the approved Farm Water Quality Management Plan of the producer.

SEC. 4. CONTRACTS.

(a) REQUIREMENT.—The Secretary shall enter into contracts with producers to place acreage in the Program.

(b) GENERAL TERMS.—Contracts entered into under this section shall—

(1) incorporate the Farm Water Quality Management Plan prepared by the producer under section 3(b) and approved by the Soil Conservation Service;

(2) specifically describe the agricultural production practices that will be implemented, improved and maintained, as well any practices that are to be avoided, in order to carry out and achieve the goals and objectives that are described in the Farm Water Quality Management Plan prepared for the farm;

(3) provide for the use by the producer, to the maximum extent possible and consistent with ensuring that major reductions are achieved in the potential for contamination or degradation of surface water or ground water, of agricultural production practices that enhance farm profitability and productivity through reducing waste and inefficiency in the management and use of fertilizers and crop nutrients, animal waste and other organic materials, and agricultural chemicals;

(4) establish a schedule of deadlines for the implementation, improvement, or other modification of agricultural production practices as described under paragraph (2);

(5) establish a schedule for the performance of the maintenance activities described under paragraph (2);

(6) specify performance standards that shall enable the parties to the contract to determine whether the producer is performing satisfactorily under the contract; and

(7) specify the obligations of the Secretary under the Program.

(c) TERM OF CONTRACT.—A contract entered into under the Program with a producer shall require such producer to continue and maintain any practice for which an incentive payment is made under section 6 for a period of not less than 5 crop years.

(d) CONTINUING ELIGIBILITY.—

(1) IN GENERAL.—To remain eligible for incentive payments under section 6, a producer shall—

(A) continue to implement, improve or maintain practices as required in the contract entered into under this section, and continue to avoid using any practices prohibited in such contract, for the period described in subsection (b); and

(B) remain in compliance with the conservation provisions of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

(2) REFUNDS.—A producer that does not comply with the requirements of paragraph (1) shall be required to refund to the Secretary any incentive payments received under section 6 concerning the contract to which the noncompliance applies, plus interest.

(e) REVISIONS.—A producer may obtain a revision of the contract entered into under this section on such terms as the Secretary determines to be reasonable if—

(1) natural causes prevent the implementation, improvement or maintenance of practices as required under such contract;

(2) such contract no longer accurately reflects the production patterns or circumstances pertaining to the farm;

(3) the contract cannot be carried out without severe economic losses that threaten the viability of the farming operation; or

(4) the producer and the Secretary agree on contract modifications that will not compromise the water quality goals and objectives in the existing contract and that will be no less effective or timely in achieving such goals and objectives than the existing contract.

SEC. 5. ACREAGE LEVELS.

The Secretary shall enter into contracts with producers to place in the Program agricultural land—

(1) during the 1991 crop year, that equals not less than 3,000,000 acres;

(2) during the 1992 crop year, that equals a total of not less than 10,000,000 acres;

(3) during the 1993 crop year, that equals a total of not less than 20,000,000 acres;

(4) during the 1994 crop year, that equals a total of not less than 35,000,000 acres; and

(5) during the 1995 crop year, that equals a total of not less than 50,000,000 acres.

SEC. 6. INCENTIVE PAYMENTS.

(a) IN GENERAL.— A contract entered into under the Program shall provide for annual incentive payments to be made by the Secretary to the producer on a per acre basis in amounts sufficient to encourage producers to participate in the program in sufficient numbers to achieve the acreage levels described in section 5.

(b) TERMS, AMOUNTS, LIMITATION, MANNER.—

(1) TERMS.—Payments shall be made under this section for a period of not less than 3 nor more than 5 years, as determined appropriate by the Secretary, and as specified in the contract entered into under the Program.

(2) AMOUNTS.—In determining the amount and number of payments to be made to a producer under this section, the Secretary shall consider the cost and effort involved in implementing, improving and maintaining the practices for which incentive payments are made.

(3) LIMITATION.—Payments to a producer under this section shall not exceed $3,500 for any crop year. Payments under this section shall not be subject to, or considered in applying, limitations on payments under any other program administered by the Secretary, except that incentive payments for a practice or practices shall not be made under this section if payments or assistance is provided for such practice or practices under any other Federal program.

(4) MANNER.—The Secretary may make a lump sum payment to a producer of the annual incentive payments required under a contract entered into under the Program, as reduced to present value, if such lump sum payment is necessary to enable the producer to pay the initial costs of implementing a practice required under such contract.

SEC. 7. ADMINISTRATION.

(a) WATER QUALITY AREAS.—In entering into contracts under this Act, the Secretary shall give priority to producers that will place in the Program lands determined by the Secretary, in consultation with the Administrator of the Environmental Protection Agency and State officials having responsibility for monitoring and protecting water quality, to be land on which agricultural production creates the potential for contamination or degradation of surface water or ground water.

(b) DEMONSTRATION AND MODEL FARM PROGRAMS.—To the maximum extent practicable and consistent with the requirements of the Program and the priority described in subsection (a), the Secretary shall enter contracts under this Act with producers to facilitate the participation by such producers in demonstration or model farm programs that are sponsored by governmental or private non-profit entities and designed to provide education on, disseminate information about, and demonstrate the practical application of agricultural production practices that reduce the potential for contamination or degradation of surface water or ground water while emphasizing practices that enhance farm profitability and productivity.

SEC. 8. COMMODITY CREDIT CORPORATION.

(a) USE.—The Secretary shall use the facilities, services, authorities, and funds of the Commodity Credit Corporation to carry out this Act.

(b) AUTHORITY.—The authority provided under this Act shall be in addition to, and not in place of, any other authority granted to the Secretary and the Commodity Credit Corporation.

SEC. 9. CONSERVATION RESERVE PROGRAM.

Section 1231(c) of the Food Security Act of 1985 (16 U.S.C. 3831(c)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) The Secretary shall permit cropland that is not highly erodible to be placed in the program established under this subtitle if—

"(i)(I) agricultural production on the cropland creates the potential for contamination or degradation of ground water due to the presence of agricultural drainage wells, naturally occurring sinkholes or geologic formations and soil that may allow direct entry of contaminants into ground water; or

"(II) the cropland is otherwise determined by the Secretary, in consultation with the Administrator of the Environmental Protection Agency and State officials having responsibility for monitoring and protecting water quality, to be land on which agricultural production creates the potential for contamination or degradation of surface water or ground water; and

"(ii) it is determined by the Secretary that there is little or no potential for a major reduction in the potential for contamination or degradation of surface water or ground water through placing such cropland in the Program established under the Agricultural Water Quality Incentive Act of 1990.

"(B) The Secretary may permit less than an entire field of such land to be placed in the program under this paragraph.

"(C) The Secretary may acquire easements on land placed in the program under subparagraph (A) that limit or prohibit agricultural production on such land to minimize the potential for contamination or degradation of surface water or ground water through agricultural drainage wells, sinkholes or similar geologic formations, or as a consequence of agricultural production practices, and may, in order to acquire such easements, make payments under the program, notwithstanding section 1234, in the form of a lump sum payment based on the net present value of bids accepted by the Secretary for the placement of land in the program.

"(D) The Secretary shall provide cost share assistance to producers under this paragraph to share the costs incurred by such producers for the establishment of any permanent vegetative cover that may be required under the contract or easement entered into or created under this paragraph.

"(E) As used in this subtitle, the term 'highly erodible land' includes land described in this paragraph.".●

By Mr. LEAHY (for himself, Mr. BOSCHWITZ, Mr. HARKIN, Mr. PRYOR, Mr. MCCONNELL, Mr. DASCHLE, Mr. FOWLER, Mr. CONRAD, Mr. KERRY, Mr. MITCHELL, Mr. SASSER, Mr. BAUCUS, Mr. DECONCINI, and Mr. FORD):

S. 2489. A bill to improve the nutritional health of needy Americans, to provide emergency food assistance, to reauthorize several nutritional programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

MICKEY LELAND MEMORIAL DOMESTIC HUNGER RELIEF ACT

Mr. LEAHY. Mr. President, I am pleased to introduce the Mickey Leland Memorial Domestic Hunger Relief Act. It honors a friend of the hungry and the needy.

It is, as Congressman LEON PANETTA said on introducing the House version of this bill, "a living memorial to Mickey and his work. By providing more food to the millions of American children living in poverty and by preventing some of those children and their families from being thrown into the ranks of the homeless, we can help Mickey Leland's spirit to live on."

I share those views and the views of Congressman BILL EMERSON, the ranking minority member on the Domestic Marketing, Consumer Relations, and Nutrition Subcommittee of the House Agriculture Committee. He said: "I firmly believe that in our Nation of abundance, it is a tragedy for any child, elderly person, or anyone to go hungry."

I want to thank LEON PANETTA, BILL EMERSON, and CHARLIE HATCHER for their hard work on this bill. I know they have spent many hours working on the details of this living tribute to Mickey Leland.

This tribute to Mickey Leland also enjoys bipartisan support in the Senate. I am very proud to have Senator BOSCHWITZ as an original sponsor of this bill. He is the ranking minority member of the Nutrition and Investigation Subcommittee and a key leader regarding the nutrition programs. His vital support of programs to help needy children, the elderly, the disabled, and handicapped sets an outstanding example to us all. In a major book on the struggle against hunger, "Living Hungry in America," he and Senator LUGAR were singled out for well-deserved praise for their history of support for the nutrition programs.

I need to also especially mention Senators SASSER and DOMENICI. At its hearing on February 27, 1990, the Committee on Agriculture, Nutrition, and Forestry was honored to have JIM SASSER and PETE DOMENICI as the lead-off witnesses.

They vividly described the need for significant nutrition legislation. As the chairman and ranking minority members of the Senate Budget Committee, their support is crucial to the success of this effort.

I was pleased to hear JIM SASSER state: "I intend to work hard to push antihunger legislation through the Congress this year and to provide the funds in the 1991 budget resolution we are now preparing in my committee. I intend to make this initiative one of my highest priorities this year."

Similarly, PETE DOMENICI eloquently described the need for legislation this year and his commitment to that end. Their early, and strong, support for a major nutrition initiative this year deserves the praise of every Senator.

Senators SASSER and DOMENICI set forth the blueprint for a broad nutrition initiative which I strongly endorse. Their support enabled the Agriculture, Nutrition and Forestry Committee to begin work immediately to achieve those broad objectives.

Our plan is to include a major nutrition title in the 1990 farm bill—that title will be the heart and soul of the farm bill. This bill, the "Mickey Leland Memorial Domestic Hunger Relief Act" will become that title.

Hunger is not a political issue. It is a moral issue. It gnaws at the inner fiber of our Nation's health. It jeopardizes the future of our entire Nation.

One in every fifth child in America lives in poverty. The poverty rate for children under 6 is more than double the rate for adults.

When kids go to school with empty bellies, they simply cannot learn.

If our Nation's children are not learning, our Nation's future is seriously at risk. We must not surrender our future.

It is important to remember that the Food Stamp Program is a crucial child nutrition program—over 80 percent of all food stamp assistance goes to families with children.

Nutrition programs are a test of the conscience of this Nation. The farm bill can not be complete until the needs of the hungry are met.

America is the richest, most self-sufficient Nation on Earth.

Yet each year 40,000 infants die before their first birthday. At a recent Senate hearing Dr. Buford Nichols, of the Baylor College of Medicine, testified that 20,000 infant deaths can be prevented each year by improving prenatal nutrition and care.

Think about that—20,000 infants can be saved.

Millions of Americans go to bed hungry. This problem is not limited to the homeless living on our street corners. It is much worse.

It's time to shatter the stereotype of the hungry.

Millions of Americans work day in and day out, but still do not earn enough to make ends meet. They work hard, but often they do not earn enough to adequately feed and clothe their children.

Eight million Americans who work live in poverty. The working poor are one of the fastest growing segments in our society. They are my neighbors. They are your neighbors.

Let's look at the hard facts. Housing costs are skyrocketing; 45 percent of poor renters spend 70 percent of their family income on housing. Many of these families must often choose between paying their rent or feeding their children.

Farmers, storekeepers, factory and steel workers across this country are sending their sons and daughters to school hungry every day. Millions of Americans are two, or three, paychecks away from hunger.

A 1988 Carnegie Foundation study in my home State of Vermont, found that 81 percent of Vermont teachers reported that undernourished children were a problem in their schools. In the world's wealthiest Nation, this is truly a disgrace.

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It's time to get our priorities straight.

I also want to make a commitment not to leave out Puerto Rico in this nutrition effort. In the early 1980's, USDA food assistance to Puerto Rico was greatly reduced. Fairness requires that American citizens everywhere be treated equally. Puerto Ricans have died defending American's freedoms in all our wars during this century—we must not treat them unfairly.

I am very proud that this committee has established a grand bipartisan tradition on nutrition legislation. I have already mentioned the ranking minority member, Senator DICK LUGAR, and the ranking member on the Nutrition Subcommittee, Senator RUDY BOSCHWITZ, who deserve a great deal of praise. It is important to note that Senator BOB DOLE played a major role in establishing this bipartisan tradition.

Senator HARKIN, the chairman of the Nutrition Subcommittee, has fought for years to help the hungry. He is a true friend to the needy. He has pushed to include critical provisions in this act. I especially want to note his role regarding the child care provisions.

He has worked to increase the child care reimbursements provided under the act. This helps needy parents who want to seek work, or stay employed, who have young children. I know he is also working on a separate bill to assist the Commodity Supplemental Food Program and I applaud his efforts to help that program.

I would like to also especially thank Senator PRYOR. He has been the leader in getting provisions in this bill that will greatly help elderly and disabled Americans. Several sections of this act are the result of his efforts. These provisions will also help remove barriers to participation in rural areas.

I appreciate the assistance of Senator HEFLIN on the quality control provision of this bill. He has worked closely with me in developing this section. Without this provision, States would be put under severe financial pressures likely forcing them to reduce the quality and efficiency of services provided to needy Americans.

The committee has joined together in recent years to enact major nutrition legislation. The Hunger Prevention Act of 1988 represented the most significant commitment to alleviating hunger in over 10 years. It was hailed by Time magazine as "landmark" legislation.

The Commodity Distribution Reform Act and WIC Amendments of 1987, approved 97 to 0, and the Child Nutrition and WIC Reauthorization Act of 1989, approved by voice vote, also made major improvements in child nutrition programs. The nutrition title of the McKinney Homeless Assistance Act also was broadly supported by the Agriculture Committee.

These four laws indicate the strong support of Democrats and Republicans alike, on this committee, to America's children and America's future.

The nutrition title of the farm bill will demonstrate their continuing commitment.

I want to thank others for their help. I was pleased to receive a detailed set of recommendations for improving the Food Stamp Program from the American Public Welfare Association [APWA]. The APWA Food Stamp Reauthorization Task Force was composed of over 70 State officials.

Their recommendations are extremely important. They represent the views of those who administer the food stamp and other human services programs at the State level. They have hands on experience that is invaluable in properly understanding how to improve nutrition programs.

The detailed and comprehensive recommendations were adopted in December 1989 by the APWA National Council of State Human Service Administrators. These recommendations for congressional action in 1990 were based on the work of the APWA Food Stamp Reauthorization Task Force chaired by Veronica Celani, commissioner of the Vermont Department of Social Services.

I am proud of her efforts. Over the last several years Veronica Celani has provided valuable advice on food stamp matters.

I also want to mention the efforts of Sue Hall, Michigan Department of Social Services, in chairing task force meetings; Larry Goolsby, APWA policy associate, who greatly helped in these efforts; Tim Grace, Illinois Department of Public Aid, who ably presented the recommendations to the Agriculture Committee; and Ed Price, of the Vermont Department of Social Welfare.

Their work laid the foundation for this bill.

I also want to acknowledge the early support of the National Farmers Union for including a major nutrition title in the farm bill. All of their food assistance recommendations, made in September, 1989, have been included in the bill I am introducing today. I appreciate their early and continuing commitment to America's children, to America's farmers and to America's future.

I also received valuable guidance last year from Fran Czajkowski, director of the Vermont Foodbank. Their annual Vermont Food and Hunger Conferences have assisted me in designing legislation. I am concerned, as is Fran, that the Central Vermont Community Action Council's food shelf has seen a 20-percent rise in demand for food recently.

I want to thank Ellen Haas, executive director, Public Voice for Food and Health Policy, and Patti McGrath Morris, director of research, for their exhaustive, and very timely, work on an important issue.

They reported preliminary findings, at a recent Agriculture Committee hearing, on the costs of food in persistently poor counties in the United States. They concluded that retail food prices are significantly higher in many stores in persistently poor rural counties. This has significant adverse effects on the food stamp families living in those areas.

For example, it was explained that a family of four gets a maximum of around $75 in food stamps per week. However, in 269 persistently poor rural counties it can cost an average of $102 to buy the same foods USDA says can be purchased with $75. I am anxious to examine the full report upon its completion.

Also, the National Governor's Association, American Association of Retired Persons, the National Conference of State Legislatures, Families USA, Second Harvest and the National Association of Counties provided me with excellent suggestions for this bill.

Many other groups have provided tremendous help in this effort. I would like to single two out for special attention. The Center on Budget and Policy Priorities and the Food Research and Action Center have consistently provided the Congress with excellent advice and counsel on important nutrition issues.

Mr. President, I would like to briefly mention a few technical points about the bill to clarify some issues. Section 136 on reducing paperwork for homeless households provides the Secretary with broad discretion to issue rules to provide for a standard allowance for shelter costs for homeless households that have some shelter expenses per month.

It is important that broad discretion be provided here since there are a number of good ways to handle this issue. The Secretary could provide for variations based on household size, based on urban-rural distinctions, or such other factors as the Secretary determines appropriate.

Another section requires that participants in the Commodity Supplemental Food Program be referred to, and be given information regarding, the Medicaid Program. That provision is taken from requirements already imposed on WIC, a companion program to CSFP. That new section is not intended to be in any manner burdensome on State agencies. Existing materials already printed and used by the WIC Program should be used to satisfy these requirements.

Mr. President, I need to make one additional point. I recognize that the

budget resolution for 1991 has not yet been adopted by Congress. That budget resolution will govern what we can do this year in our efforts to address the important matters I have just discussed.

In this regard, I am very pleased with the commitments made by the chairman and ranking minority members of the Senate Budget Committee. I am very pleased that Mr. PANETTA, the chairman of the House Budget Committee, made similar commitments.

Mr. President, the following represents a brief summary of some of the key provisions of the Mickey Leland Memorial Domestic Hunger Relief Act of 1990. Over the next couple of weeks the committee will work together to craft the committee reported version. I look forward to that process.

Mr. President, at this point I would ask unanimous consent to have printed in the RECORD the text of the bill and a short summary of some of the key provisions of this act.

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

S. 2489

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

SECTION. 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Mickey Leland Memorial Domestic Hunger Relief Act".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. References to the Food Stamp Act of 1977.

TITLE I—REDUCING CHILDHOOD HUNGER

Subtitle A—Eliminating the Excess Shelter Deduction Cap

Sec. 111. Households with high shelter expenses.

Subtitle B—Adequacy of Food Stamp Benefits

Sec. 121. Basic benefit level.
Sec. 122. Continuing benefits to eligible households.

Subtitle C—Protecting Households in Special Circumstances

Sec. 131. Emergency food for disaster victims.
Sec. 132. Clothing allowances.
Sec. 133. Protection for participants in demonstration projects.
Sec. 134. Alternative method of issuance.
Sec. 135. Improving assistance to the homeless.
Sec. 136. Reduced paperwork for homeless households.

TITLE II—PROMOTING SELF-SUFFICIENCY

Sec. 201. Child support disregard.
Sec. 202. Limitation on resources.
Sec. 203. State option to reduce unnecessary paperwork.
Sec. 204. Expanding the availability of employment and training opportunities.
Sec. 205. Helping low-income students achieve self-sufficiency.
Sec. 206. Families in transitional housing.

TITLE III—SIMPLIFYING PROGRAM ADMINISTRATION

Sec. 301. Relatives living together.
Sec. 302. Simplifying resource determinations.
Sec. 303. Simplifying eligibility determinations for recipients of supplemental security income and aid to families with dependent children.
Sec. 304. Simplified application signing requirements.
Sec. 305. Categorical eligibility for recipients of State general assistance.
Sec. 306. State flexibility in assisting households in dire need.

TITLE IV—HUNGER IN RURAL AMERICA

Sec. 401. Simplified issuance procedures in rural areas.

TITLE V—PROMOTING ACCESS FOR THE ELDERLY AND DISABLED

Sec. 501. Clarifying amendment concerning simplified procedure for claiming excess medical deduction.
Sec. 502. Value of minimum benefit.
Sec. 503. Optional issuance procedures for low food stamp allotments.
Sec. 504. Applicants for supplemental security income.
Sec. 505. Demonstration projects to improve participation of groups with the lowest participation rates.

TITLE VI—PROGRAM ADMINISTRATION BY STATE AGENCIES

Sec. 601. Quality control sanctions with respect to disallowances before fiscal year 1991.

TITLE VII—PROGRAM INTEGRITY

Sec. 701. Authorization of wholesale food concerns.
Sec. 702. Required submission of Social Security numbers.
Sec. 703. Improved collection of information from retail food stores.
Sec. 704. Increased fines for coupon trafficking.
Sec. 705. Permanent disqualification for certain abuses.
Sec. 706. Fines for retail food stores and wholesale food concerns that accept loose coupons.
Sec. 707. Fines for unauthorized third parties that accept food stamps.
Sec. 708. Computer fraud penalties.
Sec. 709. Employer identification and social security numbers.
Sec. 710. Fraud claims repayment.

TITLE VIII—REAUTHORIZATION OF PROGRAMS

Sec. 801. Reauthorization of food stamp program.
Sec. 802. Reauthorization of nutrition assistance program for Puerto Rico.
Sec. 803. Food Stamp Act provisions.
Sec. 804. Reauthorization of temporary emergency food assistance program.
Sec. 805. Soup kitchens and food banks.
Sec. 806. Reauthorization of food donation to selected groups.
Sec. 807. Processing agreements.
Sec. 808. Nutrition education authorization.
Sec. 809. Referrals to other programs for women, infants, and children.

TITLE IX—MISCELLANEOUS

Sec. 901. Food bank projects.
Sec. 902. Food distribution program-advance funding for State option contracts (SOCs).
Sec. 903. Study of feasibility of providing allotments to residents of board and care homes.
Sec. 904. Food distribution program on Indian reservations.
Sec. 905. Nutrition education.
Sec. 906. Increase in WIC program authorization.

TITLE X—INDIAN NUTRITION GARDENING PROGRAM

Sec. 1001. Purposes.
Sec. 1002. Definitions.
Sec. 1003. Indian subsistence farming grant program.
Sec. 1004. Extension Service.
Sec. 1005. Training and technical assistance.
Sec. 1006. Tribal consultation.
Sec. 1007. Use of grants.
Sec. 1008. Amount and term of grant.
Sec. 1009. Other requirements.
Sec. 1010. Authorization for appropriations.

TITLE XI—EFFECTIVE DATES

Sec. 1101. Effective dates.

SEC. 2. REFERENCES TO THE FOOD STAMP ACT OF 1977.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), except to the extent otherwise specifically provided.

TITLE I—REDUCING CHILDHOOD HUNGER

Subtitle A—Eliminating the Excess Shelter Deduction Cap

SEC. 111. HOUSEHOLDS WITH HIGH SHELTER EXPENSES.

(a) REMOVAL OF CAP.—The fourth sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by striking ": *Provided*, That the amount" and all that follows through "June 30".

(b) TRANSITIONAL CAP.—Effective for the period beginning on the date of enactment of this Act through September 30, 1992, section 5(e), as amended by subsection (a), is amended by inserting after the fourth sentence the following new sentence: "The excess shelter expense deduction, during the 15-month period ending December 31, 1990, shall not exceed $177 a month in the 48 contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $308, $253, $215, and $131 a month, respectively, during the 9-month period ending September 30, 1991, shall not exceed $250 a month in the 48 contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $434, $357, $303, and $184 a month, respectively, and during the 12-month period ending September 30, 1992, shall not exceed $270 a month in the 48 contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $469, $385, $328, and $199 a month, respectively.".

Subtitle B—Adequacy of Food Stamp Benefits

SEC. 121. BASIC BENEFIT LEVEL.

Section 3(o) (7 U.S.C 2012(o)) is amended by striking "(4) through" and all that follows through the end of the subsection and inserting the following: "(4) on October 1, 1990, adjust the cost of the diet to reflect

103 percent of the cost of the thrifty food plan in the preceding June, as determined by the Secretary, and round the result to the nearest lower dollar increment for each household size, (5) on October 1, 1991, adjust the cost of the diet to reflect 103⅓ percent of the cost of the thrifty food plan in the preceding June (without regard to the adjustment made under clause (4)), as determined by the Secretary, and round the result to the nearest lower dollar increment for each household size, (6) on October 1, 1992, adjust the cost of the diet to reflect 103⅔ percent of the cost of the thrifty food plan in the preceding June (without regard to any previous adjustments made under clauses (4) and (5)), as determined by the Secretary, and round the result to the nearest lower dollar increment for each household size, (7) on October 1, 1993, adjust the cost of the diet to reflect 104 percent of the cost of the thrifty food plan in the preceding June (without regard to any previous adjustments made under clauses (4), (5) and (6)), as determined by the Secretary, and round the result to the nearest lower dollar increment for each household size, and (8) on October 1, 1994, and on every October 1 thereafter, adjust the cost of the diet to reflect 105 percent of the cost of the thrifty food plan in the preceding June, (without regard to any previous adjustments made under clauses (4), (5), (6), (7) or this clause) as determined by the Secretary, and round the result to the nearest lower dollar increment for each household size.".

SEC. 122. CONTINUING BENEFITS TO ELIGIBLE HOUSEHOLDS.

Section 8(c)(2)(B) (7 U.S.C. 2017(c)(2)(B)) is amended by inserting after "such program," the following: "or, at the option of the State agency, the first month for which an allotment is issued to a household following any period of more than 1 month during which the household was not participating in the food stamp program after previous participation in the program".

Subtitle C—Protecting Households in Special Circumstances

SEC. 131. EMERGENCY FOOD FOR DISASTER VICTIMS.

Section 5(h) (7 U.S.C. 2014(h)) is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary shall provide, by regulation, for emergency allotments to eligible households to replace food destroyed in a disaster.

"(B) The regulations shall provide for replacement of the value of food actually lost up to a limit approved by the Secretary of not greater than the applicable maximum monthly allotment for the household size.

"(C) The Secretary shall adjust reporting and other application requirements to be consistent with what is practicable under actual conditions in the affected area. In making this adjustment, the Secretary shall consider the availability of the State agency's offices and personnel and any damage to or disruption of transportation and communication facilities.".

SEC. 132. CLOTHING ALLOWANCES.

Section 5(d)(5) (7 U.S.C. 2014(d)) is amended by inserting after the comma at the end of the paragraph the following: "except that any allowance a State provides no more frequently than annually to families with children at the time a child enters or returns to school, or for child care, for the purpose of obtaining clothes shall be excluded,".

SEC. 133. PROTECTION FOR PARTICIPANTS IN DEMONSTRATION PROJECTS.

(a) COMPENSATION FOR SALES TAX.—Section 17(b)(1) (7 U.S.C. 2026(b)(1)) is amended by adding at the end the following new sentences: "No waiver or demonstration program shall be approved, and no waiver or demonstration program shall be continued, under this paragraph after September 30, 1991, unless (A) any household whose food assistance is issued in a form other than coupons has its allotment increased to the extent necessary to compensate for any State or local sales tax that may be collected in all or part of the area covered by the demonstration project, and (B) the State agency conducting the demonstration project pays the cost of the increased allotments. The foregoing sentence shall not apply if the waiver or demonstration project already provides a household with assistance that exceeds that which the household would otherwise be eligible to receive by more than the estimated amount of any sales tax on the purchases of food that would be collected from the household in the project area in which the household resides.".

(b) CONFORMING AMENDMENT.—Section 8(b) (7 U.S.C. 2017(b)) is amended—

(1) by inserting after "of the allotment" the following: "(or benefits issued in lieu of the allotment)"; and

(2) by inserting after "of an allotment" the following: "(or benefits issued in lieu of an allotment)".

SEC. 134. ALTERNATIVE METHOD OF ISSUANCE.

(a) IN GENERAL.—Section 7 (7 U.S.C. 2016) is amended by adding at the end the following new subsection:

"(i)(1)(A) On or after April 1, 1992, any State agency may, with the approval of the Secretary, implement an on-line electronic benefit transfer system in which household benefits determined under section 8(a) are issued from and stored in a central data bank and electronically accessed by household members at the point-of-sale.

"(B) No State agency may implement or expand an electronic benefit transfer system without prior approval from the Secretary.

"(2) The Secretary shall issue regulations that establish standards for the approval of such a system. The regulations shall be made effective prior to the approval of any new or expanded systems for which application is made after April 1, 1991. The standards shall include—

"(A) determining the cost-effectiveness of the system to ensure that its operational cost, including the cost of capital expenditures, does not exceed, in any one year, the operational cost of issuance systems in use prior to the implementation of the on-line electronic benefit transfer system;

"(B) defining the required level of recipient protection regarding privacy, ease of use, training, accommodation for the physically and mentally handicapped and persons not literate in English, and access to and service in retail food stores (including the protections set out in paragraph (3));

"(C) the terms and conditions of retailer and financial institution participation;

"(D) system security;

"(E) system transaction interchange, reliability and processing speed standards;

"(F) financial accountability;

"(G) standards for the required testing of system operations prior to implementation; and

"(H) standards for the analysis of the results of system implementation in a limited project area prior to expansion.

"(3) In the case of delivery or use systems in which participation is not optional for certified households, the Secretary shall not approve such a system unless—

"(A) a sufficient number of eligible retail food stores, including those stores able to serve minority language populations, have agreed to participate in the system throughout the area in which the system will operate to ensure that eligible households will not suffer a significant reduction in the choice of retail food stores or a significant increase in the cost of food or transportation to participating food stores; and

"(B) any special equipment necessary to allow households to purchase food with the benefits issued under this Act is operational at all registers or check-out lines in each participating store.

"(4) Administrative costs incurred in connection with activities under this subsection shall be eligible for reimbursement in accordance with section 16, subject to the limitations in section 16(g) concerning administrative costs eligible for 75 percent funding.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—Section 17(f) (7 U.S.C. 2026(f)) is amended—

(1) by striking "(f)(1)" and inserting "(f)"; and

(2) by striking "section 7(g)(2)," and inserting "paragraphs (2) and (3) of section 7(g),".

SEC. 135. IMPROVING ASSISTANCE TO THE HOMELESS.

(a) DEFINITION OF MEALS.—Section 3(g)(9) (7 U.S.C. 2012(g)(9)) is amended by striking "a public" and all that follows through the end of the paragraph and inserting "private establishments that contract with the appropriate agency of the State to offer meals for the households at concessional prices.".

(b) CONFORMING AMENDMENT.—Section 11002(f)(3) of the Homeless Eligibility Clarification Act (Public Law 99-570; 7 U.S.C. 2012 note) is amended by striking "subsection (b)" and inserting "subsections (a) and (b)".

SEC. 136. REDUCED PAPERWORK FOR HOMELESS HOUSEHOLDS.

Section 11(e)(3)(E) (7 U.S.C. 2020(e)(3)(E)) is amended by inserting before the final semicolon a period and the following: "Under rules prescribed by the Secretary, a State agency shall develop standard estimates of the shelter expenses that may reasonably be expected to be incurred by households in which all members are homeless but that are not receiving free shelter throughout the month. A State agency shall use the estimates in determining the allotments of the households, unless a household verifies higher expenses".

TITLE II—PROMOTING SELF-SUFFICIENCY

SEC. 201. CHILD SUPPORT DISREGARD.

Section 5 (7 U.S.C. 2014) is amended—

(1) in subsection (d)(13)—

(A) by striking "at the option of a State agency and subject to subsection (m)," and inserting "(A)"; and

(B) by inserting after the comma at the end of the paragraph the following: "and (B) in the case of a household in which some or all members do not receive assistance under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), a disregard for child support equal to the amount that would be disregarded if the household members were receiving assistance under such part A,"; and

(2) by striking subsection (m).

SEC. 202. LIMITATION ON RESOURCES.

(a) VEHICLES.—Section 5(g) (7 U.S.C. 2014(g)) is amended—

(1) by designating the first, second, third, and fourth sentences as paragraphs (1), (2), (4), and (5), respectively;

(2) in paragraph (2) (as so designated), by striking "$4,500" and inserting "the maximum vehicle value determined under paragraph (3)"; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) For purposes of paragraph (2), the maximum vehicle value shall be—

"(A) $4,500 through December 31, 1990;

"(B) $4,750 from January 1, 1991, through September 30, 1991;

"(C) $5,000 from October 1, 1991, through September 30, 1992;

"(D) $5,250 from October 1, 1992, through September 30, 1993;

"(E) $5,500 from October 1, 1993, through September 30, 1994;

"(F) the amount determined for the preceding fiscal year, as adjusted on October 1, 1994, and on each October 1 thereafter, to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, for new cars, for the 12 months ending the preceding June 30 and rounded to the nearest $50.".

(b) DEMONSTRATION PROJECTS.—Section 17 (7 U.S.C. 2026) is amended by adding the following new subsection:

"(h) The Secretary shall conduct a sufficient number of demonstration projects to evaluate the effects, in both rural and urban areas, of counting the fair market value of licensed vehicles to the extent the value of each vehicle exceeds $4,500, but excluding the value of—

"(1) any licensed vehicle that is used to produce earned income, necessary for transportation of a disabled member, or used as the home of the household;

"(2) one licensed vehicle used to obtain, continue, or seek employment (including travel to and from work), used to pursue employment-related education or training, or used to secure food or the benefits of the food stamp program.".

SEC. 203. STATE OPTION TO REDUCE UNNECESSARY PAPERWORK.

Section 6(c) (7 U.S.C. 2015(c)) is amended—

(1) in paragraph (2)(C), by striking "forms approved by the Secretary" and inserting "State agency designed forms"; and

(2) in the first sentence of paragraph (3)—

(A) by striking ", in accordance with standards prescribed by the Secretary,"; and

(B) by striking "to enable the State agency to determine household eligibility and allotment levels" and inserting "specified by the State agency that is relevant to eligibility and benefit determinations".

SEC. 204. EXPANDING THE AVAILABILITY OF EMPLOYMENT AND TRAINING OPPORTUNITIES.

(a) LITERACY TRAINING.—Section 6(d)(4)(B)(v) (7 U.S.C. 2015(d)(4)(B)(v)) is amended by inserting after "basic skills" the following: "and literacy,".

(b) DEMONSTRATION PROJECT EXPANDING STATE FLEXIBILITY.—

(1) AUTHORITY FOR STATES.—Section 6(d)(4) (7 U.S.C. 2015(d)(4)) is amended by adding at the end the following new subparagraph:

"(O) Through September 30, 1995, four State agencies may, on application to the Secretary, give priority in the provision of services under this paragraph to voluntary participants, including both exempt and nonexempt participants, except that giving priority to the participants shall not excuse the State agency from compliance with the performance standards set forth in subparagraphs (K) and (L). Voluntary participation in an employment and training program under this subparagraph shall not affect the requirements of the Job Opportunities and Basic Skills Program under Title IV of the Social Security Act.".

(2) EVALUATION.—The Secretary of Agriculture shall conduct a study of the number and characteristics of voluntary participants receiving priority under section 6(d)(4)(O) of the Food Stamp Act of 1977 (as added by paragraph (1)), evaluate the priority given the voluntary participants, and report the results of the study and evaluation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) PROGRAMS THAT FOCUS ON SELF-EMPLOYMENT OPPORTUNITIES.—

(1) AUTHORIZATION FOR PROGRAMS.—Section 6(d)(4)(B) (7 U.S.C. 2015(d)(4)(B)) is amended—

(A) by redesignating clause (vi) as clause (vii); and

(B) by inserting after clause (v) the following new clause:

"(vi) Programs designed to increase the self-sufficiency of recipients through self-employment, including programs that provide instruction for self-employment ventures.".

(2) EXEMPTION FOR RESOURCES USED IN PROJECTS.—The third sentence of section 5(g) (7 U.S.C. 2014(g)) is amended by inserting before the period the following: "and nonliquid resources necessary to allow the household to carry out a plan for self-sufficiency approved by the State agency that constitutes adequate participation in an employment and training program under section 6(d)".

(d) EXPENSES FOR EMPLOYMENT, JOB SEARCH, AND OTHER EMPLOYMENT AND TRAINING ACTIVITIES.—

(1) DEPENDENT CARE DEDUCTION.—Clause (1) of the fourth sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by striking "$160 a month for each" and inserting "$200 a month for a child under age 2 and $175 a month for any other".

(2) REIMBURSEMENTS TO PARTICIPANTS.—Section 6(d)(4)(I)(i) (7 U.S.C. 2015(d)(4)(I)(i)) is amended—

(A) in subclause (I), by striking "$25" and inserting "$75"; and

(B) by striking subclause (II) and inserting the following:

"(II) the actual costs of such dependent care expenses as are determined by the State agency to be necessary for the participation of an individual in the program (other than an individual who is the caretaker relative of a dependent in a family receiving benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in a local area where an employment, training, or education program under title IV of such Act is in operation or was in operation on September 19, 1988) up to a limit established by the State agency, but in no event shall the payments or reimbursements exceed the applicable local market rate (as determined by the State under procedures consistent with those under section 402(g)(1)(C)(ii) of the Social Security Act (42 U.S.C. 602(g)(1)(C)(ii)). The State agency shall not establish a limit on the reimbursements that is less than the limit for the dependent care deduction under section 5(e).

Individuals subject to the program under this paragraph may not be required to participate if the expenses of the individuals exceed the limit established by the State agency under this paragraph (unless the excess expenses are reimbursed with funds that are not provided under this Act).".

(3) REIMBURSEMENTS TO STATE AGENCIES.—Section 16(h)(3) (7 U.S.C. 2025(h)(3)) is amended—

(A) by striking "$25" and inserting "the payment made under section 6(d)(4)(I)(i)(I), but not more than $75 per participant per month,"; and

(B) by striking "$160 per month per dependent" and inserting "the payment made under section 6(d)(4)(I)(i)(II), but not more than the applicable local market rate,".

SEC. 205. HELPING LOW-INCOME STUDENTS ACHIEVE SELF-SUFFICIENCY.

(a) ELIGIBILITY FOR LOW-INCOME STUDENTS.—Subsection (e) of section 6 (7 U.S.C. 2015(e)) is amended to read as follows:

"(e) No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household if the individual is enrolled at least half time in an institution of higher education, unless the individual—

"(1) is under 18 years of age or is age 50 or older;

"(2) is not physically and mentally fit;

"(3) is attending or assigned to an institution of higher education through or in compliance with the requirements of—

"(A) a program established under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

"(B) an employment and training program established under this section;

"(C) a program established under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

"(D) another program for the purpose of employment and training operated by a State or local government;

"(4) is employed a minimum of 20 hours per week or participating in a State or federally financed work study program during the regular school year;

"(5) is—

"(A) a parent with responsibility for the care of a dependent child under the age of 6;

"(B) a parent with responsibility for the care of a dependent child above the age of 5 and under the age of 12 for whom adequate child care is not available to enable the individual to attend class and satisfy the requirements of paragraph (4); or

"(C) a single parent with responsibility for the care of a dependent child above the age of 5 and under the age of 12 who is enrolled in a full-time course of study;

"(6) is receiving aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(7) is so enrolled as a result of participation in the work incentive program established under title IV of the Social Security Act or its successor programs.".

(b) TREATMENT OF EDUCATIONAL EXPENSES.—Section 5(d) (7 U.S.C. 2014(d)) is amended—

(1) in paragraph (3)—

(A) by striking "on which payment is deferred"; and

(B) by striking "and the like" and all that follows through "insurance premiums";

(2) in paragraph (4), by striking "other than educational loans on which repayment is deferred"; and

(3) in paragraph (5), by striking ", no portion of any non-Federal" and all that follows through "mandatory school fees,".

(c) CLARIFYING AND TECHNICAL AMENDMENT.—The fourth sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by inserting after "third party" the following: ", amounts made available and excluded for the expenses under subsection (d)(3),".

SEC. 206. FAMILIES IN TRANSITIONAL HOUSING.

Section 5(k)(2) (7 U.S.C. 2014(k)(2)) is amended by striking subparagraph (F) and inserting the following new subparagraph:

"(F) housing assistance payments made to a third party on behalf of a household residing in transitional housing (as defined in section 422(12)(A) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(12)(A))); or".

TITLE III—SIMPLIFYING PROGRAM ADMINISTRATION

SEC. 301. RELATIVES LIVING TOGETHER.

Section 3(i) (7 U.S.C. 2012(i)) is amended—

(1) in the first sentence—

(A) by striking "(2)" and inserting "or (2)"; and

(B) by striking ", or (3) a parent of minor children and that parent's children" and all that follows before the period of the end of the sentence; and

(2) by inserting after the first sentence the following new sentence: "Parents and their minor children who live together shall be treated as a group of individuals who customarily purchase food and prepare meals together for home consumption, even if they do not so.".

SEC. 302. SIMPLIFYING RESOURCE DETERMINATIONS.

Section 5(g) (7 U.S.C. 2014(g)) is amended by adding at the end the following new sentence: "The Secretary shall promulgate rules by which State agencies shall develop standards for identifying kinds of resources that the household is unlikely to be able to sell for any significant return because the interest of the household is so slight or because the cost of selling the interest of the household would be excessive in relation to the value of the interest. Resources so identified shall be excluded as inaccessible resources.".

SEC. 303. SIMPLIFYING ELIGIBILITY DETERMINATIONS FOR RECIPIENTS OF SUPPLEMENTAL SECURITY INCOME AND AID TO FAMILIES WITH DEPENDENT CHILDREN.

Section 5(j) (7 U.S.C. 2014(j)) is amended—

(1) by striking "a household in which all members of the household receive" and inserting "the resources of a household member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or who receives"; and

(2) by striking "have satisfied the resource limitations prescribed under subsection (g)" and inserting "be exempt for purposes of satisfying the resource limitations prescribed under subsection (g) if the resources have been found exempt for purposes of such title by the agency administering the benefit program".

SEC. 304. SIMPLIFIED APPLICATION SIGNING REQUIREMENTS.

Section 11(e)(2) (7 U.S.C. 2020(e)(2)) is amended by striking the sentence beginning "One adult member" and inserting the following new sentences: "The State agency shall require that an adult representative of each household that is applying for food stamp benefits shall certify in writing, under penalty of perjury, that the information contained in the application is true and that all members of the household are either citizens or are aliens eligible to receive food stamps under section 6(f). The signature of the adult under this section shall be deemed sufficient to comply with any provision of Federal law requiring household members to sign the application or statements in connection with the application process.".

SEC. 305. CATEGORICAL ELIGIBILITY FOR RECIPIENTS OF STATE GENERAL ASSISTANCE.

The second sentence of section 5(a) (7 U.S.C. 2014(a)) is amended—

(1) by striking "or aid" and inserting "aid"; and

(2) by inserting before "shall be eligible" the following: "or a State or local general assistance program that serves a population appropriate to be categorically eligible for assistance under this Act (as defined in standards established by the Secretary) because (among other factors) it is required to meet criteria similar to those found in sections 6(f)(1) and 16(e)(1),".

SEC. 306. STATE FLEXIBILITY IN ASSISTING HOUSEHOLDS

Paragraph (3) of section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(3)) is amended to read as follows:

"(3) A State agency may provide that an eligible household applying after the 15th day of the month shall receive, in lieu of its initial allotment and its regular allotment for the following month, an allotment that is the aggregate of the initial allotment and the first regular allotment, which shall be provided in accordance with paragraphs (3) and (9) of section 11(e). A State agency that does not elect to provide aggregate allotments under this paragraph shall provide any household that applies after the 15th day of the month and that is entitled to expedited service under section 11(e)(9) with the allotment of the household for the month after the month of application not later than the first business day of the month.".

TITLE IV—HUNGER IN RURAL AMERICA

SEC. 401. SIMPLIFIED ISSUANCE PROCEDURES IN RURAL AREAS.

Section 11(e) (7 U.S.C. 2020(e)) is amended—

(1) by striking "and" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting a semicolon;

(3) by striking "and" at the end of paragraph (23);

(4) by striking the period at the of paragraph (24) and inserting "; and"; and

(5) by adding at the end the following new paragraph:

"(25) a procedure for designating project areas or parts of project areas that are rural and in which low-income persons face substantial difficulties in obtaining transportation. The State agency shall designate the areas according to procedures approved by the Secretary. In each area so designated, the State agency shall provide for the issuance of coupons by mail to all eligible households in the area, except that any household with mail losses exceeding levels established by the Secretary shall not be entitled to such a mailing and the State agency shall not be required to issue coupons by mail in those localities within the area where the mail loss rates exceed standards set by the Secretary.".

TITLE V—PROMOTING ACCESS FOR THE ELDERLY AND DISABLED

SEC. 501. CLARIFYING AMENDMENT CONCERNING SIMPLIFIED PROCEDURE FOR CLAIMING EXCESS MEDICAL DEDUCTION.

The last sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by inserting before the period at the end the following: ", shall rely on reasonable estimates of the the member's expected medical expenses for the certification period (including changes that can be reasonably anticipated based on available information about the member's medical condition and the current verified medical expenses incurred by the member), and shall not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period".

SEC. 502. VALUE OF MINIMUM BENEFIT.

Section 8(a) (7 U.S.C. 2017(a)) is amended by inserting before the period the following: "for year ending September 30, 1990, and shall be adjusted on each October 1 thereafter to reflect the percentage change in the thrifty food plan for the period beginning June 30, 1989, and ending the previous June, with the result rounded to the nearest $5".

SEC. 503. OPTIONAL ISSUANCE PROCEDURES FOR LOW FOOD STAMP ALLOTMENTS.

Section 8(a) (7 U.S.C. 2017(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) A State agency may establish procedures that allow a household whose regular food stamp benefits does not exceed $20, at the option of the household, to receive, in lieu of the food stamp benefits of the household for the initial period under subsection (c) and their regular allotment in following months, and at intervals of up to 3 months thereafter, aggregate allotments not to exceed $60 and covering not more than 3 months' benefits. The allotments shall be provided in accordance with paragraphs (3) and (9) of section 11(e) (except that no household shall begin to receive combined allotments under this paragraph until the household has complied with all applicable verification requirements of subsection 11(e)(3)) and (with respect to the first aggregate allotment so issued) within the time provided for allotments under section 7(h).".

SEC. 504. APPLICANTS FOR SUPPLEMENTAL SECURITY INCOME.

Section 11(j)(1) (7 U.S.C. 2020(j)(1)) is amended by inserting after "recipient of" the following: "supplemental security income or".

SEC. 505. DEMONSTRATION PROJECTS TO IMPROVE PARTICIPATION OF GROUPS WITH THE LOWEST PARTICIPATION RATES.

Section 18 (7 U.S.C. 2027) is amended by adding at the end the following new subsection:

"(g)(1) The Secretary shall make grants totaling $1,000,000 in fiscal year 1991 and $2,000,000 in each of the fiscal years 1992 and 1993, to public and private nonprofit organizations or agencies to conduct demonstration projects designed to improve the effectiveness of the food stamp program in delivering food assistance to homeless individuals and families, low-income working families with children, and elderly and disabled persons. The projects shall be designed to determine effective and feasible methods of outreach and of improving access to the

program. The Secretary shall conduct an evaluation of the demonstration projects.

"(2)(A) During fiscal years 1994 and 1995, the Secretary shall conduct in States that agree to participate, and may permit States, on their initiative, to conduct, pilot projects that test changes in, and new food stamp program administrative and eligibility determination procedures designed to increase participation in rural areas.

"(B) Projects under subparagraph (A) shall be carried out over a 2-year period and shall test changes in administrative and eligibility determination procedures suggested by research on barriers to participation in rural areas and State agency experience, including—

"(i) increased availability of in-home and telephone interviews and mail applications;

"(ii) increased flexibility in office hours and more accessible sites for eligibility certification and benefit issuance;

"(iii) expanded provision of program information;

"(iv) outstationing of State agency staff;

"(v) State agency processing of social security numbers;

"(vi) reduced verification and reporting requirements; and

"(vii) coordination with and use of expanded food and nutrition education program personnel, community action agencies, and other local resources in providing program information, screening applicants, and providing transportation.

"(3) In carrying out pilot projects under this subsection, the Secretary shall give priority to projects encompassing more than one substantial change in administrative and eligibility determination procedures and may pay up to 60 percent of the administrative costs related to implementation of pilot projects authorized under this subsection.".

TITLE VI—PROGRAM ADMINISTRATION BY STATE AGENCIES

SEC. 601. QUALITY CONTROL SANCTIONS WITH RESPECT TO DISALLOWANCES BEFORE FISCAL YEAR 1991.

No disallowance or other similar action shall be applied to any State for any fiscal year before fiscal year 1991 under section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)) or any predecessor statutory or regulatory provision relating to disallowances for erroneous issuances made in carrying out a State plan under the Food Stamp Act of 1977.

TITLE VII—PROGRAM INTEGRITY

SEC. 701. AUTHORIZATION OF WHOLESALE FOOD CONCERNS.

Section 9(b)(1) (7 U.S.C. 2018(b)(1)) is amended by inserting after the first sentence the following new sentence: "No colocated wholesale-retail food concern may be authorized to accept and redeem coupons as a retail food store, unless (A) the concern does a substantial level of retail food business, or (B) the Secretary determines that failure to authorize such a food concern as a retail food store would cause hardship to food stamp households.".

SEC. 702. REQUIRED SUBMISSION OF SOCIAL SECURITY NUMBERS.

Section 9(c) (7 U.S.C. 2018(c)) is amended—

(1) by designating the first sentence as paragraph (1);

(2) by designating the second and third sentences as paragraph (2); and

(3) by adding at the end the following new paragraph:

"(3) Regulations issued pursuant to this Act shall require that an applicant retail food store or wholesale food concern provide social security numbers of the officers, owners (except in the case of publicly-held corporations), and on-site managers of the applicant retail food store or wholesale food concern.".

SEC. 703. IMPROVED COLLECTION OF INFORMATION FROM RETAIL FOOD STORES.

Section 9(c) (7 U.S.C. 2018(c)) (as amended by section 702 of this Act) is further amended by adding at the end the following new paragraph:

"(4) The Secretary is authorized to issue regulations providing for improved collection of information from retail food stores and wholesale food concerns, including periodic reporting of information needed to ensure the integrity of the program.".

SEC. 704. INCREASED FINES FOR COUPON TRAFFICKING.

Section 15(c) (7 U.S.C. 2024(c)) is amended by striking "$10,000" each place it appears and inserting "$20,000".

SEC. 705. PERMANENT DISQUALIFICATION FOR CERTAIN ABUSES.

Section 12(b)(3) (7 U.S.C. 2021(b)(3)) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) a finding of the sale of firearms, ammunition, explosives, or controlled substances (as the term is defined in section 802 of title 21, United States Code) for coupons, except that the Secretary shall have the discretion to impose a civil money penalty of up to $20,000 in lieu of disqualification under this subparagraph if the Secretary determines that there is substantial evidence that the store or food concern had an effective policy and program in effect to prevent violations of this Act.".

SEC. 706. FINES FOR RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS THAT ACCEPT LOOSE COUPONS.

Section 12(e) (7 U.S.C. 2021(e)) is amended by adding at the end the following new paragraph:

"(3) The Secretary may impose a fine against any retail food store or wholesale food concern that accepts food coupons that are not accompanied by the corresponding book cover, other than the denomination of coupons used for change-making as specified in regulations issued under this Act. The amount of any such fine shall be established by the Secretary and may be assessed and collected in accordance with regulations issued under this Act in combination with any fiscal claim established by the Secretary. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the store or concern to collect the fine.".

SEC. 707. FINES FOR UNAUTHORIZED THIRD PARTIES THAT ACCEPT FOOD STAMPS.

Section 12 (7 U.S.C. 2021) is amended by adding at the end the following new subsection:

"(f) The Secretary may impose a fine against any firm or individual not approved by the Secretary to accept and redeem food coupons that violates any provision of this Act, including violations concerning the acceptance of food coupons. The amount of any such fine shall be established by the Secretary and may be assessed and collected in accordance with regulations issued under this Act in combination with any fiscal claim established by the Secretary. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the store or concern to collect the fine.".

SEC. 708. COMPUTER FRAUD PENALTIES.

(a) USE OF AN ACCESS DEVICE.—Section 15(b) (7 U.S.C. 2024(b)) is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking "or authorization cards" the first time it appears and inserting ", authorization cards, or an access device"; and

(B) by inserting after "a value of $100 or more," the following: "or if the item used, transferred, acquired, altered, or possessed is an access device,"; and

(2) by adding at the end the following new paragraph:

"(3) As used in this section, the term 'access device' means any card, plate, code, account number, or other means of access that can be used, alone or in conjunction with another access device, to obtain payments, allotments, benefits, money, goods, or other things of value, or that can be used to initiate a transfer of funds under this Act.".

(b) CONFORMING CHANGE.—The first sentence of section 15(g) (7 U.S.C. 2024(g)) is amended by striking "or authorization cards" and inserting ", authorization cards, an access device, or anything of value obtained by use of an access device,".

SEC. 709. EMPLOYER IDENTIFICATION AND SOCIAL SECURITY NUMBERS.

Section 9(c) (7 U.S.C. 2018(c)) (as amended by section 703 of this Act) is further amended by adding at the end the following new paragraph:

"(5) Regulations issued under this Act shall require an applicant retail food store or wholesale food concern to provide the employer identification number assigned to the store or concern by the Internal Revenue Service and the social security numbers of the officers, owners, and on-site managers of the store or concern.".

SEC. 710. FRAUD CLAIMS REPAYMENT.

The last sentence of section 13(b)(1)(A) (7 U.S.C. 2022(b)(1)(A)) is amended by striking "thirty" and inserting "15".

TITLE VIII—REAUTHORIZATION OF PROGRAMS

SEC. 801. REAUTHORIZATION OF FOOD STAMP PROGRAM.

Section 18 (7 U.S.C. 2027) (as amended by section 505 of this Act) is further amended—

(1) in subsection (a)(1)—

(A) by striking the first and second sentences and inserting the following new sentence: "There are authorized to be appropriated, on a calendar year basis, such sums as may be necessary to carry out the program authorized by this Act, which shall remain available until expended, except that funds appropriated for the first calendar year following the date of enactment of this sentence shall include funds for a transition quarter."; and

(B) by striking the last two sentences;

(2) by striking subsection (b); and

(3) by redesignating subsections (c) through (g) as subsections (b) through (f), respectively.

SEC. 802. REAUTHORIZATION OF NUTRITION ASSISTANCE PROGRAM FOR PUERTO RICO.

(a) POLICY OF CONGRESS.—It is the policy of Congress that United States citizens of the Commonwealth of Puerto Rico should be safeguarded against hunger on an equitable and fair basis with other citizens under Federal nutritional programs.

(b) FUNDING LEVELS.—Except as provided in section 1101(c) of this Act, subparagraph (A) of section 19(a)(1) (7 U.S.C. 2028(a)(1)(A)) is amended to read as follows:

"(A) From the sums appropriated under this Act, the Secretary shall, subject to this subsection and subsection (b), pay to the Commonwealth of Puerto Rico $997,000,000 for fiscal year 1991, $1,044,000,000 for fiscal year 1992, $1,094,000,000 for fiscal year 1993, $1,146,000,000 for fiscal year 1994, and $1,200,000,000 for fiscal year 1995, to finance 100 percent of the expenditures for food assistance provided to needy persons, and 50 percent of the administrative expenses related to the provision of the assistance.".

(c) STUDY OF NUTRITIONAL NEEDS OF PUERTO RICANS.—The Comptroller General of the United States shall conduct a study of—

(1) the nutritional needs in the Commonwealth of Puerto Rico, including—

(A) the adequacy of the nutritional level of the diets of households receiving assistance under the nutrition assistance program and other households not currently receiving the assistance;

(B) the incidence of inadequate nutrition among children and the elderly residing in the Commonwealth;

(C) the nutritional impact of restoring the level of nutritional assistance to needy households in the Commonwealth to that provided to other United States citizens; and

(D) such other factors as the Comptroller General considers appropriate;

(2) the means of providing nutritional assistance in the Commonwealth of Puerto Rico, including—

(A) restoration of the Commonwealth to the food stamp program; or

(B) increasing the benefits provided under the nutrition assistance program to the aggregate value of food stamp coupons that would be distributed to households in the Commonwealth if the Commonwealth were to participate in the food stamp program;

(3) the usefulness of adjustments to standards of eligibility and other factors appropriate to the circumstances of the Commonwealth comparable to those adjustments made under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.) for Alaska, Hawaii, Guam, and the Virgin Islands of the United States.

(d) REPORT OF FINDINGS.—The Comptroller General shall submit a final report on the findings of the study required in subsection (c), no later than August 1, 1992, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate.

SEC. 803. FOOD STAMP ACT PROVISIONS.

(a) ALLOCATION FOR JOB TRAINING PROGRAM.—Effective October 1, 1990, paragraph (1) of section 16(h) (7 U.S.C. 2025(h)(1)) is amended to read as follows:

"(1) The Secretary shall allocate among the State agencies in each fiscal year, from funds appropriated for the fiscal year under section 18(a)(1), the amount of $75,000,000 for each of the fiscal years 1991 through 1995 to carry out the employment and training program under section 6(d)(4), except as provided in paragraph (3), during the fiscal year.".

(b) EXTENSION OF PILOT PROJECTS.—The last sentence of section 17(b)(1) (7 U.S.C. 2026(b)(1)) is amended by striking "1990" and inserting "1995".

SEC. 804. REAUTHORIZATION OF TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended—

(1) by striking the title and inserting the following:

"TITLE II—EMERGENCY FOOD ASSISTANCE ACT OF 1983";

(2) in section 201, by striking "Temporary";

(3) in section 204—

(A) by striking subsections (a) and (b);

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively; and

(C) in subsection (a)(1) (as so redesignated), by striking "ending September 30, 1986, through September 30, 1990," and inserting "1991 through 1995";

(4) in section 210, by striking subsection (c) and inserting the following new subsection:

"(c)(1) With respect to the commodity distribution program under this Act in effect during the period ending on the date specified in section 212, the Secretary shall as early as feasible but not later than the beginning of each of the fiscal years during the period, publish in the Federal Register an estimate of the types and quantities of commodities that the Secretary anticipates are likely to be made available during the fiscal year.

"(2) The actual types and quantities of commodities made available by the Secretary under this Act may differ from the estimates made under paragraph (1).";

(5) in section 212, by striking "1990" and inserting "1995"; and

(6) in section 214—

(A) in subsection (a), by striking "1989 and 1990" and inserting "1989 through 1992"; and

(B) by striking subsection (e) and inserting the following new subsection:

"(e) AMOUNTS.—During each of the fiscal years 1991 and 1992, the Secretary shall spend $120,000,000 to purchase, process, and distribute additional commodities under this section. Subject to appropriations, the Secretary shall spend $140,000,000 for fiscal year 1993, $165,000,000 for fiscal year 1994, and $190,000,000 for fiscal year 1995 to purchase, process, and distribute additional commodities under this section.".

(b) CONFORMING AMENDMENTS.—

(1) Section 220 of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended by striking "Temporary" each place it appears.

(2) Section 3(a)(2)(F) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended—

(A) by striking "temporary"; and

(B) by striking "Temporary".

(3) Section 13(3)(E) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended by striking "Temporary".

(4) Section 4(c) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by striking "Temporary or the".

(5) Section 675 of the Community Services Block Grant Act (42 U.S.C. 9904(c)(5)) is amended by striking "Temporary".

SEC. 805. SOUP KITCHENS AND FOOD BANKS.

Section 110 of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(1) in subsection (a), by striking "1991" and inserting "1995"; and

(2) in subsection (c), by striking "in fiscal year 1991" and inserting "during each of the fiscal years 1991 through 1995".

SEC. 806. REAUTHORIZATION OF FOOD DONATIONS TO SELECTED GROUPS.

The Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended—

(1) in section 4(a), by striking "1986, 1987, 1988, 1989, and 1990" and inserting "1991 through 1995"; and

(2) in section 5(a)(2)—

(A) by striking "1986 through 1990" and inserting "1991 through 1995"; and

(B) by striking "15 per centum" and all that follows through "and (B)" and inserting the following: "the sum of (A) 20 percent of the amount appropriated for the commodity supplemental food program and (B) 15 percent of".

SEC. 807. PROCESSING AGREEMENTS.

Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended by striking "1990" and inserting "1992".

SEC. 808. NUTRITION EDUCATION AUTHORIZATION.

Section 1588(a) of the Food Security Act of 1985 (7 U.S.C. 3175e(a)) is amended by striking "$5,000,000" and all that follows through the period at the end of the subsection and inserting "$8,000,000 for each of the fiscal years 1991 through 1995.".

SEC. 809. REFERRALS TO OTHER PROGRAMS FOR WOMEN, INFANTS AND CHILDREN.

Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new subsection:

"(h) Each State agency administering the commodity supplemental food program shall—

"(1) ensure that written information concerning food stamps, the program for aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and the child support enforcement program under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) is provided on at least one occasion to each adult participant in and each adult applicant for the commodity supplemental food program;

"(2) provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 6 under the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (hereinafter referred to in this section as the 'medicaid program') which materials may be identical to those provided under section 17(e)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(e)(3)); and

"(3) provide to individuals applying to the commodity supplemental food program, or reapplying, written information about the medicaid program and referral to the program or to agencies authorized to determine presumptive eligibility for the program, if the individuals are not participating in the program and appear to have family income below the applicable maximum income limits for the program.".

TITLE IX—MISCELLANEOUS

SEC. 901. FOOD BANK PROJECTS.

Section 4 of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 4. COMMUNITY FOOD BANKS.";

(2) in subsection (a)—

(A) by striking the subsection heading and inserting the following: "IN GENERAL.—"; and

(B) by striking "demonstration project" both places it appears and inserting "project";

(3) in subsection (b), by striking "demonstration projects" and inserting "projects";

(4) in subsection (d), by striking "and ending on December 31, 1990"; and

(5) by striking subsection (e) and inserting the following new subsection:

"(e) REPORTS.—On July 1, 1990, the Secretary shall submit a report to Congress on each project carried out under this section. Thereafter, the Secretary shall submit reports to Congress on such projects as the Secretary determines appropriate.".

SEC. 902. FOOD DISTRIBUTION PROGRAM—ADVANCE FUNDING FOR STATE OPTION CONTRACTS (SOCs).

The Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended—

(1) by redesignating section 14 as section 15; and

(2) by inserting after section 13 the following new section:

"SEC. 14. STATE OPTION CONTRACTS FOR COMMODITIES.

"(a) PAYMENT BY SECRETARY.—The Secretary may use the funds of the Commodity Credit Corporation and the funds available to carry out section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to pay for all or a portion of the cost of food or the processing or packaging of food on behalf of a State distribution agency.

"(b) REIMBURSEMENT BY STATE DISTRIBUTION AGENCY.—In such cases, the State distribution agency shall reimburse the Secretary for the agreed-on cost. Any funds received by the Secretary as reimbursement shall be deposited to the credit of the Commodity Credit Corporation or the appropriation originally charged for the food, processing, or packaging, as appropriate. If the State distribution agency fails, within 150 days of delivery, to make the required reimbursement in full for all such foods that have been delivered to the State, the Secretary shall, within 30 days, offset any outstanding amount against the appropriate account.".

SEC. 903. STUDY OF FEASIBILITY OF PROVIDING ALLOTMENTS TO RESIDENTS OF BOARD AND CARE HOMES.

(a) IN GENERAL.—The Secretary of Agriculture shall study the feasibility of permitting elderly and disabled residents of licensed board and care homes to receive allotments under the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.) under procedures comparable to those applied to narcotics addicts or alcoholics who live under the supervision of a private nonprofit institution or a publicly operated community mental health center.

(b) ASSESSMENT OF IMPACT.—The study shall include an assessment of the likely impact of providing allotments on the nutritional status of the residents of the homes and recommendations for any procedures necessary to facilitate and simplify the interaction between the food stamp program and other public programs serving the residents and for any measures necessary to preserve the integrity of the food stamp program.

(c) RESULTS.—The results of the study shall be delivered to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate not later than October 1, 1992.

SEC. 904. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.

(a) INCREASE IN FOOD PACKAGES.—The food packages provided to participants in the food distribution program on Indian reservations established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)) shall be increased by approximately 10 percent to provide a greater amount of foods to needy participants.

(b) INCREASE IN VARIETY.—The Secretary of Agriculture, in consultation with participants, the Indian Health Service, and participating tribal organizations that administer the food distribution program on Indian reservations, shall increase the variety of foods, or develop procedures to increase the variety of foods, provided to participants in the program to better address the nutritional problems faced by participating tribal members, including the problems of hypertension, diabetes and the malabsorbtion of certain nutrients.

(c) DEADLINE.—The Secretary shall carry out this section not later than 1 year after the date of enactment of this Act.

SEC. 905. NUTRITION EDUCATION.

(a) RESPONSIBILITY.—Section 11(f) (7 U.S.C. 2020(f)) is amended by striking the first sentence and inserting the following new sentence: "To encourage the purchase of nutritious foods, the Secretary is authorized to assign responsibility for the nutrition education of people eligible for food stamps to the Cooperative Extensive Service, in cooperation with the Human Nutrition Information Service.".

(b) GRANTS FOR NUTRITION EDUCATION.—Section 18 (7 U.S.C. 2027) (as amended by sections 505 and 801 of this Act) is further amended by adding at the end the following new subsection:

"(g)(1) Of sums appropriated pursuant to this section, not more than $2,000,000 in any fiscal year may be used by the Secretary to make 2-year competitive grants that will—

"(A) enhance interagency cooperation in nutrition education activities; and

"(B) develop cost effective means of informing people eligible for food stamps about nutrition, resource management, and community nutrition education programs, such as the expanded food and nutrition education program.

"(2) The Secretary shall award grants under this subsection to three or more state cooperative extension services, which shall administer the grants in coordination with State or local agencies serving low-income people.

"(3) Each project shall include an evaluation component and shall develop an implementation plan for replication in other States.

"(4) The Secretary shall—

"(A) report to the appropriate committees of Congress on the results of the demonstration projects; and

"(B) disseminate the results through the cooperative extension service system and to regional offices of the Food and Nutrition Service, State welfare offices, local food stamp program offices, and other entities serving low-income households.".

SEC. 906. INCREASE IN WIC PROGRAM AUTHORIZATION.

Section 17(g)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(1)) is amended—

(1) by inserting after "fiscal year 1990" the following: "$2,361,000,000 for fiscal year 1991,"; and

(2) by striking "years 1991," and inserting "years".

TITLE X—INDIAN NUTRITION GARDENING PROGRAM

SEC. 1001. PURPOSES.

The purposes of this title are to—

(1) provide technical assistance and training through the Extension Service in the Department of Agriculture to Indian tribes and Alaska Natives for the development and operation of gardening programs to improve the nutritional health of Indians living on or near Indian reservations;

(2) establish the Indian and Alaska Native Gardening Grant Program within the Department of Agriculture; and

(3) provide a supplemental source of fresh produce for Indians and Alaska Natives who—

(A) have special dietary needs;

(B) are eligible individuals (as defined in section 507(1) of the Older Americans Act of 1965 (42 U.S.C. 3056e(1)); or

(C) are participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.);

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(iii) the special supplemental food program for women, infants and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

SEC. 1002. DEFINITIONS.

For the purposes of this title:

(1) ELIGIBLE RECIPIENT.—The term "eligible recipient" means an Indian who—

(A) is identified by the Secretary as having special dietary needs;

(B) is an eligible individual (as defined in section 507(1) of the Older Americans Act of 1965 (42 U.S.C. 3056e(1)); or

(C) is participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.);

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(iii) the special supplemental food program for women, infants and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(2) INDIAN.—The term "Indian" means a person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation (as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(3) INDIAN RESERVATION.—The term "Indian reservation" has the same meaning given to the term "reservation" under section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

(4) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community (including any Alaska Native village, Regional Corporation, or Regional Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(5) INTER-TRIBAL CONSORTIUM.—The term "inter-tribal consortium" shall mean a partnership between—

(A) an Indian tribe or tribal organization on an Indian reservation; and

(B) one or more Indian tribes or tribal organizations of other Indian tribes.

(6) PROGRAM.—The term "program" means any gardening program funded or assisted under this title.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 1003. INDIAN SUBSISTENCE FARMING GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish an Indian gardening grant program that provides grants to any Indian tribe, or intertribal consortium, for the establishment on Indian reservations of gardening operations that grow fresh produce for distribution to eligible recipients.

(b) APPLICATION.—Any Indian tribe or tribal consortium may submit to the Secretary an application for a grant under this title. Any such application shall—

(1) be in such form as the Secretary may prescribe;

(2) be submitted to the Secretary on or before the date designated by the Secretary; and

(3) specify—

(A) the nature and scope of the gardening project proposed by the applicant;

(B) the number of Indians to be employed in the project;

(C) the extent to which the project plans to use or incorporate existing resources and services available on the reservation; and

(D) the number of Indians who are projected as eligible recipients of produce grown on for the project.

SEC. 1004. EXTENSION SERVICE.

The Secretary shall provide technical assistance and training through the Extension Service to Indian tribes and intertribal consortia for the development and operation of gardening projects designed to improve the nutritional health of participating tribal members. The extension service shall provide—

(1) appropriate training and educational programs;

(2) equipment, tools, and materials needed for gardening; and

(3) seeds, seedlings, or plants, fertilizer, soil enhancers, or other gardening supplies to assist Indian tribes and intertribal consortia in the development of gardening projects.

SEC. 1005. TRAINING AND TECHNICAL ASSISTANCE.

The Extension Service shall conduct, with respect to the projects established under this title, site surveys, workshops and short courses on such topics as spacing, depth of seed placement, soil types, and other aspects of gardening operations.

SEC. 1006. TRIBAL CONSULTATION.

An Indian tribe participating in any gardening program established under this title shall consult with appropriate tribal and Indian Health Service officials regarding the specific dietary needs of the population to be served by the operation of the Indian gardening project.

SEC. 1007. USE OF GRANTS.

Funds provided under this title may be used for—

(1) the purchase or lease of agricultural machinery, equipment, and tools for the operation of the program;

(2) the purchase of seeds, fertilizers, and such other resources as may be required for the operation of the program;

(3) the construction of greenhouses, fences, and other structures or facilities;

(4) accounting and distribution of produce grown under the program; and

(5) the employment of persons for the management and operation of the program.

SEC. 1008. AMOUNT AND TERM OF GRANT.

(a) AMOUNT.—The maximum amount of any grant awarded under this title shall not exceed $500,000.

(b) TERM.—The maximum term of any grant awarded under this title shall be 3 years.

SEC. 1009. OTHER REQUIREMENTS.

Each recipient of a grant awarded under this title shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the grant is made;

(B) ensure that the grant funds are expended for the purposes for which the grant was made; and

(C) ensure that the produce grown is distributed to eligible recipients on the reservation; and

(2) submit to the Secretary at the close of the term of the grant a final report that shall include such information as the Secretary may require.

SEC. 1010. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $8,000,000 for fiscal year 1991, $8,000,000 for fiscal year 1992, $10,000,000 for fiscal year 1993, and $10,000,000 for fiscal year 1994.

TITLE XI—EFFECTIVE DATES

SEC. 1101. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective and be implemented on October 1, 1990.

(b) SPECIAL EFFECTIVE DATES.—Except as provided in subsection (c):

(1) Sections 201, 203, and 301 shall become effective and be implemented on January 1, 1991.

(2) Sections 122, 131, 135, 136, 202, 205, 206, 302, 303, 304, 305, 401, 402, 501, 503, 504, and 809 shall become effective and be implemented on April 1, 1991.

(c) EFFECTIVE DATES IF SEQUESTRATION OCCURS.—If a final order is issued under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(b)) for fiscal year 1991 to make reductions and sequestrations specified in the report required under section 251(a)(3)(A) of such Act (2 U.S.C. 901(a)(3)(A)), and such order is not subsequently rescinded:

(1) Sections 111, 121, 122, 201, 202, 203(a), 205(d), 206, 207, 301, 402, 505 and 601, shall become effective and be implemented on October 1, 1991.

(2) Subparagraph (A) of section 19(a)(1) (7 U.S.C. 2028(a)(1)(A)) is amended by striking "$997,000,000" and inserting in lieu thereof "$974,000,000".

SUMMARY OF THE BILL

STRENGTHEN THE TEFAP PROGRAM

Background: 12 million to 15 million persons a month depend on the Temporary Emergency Food Assistance Program (TEFAP). It now provides surplus foods (from USDA stockpiles of wheat, corn, butter, or other surplus commodities) and foods with high nutrient density (such as peanut butter, canned meats and beans) purchased by USDA under the Hunger Prevention Act.

This year 450 million pounds of commodities will be distributed to the needy under TEFAP. In fiscal 1990, USDA will purchase 72 million pounds of peanut butter, 30 million pounds of canned pork, 38 million pounds of beans and 7 million pounds of raisins.

These commodities will be distributed along with the distribution of surplus commodities: 144 million pounds of flour, 48 million pounds of cornmeal, 72 million pounds of butter and 41 million pounds of honey.

Need: TEFAP is a vital safety net—families may have to wait up to 30 days for food stamps. The need for emergency food assistance has increased dramatically since 1980.

Almost half of TEFAP families contain children. Sixty percent of TEFAP participants are not on food stamps, many elderly and rural residents don't apply for food stamps.

15,000 sites nationwide distribute these TEFAP commodities.

The bill continues and improves this vital TEFAP program.

UNCAP THE FOOD STAMP EXCESS SHELTER COST DEDUCTION

Background: Under current law, households may deduct shelter expenses that exceed 50% of their incomes, but only up to $177 a month. This "cap" of $177 is way too low and may force families to choose between paying rent and eating. (This "cap" of $177 does not apply to households containing an elderly and disabled person.)

Need: The most significant new problem faced by the poor is soaring housing costs. Homelessness among poor families with children has dramatically increased in recent years.

Forty five percent of all poor renters in the U.S. were spending at least seventy percent of their income for housing costs (including rent and utilities).

Two-thirds of all poor renters were spending at least half of their income for housing. Yet in 1988, only 29 percent of all poor renter households received federal, state, or local housing assistance.

The bill thus increases the food stamp excess shelter cost deduction for 1991 and 1992 for families with children, and "uncaps" it beginning in 1993.

IMPROVE INCENTIVES FOR CHILD SUPPORT

Background: A major cause of poverty among children is the low level of child support provided by many absent fathers.

For 1987, child support payments were received for only 14 percent of the families with children on AFDC.

Need: Increased collections can reduce child poverty, and reduce the dependence on AFDC (and, thus, reduce federal costs). Increasing these collections could result in net savings to the government through reduced AFDC payments.

A key to tracking down absent fathers is often the efforts of the mother in helping authorities. Under current AFDC law, the first $50 in child support, per month, can be kept by the mother (instead of just reducing her AFDC by $50). However, that first $50 counts against her food stamp assistance, thus reducing her family's food stamps so that the overall net gain for helping track down the father can be reduced to $27.50, per month.

The bill makes the food stamp treatment the same as AFDC by disregarding from income the first $50 of child support. This should act as an incentive to encourage cooperation in tracking down absent spouses.

INCREASE BASIC FOOD STAMP LEVELS TO COVER INFLATION

Background: Food stamp benefits are based on the cost of purchasing a theoretical "market-basket" of foods for one month

called the "Thrifty Food Plan." Since the creation of that plan in 1977 food price inflation has eroded the ability of food stamp recipients to buy the Thrifty Food Plan worth of food each month.

Need: The Hunger Prevention Act, of course, helped in that it based food stamp benefits on 103 percent of the cost of the "Thrifty Food Plan," starting in FY 1991.

Even that increase is not enough. Under current law, the cost of that plan in June of the previous fiscal year is used to determine benefits for each of the twelve months in the current year.

Over the 13 year history of the thrifty plan, the average cost of the plan in the last half of the fiscal year has exceeded the cost in the previous June by an average of 5.4 percent.

Using the cost of 105 percent of the Thrifty Food Plan, for June of the previous year, as the basic benefit level will normally assure that participants have benefits based on the cost of the Thrifty Food Plan for the month they receive the benefits.

The bill gradually increases the basic benefit level to 105% of the cost of the Thrifty Food Plan in the previous year.

INCREASE EMPLOYMENT AND TRAINING INCENTIVES

Additional employment and training incentives are provided to help assist in getting persons off food stamps and into the workforce. The amount of the child care reimbursement is increased in the bill.

INCREASE THE AUTOMOBILE DEDUCTION FOR FOOD STAMPS

President Reagan's Task Force of Food Assistance (1984) recommended that the automobile deduction for the food stamp program be increased to $5,500. They noted that it had not been increased since 1977 and that it was too low.

The Task Force pointed out that the limit of $4,500 denied benefits to some legitimately needy households. The limit is a "market value" limit rather than an "equity" limit, which means that a household can be disqualified for food stamps even if it has little equity in its car and would get little for selling it.

The bill gradually increases the deduction to $5,750, and indexes it to inflation.

IMPROVE THE DEFINITION OF A FOOD STAMP HOUSEHOLD

The current household definition is extremely complex, one and a half pages long, an obvious source of casework errors, and may contribute to homelessness.

The act simplifies the definition of a household and reduces the chances that its application will increase homelessness.

ELIMINATE THE GAP IN BENEFITS FOR HOUSEHOLD REAPPLYING

A June 1989 GAO report identified an unfair source of hardship in the food stamp program. Elderly, ill, disabled, or handicapped persons, otherwise eligible for food stamps, can unintentionally reapply after the deadline contained in the notice stating that the certification period is expiring.

If they reapply late they lose benefits for that period of time. That is unfair and administratively complex in that it requires States to calculate benefits based on prorations for parts of months.

The bill provides, for States choosing this option, that persons who reapply within 30 days of the expiration of the certification period, and who are eligible for benefits during that period, will get their food stamps for that whole period.

INCREASE MINIMUM ALLOTMENT

One and two-person household now receive an minimum $10 per month food stamp allotment. That has not been increased in 12 years.

The bill would index the minimum benefit to inflation. This will help the elderly and disabled since households containing them constitute 82% of all those receiving the minimum benefit.

IMPROVE ACCESS TO PROGRAM IN RURAL AREAS

Food stamp participation is low in many impoverished rural areas. The bill contains several provisions designed to reduce barriers to participation in rural areas.

ALLOW HOMELESS TO USE FOOD STAMPS IN RESTAURANTS APPROVED TO PROVIDE THEM MEALS AT CONCESSIONAL PRICES

Since homeless persons do not normally have cooking facilities it would be helpful to allow them to use food stamps at restaurants that contract with the state to provide low-cost nutritious meals. The bill sets up such a program.

Mr. BOSCHWITZ. Mr. President, today I am pleased to join with my distinguished colleague, the chairman of the Senate Agriculture Committee, Senator PAT LEAHY, in proposing the Mickey Leland Memorial Domestic Hunger Relief Act.

Nutrition programs have a strong bipartisan tradition here in the Senate. Another Minnesotan—Hubert Humphrey—was the founder of WIC, and worked on nutrition programs with George McGovern and BOB DOLE. I am pleased that this bipartisan coalition continues with the introduction of this bill today.

As the senior Republican on the Senate Nutrition Subcommittee, I have been a strong supporter of Federal nutrition programs such as food stamps, WIC, school lunch and breakfast, the Commodity Supplemental Food Program [CSFP], and the Temporary Emergency Food Assistance Program [TEFAP].

Our bill makes several improvements to the food stamp program. The bill phases out the cap on the shelter deduction for food stamp households, raises the vehicle exclusion limit from $4,500 to $5,500 for food stamp households, and increases basic food stamp benefits.

We also make several changes in the food stamp program to make it more consistent with AFDC. For example, the first $50 of child support received by a family participating in the food stamp program would not be counted as income, such as is the practice for AFDC. I've long believed that we need to work to better coordinate and simplify assistance programs for low-income individuals and families.

Our bill also continues the Temporary Emergency Food Assistance Program [TEFAP]. This program, begun by the Reagan administration in 1981, has been very popular. Over 5 billion pounds of commodities worth more than $5 billion have been distributed to those in need. We also extend a provision I authored in the Hunger Prevention Act of 1988 requiring that 32 million dollars' worth of commodities be provided to soup kitchens and food banks that primarily serve the homeless.

Part of the huge success of TEFAP has been its reliance on the network of volunteers who help distribute the commodities. I have always been supportive of private sector efforts and believe they have an important role in our continued fight against hunger. I've long believed that the private sector has an important role in helping to allevaite hunger in our country, and I'll continue to lend my support to initiatives that encourage still greater public-private cooperation and interaction in reducing hunger and malnutrition in America.

Because WIC is a proven program, we've been able to increase spending significantly over the last few years. Many studies have documented the effectiveness of WIC—higher birth weights of babies, fewer premature births, better diets for infants and WIC moms, and less anemia in low-income children. Our bill raises the authorization for WIC funding by $150 million over increases for inflation. We need to continue steady growth in WIC funding to reach more women and children eligible for this effective and efficient program.

As part of the 1990 farm bill, several nutrition programs must be reauthorized. This bill will serve as our basis in strengthening these important programs. I look forward to working with my colleagues on the Nutrition Subcommittee and the full Agriculture Committee in formulating the nutrition title of the 1990 farm bill.

Earlier this year I was pleased to join Senators SASSER and DOMENICI in introducing the Hunger Prevention Act of 1990. Indeed, the bill we are introducing today contains several of their proposals.

I am glad to take part in this bipartisan tribute to Mickey Leland. We need to continue to work together to alleviate hunger within our Nation. This bill will go a long way toward ensuring that those in need receive vital nutritional assistance.

By Mr. LUGAR:

S. 2490. A bill entitled the "Pesticide Safety Improvement Act of 1990"; to the Committee on Agriculture, Nutrition, and Forestry.

PESTICIDE SAFETY IMPROVEMENT ACT

● Mr. LUGAR. Mr. President, today I am introducing the Pesticide Safety Improvement Act of 1990. This bill makes important amendments to the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA] and the Federal Food, Drug, and Cosmetic Act [FFDCA]. I believe its passage will significantly improve the Government's

ability to assure American consumers of a continued supply of safe, wholesome, and affordable food.

This past October, President Bush announced a seven-point plan to improve Federal regulatory control over pesticides. The plan suggested specific changes to FIFRA and FFDCA with the fundamental goal of restoring consumer confidence in the U.S. food supply. The legislation I introduce today reflects the seven points of the President's plan and is intended to restore not only consumer confidence but also the confidence of American farmers in the safety of the pesticides they use.

The purpose of this bill is to solve some longstanding problems related to the regulatory control of pesticides. This bill can be considered the next logical step to important amendments made to FIFRA in 1988, which I cosponsored.

The events of the past year and a half demonstrate the fragile nature of consumer confidence in the Government's ability to ensure a safe food supply. Therefore, appropriate and measured action must be taken now. Action is imperative for two reasons. First, Americans should never have to wonder about the safety of their food. And second, American farmers should never have to randomly suffer market losses due to consumer uncertainty about pesticide safety.

Pesticide regulation under FIFRA and FFDCA has a long history of inefficiency and inconsistency. The Pesticide Safety Improvement Act of 1990 will address these problems in several ways. First, changes in FIFRA cancellation and suspension provisions will expedite removal from the marketplace of pesticides found to be dangerous. Second, the bill requires the continuous updating of the scientific data used to determine that pesticides meet certain standards of safety, and requires the collection of information on pesticide usage and on food residues, so that informed decisions can be made promptly. Third, pesticide users will receive improved and updated trainng for safe pesticide application, especially where such applications concern worker safety or ground water contamination. Fourth, pesticide residue tolerances will be established using standards that are more specific, consistent, and protective, and that are reflective of changing science. And fifth, inconsistencies between FIFRA and FFDCA will be eliminated.

Under current law, the cancellation of pesticide registrations has too often been a very protracted process, with an average time for cancellation in excess of 4 years. Such delays in decisionmaking are the result of: First, the absence of current data showing the amount, frequency, and location of pesticide use and the actual residue levels on food that ordinarily result from such use; second, EPA's slow pace in conducting administrative reviews; and third, the requirement in current law that final decisions be made by means of a time-consuming adjudicatory hearing process.

My bill addresses all of these problems. It would require ongoing reports to the EPA of pesticide use information and actual pesticide residue levels, so that when a risk is discovered, an informed risk-benefit decision can be reached. It would replace the adjudicatory hearing provision with a simpler, shorter procedure that requires cancellation actions to be completed within 18 months of initiation. In expediting the cancellation process however, my bill allows affected parties to participate in cancellation decisions through a traditional administrative notice and comment procedure followed by the opportunity for judicial review. My bill also requires proper oversight of scientific issues related to cancellation actions.

Authority to suspend pesticide registrations is an infrequently used but vitally important authority under FIFRA. While this authority has been effective in the past to control the most dangerous pesticides and used only three times in EPA's history, there has been criticism concerning the definition of imminent hazard. The criticism is most profound with regard to the extent benefits should be weighed against risks in deciding that removal of a pesticide is necessary to avoid an imminent hazard. My sincere feeling is that benefits considerations should be included in all decisions to suspend or cancel pesticide registrations, but that there should be flexibility in the degree of certainty about benefits. There are clearly some situations where the level of risk is such that unreasonable delays related to the consideration of benefits are not warranted. No one benefits when high risk pesticides remain in the marketplace, and therefore, the need to consider benefits should be commensurate with the need to take prompt action. At the same time, suspension decisions must be based on sound scientific facts and rational scientific policy.

The President's plan clearly indicated a need to improve or clarify the definition of imminent hazard. My bill maintains the standard of suspension as in current law, and provides an improved definition of imminent hazard. This new definition is intended to clarify: First, what constitutes an imminent and substantial risk; second, the consideration to be made in determining that such risks exist; third, the types of benefits considered; and fourth, the degree of certainty about such benefits. The requirement for the routine collection of data on pesticide used is intended to help reduce delays in gathering and analyzing benefit information.

In 1988, the Congress made important changes to FIFRA. Among the most important was the requirement that over 600 pesticide active ingredients used in over 35,000 products be reregistered in order to ensure that these ingredients meet modern scientific standards of safety. In many ways, the reregistration provision of the 1988 FIFRA amendments can be viewed as the beginning of the food safety movement since without updated scientific data, informed and reasonable decisions about pesticides cannot be made. The reregistration provision is a one-time updating requirement to reflect modern scientific standards in determining the safety of a particular product. Recognizing that science is always evolving, however, the Pesticide Safety Improvement Act of 1990 will institutionalize the improvements made in 1988 by requiring a continuous updating and review of the scientific data used to determine pesticide safety.

Part of the great debate on pesticide safety includes the issue of water quality and the prevention of ground water contamination. Previous attempts to address the agricultural water quality issue have focused primarily on coordinating the Federal Government's activities and on increased research. While these efforts may have an important place in an overall ground water protection strategy, they must be accompanied by an effective approach to training actual pesticide users how to guard against ground water contamination. This legislation requires upgrading of the pesticide training and certification program administered by States. It increases minimum training standards and training methods, and requires pesticide applicators to periodically obtain refresher training in order to ensure the more careful application of pesticides that pose ground water concerns. Improved training programs should be the first line of defense for preventing ground water contamination. These provisions also focus on farm worker safety, integrated pest management, and integrated crop management.

Other provisions of this legislation improve the enforcement-related authorities of FIFRA. Better recordkeeping by persons in the pesticide business is required, and improvements are made to EPA's inspection authority. Penalties for violations of FIFRA would be increased substantially.

In addition, my bill would strengthen and improve current law concerning the export of pesticides. Specifically, my bill requires pesticide exporters to comply with pesticide export and control provisions that are developed through international consensus. My

bill would also permit the Administrator of the EPA to prohibit the export of any pesticide if the Government of the importing country has requested such a prohibition and has itself prohibited the importation, sale, and use of the pesticide.

My bill also proposes to remove the annual caps on pesticide registration maintenance fees so that such fees do not pose a regressive burden on the industry, unfairly hurting smaller businesses.

Assuring American consumers that pesticides are safe is, for the most part, accomplished under the registration and reregistration requirements of FIFRA. The other key component of this assurance is the establishment of safe maximum residue tolerance levels under the authority of the FFDCA. Current law, however, provides inconsistent standards for establishing tolerances for raw agricultural commodities and processed foods. For pesticide residues on raw agricultural commodities, risk and benefits are balanced—as they are in FIFRA—in determining an acceptable tolerance level. This approach allows EPA to determine what level of risks are acceptable and to set tolerance levels accordingly. Such an approach is reasonable and scientifically defensible. Balancing risks and benefits is a fundamental component in any decisionmaking process, whether it concerns pesticides or any other product in the marketplace.

Processed foods, on the other hand, face a zero-risk standard which applies to pesticides found to be carcinogenic in animal studies. The language of the risk-only Delaney clause appears to prohibit setting a tolerance for residues of a pesticide, even if that same pesticide has an established tolerance on the raw or preprocessed form of the food, no matter how low the estimated risk might be. This risk-only standard is inconsistent with the risk-benefit standard of FIFRA, and with other FFDCA provisions. Moreover, in trying to reach sensible decisions despite the strictness of the clause, EPA and FDA have developed various complicated exceptions to the prohibition. The clause sets up a paradoxical situation for the EPA which has probably contributed to the recent decline in consumer confidence in the safety of the food supply.

In 1987, the National Academy of Sciences concluded that such inconsistency in the FFDCA standards may actually increase the net risk to public health, given that newer, safer pesticides—which could be substituted for older, more hazardous pesticides—are prevented from being approved for use. The NAS suggested that a uniform, negligible risk standard be established for all tolerance decisions, and that the regulatory standards of FIFRA and FFDCA be made consistent.

To implement the NAS recommendations, this legislation amends FFDCA in two important ways. Tolerances established for processed foods and raw agricultural commodities will be governed by the same risk-benefit balancing standard. Second, my bill establishes negligible risk standards to be used when determining an acceptable and safe exposure level to pesticide residues. This new standard would also be incorporated into the FIFRA registration criterion, to harmonize the two laws.

I realize that in previously introduced bills, others have attempted to draft a narrowly defined definition of negligible risk. I am concerned, however, that the definition of negligible risk provides for two distinct kinds of risks—threshold and nonthreshold.

Scientists agree that most kinds of toxic effects from dietary exposure occur only if such exposure is higher than a so-called threshold level. This simply means that there is a known dose level at which toxic effects are not observed in test animals. Current practice at EPA is to take into account this known no-observed effect level [NOEL] when setting pesticide residue tolerances by ensuring that the total dietary exposure to the pesticide residue allowed by all tolerances is lower than the NOEL by a generally accepted margin of safety. My bill would expressly require that this current practice of EPA, which has broad scientific support, be continued. Variations in exposure levels due to differences in consumer food consumption patterns be considered in setting tolerances.

Scientists have not yet been able to demonstrate that there is a no effect or threshold level for substances that have been shown to cause cancer in laboratory animal tests. Accordingly, scientists make the prudent assumption that some potential for cancer may result from dietary exposure at any level, although the potential becomes very small as the exposure level approaches zero. My bill takes the position that if the possible cancer risks from a pesticide are low enough, there should be a residue level which presents a negligible risk. Such a level should be considered acceptable and thus a tolerance should be obtainable.

The President's plan proposes that an acceptable level of risk be in the range of 10^{-6}. Setting a risk range of 10^{-6} as negligible rather than an absolute number like one in a million is not an attempt to weaken the standard of public health; it simply acknowledges that the science of risk assessment is not precise and continually evolving.

My bill also specifies a precise method for determining whether a pesticide residue poses a risk greater than a range of 10^{-6}. In order to set a tolerance level that is protective of public health, some assumption must be made about the amount of a particular food that will be eaten by consumers. It must be recognized that some persons eat much more of a particular food than do other persons; it is equally important to avoid needless overregulation that could ban many pesticides with no significant decrease in population risk. Again following the NAS report's recommendations, my proposal would focus on the risk posed by a particular pesticide residue on a particular crop. My bill, would apply the 10^{-6} range standard to 90th percentile consumers, that is, persons whose consumption of a particular food is such that they eat more of it than 90 percent of the population. Setting tolerances in this manner directly addresses the concern about protecting high-consumption population subgroups. In my opinion, this approach will be more protective of public health than use of a standard that EPA would have to apply simultaneously to all consumers of all crops. Furthermore, setting tolerances on a per crop basis will not discriminate against producers of so-called minor crops, since the risk from residues on each crop will be evaluated independently.

A 10^{-6} negligible risk range standard is very useful as a guideline since there is no reason to absolutely forbid the use of a product merely because it poses a risk that is slightly higher than an arbitrarily chosen absolute number like one in a million. For example, a two in a million risk is not appreciably greater than a one in a million risk. In establishing pesticide residue tolerances, risks that are within an acceptable negligible range should be considered for approval, as long as there is an acceptable balance between risks and benefits. Moreover, in the production, distribution, and consumption of food there are certain significant kinds of risk that can be avoided by use of pesticides. For example, food shortages or drastically higher food prices caused by the unavailability of a critical pesticide should be considered a risk that could dramatically affect human health. Clearly this kind of risk should be balanced against long-term cancer risks that are not greatly in excess of negligible.

My bill deals with the stark reality that must be acknowledged: While pesticides sometimes pose risks, they are used because they provide the benefit of allowing other less desirable risks to be avoided. Some of these risk avoidance benefits should be considered in tolerance setting decisions, but only those that can be balanced against dietary health risks from the pesticide. Such benefits would include avoidance of greater risks associated with not using a pesticide, using an alternative pesticide, or the reduced ade-

quacy, wholesomeness and affordability of food.

The bill also contains the President's recommendation for establishment of the controversial plan for Federal preemption of State's authority to set residue tolerances on pesticides that have been registered and reregistered using modern health and safety standards. The arguments on this issue boil down to a fundamental battle between interstate commerce, international trade, and States rights.

I chose to retain this provision of the President's plan as part of my bill in order to generate some debate over a dramatically different and strengthened EPA and their ability today to protect the interests of all citizens of this country. I believe it is difficult to compare the mission of the EPA in the 1990's to the one of earlier decades. Indeed, with the passage of this bill enforcement will be tougher, and tolerances will be set with a greater emphasis on protecting public health. I believe all of these points at least should generate some debate on establishing uniform Federal tolerances.

I hope this body will give its considered attention to the bill I offer today. I am willing to work with others, including the Labor Committee members who have primary jurisdiction over some of the bill's provisions, to help enact legislation that will serve the long-term interests of our Nation's food consumers and food producers.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section summary of the bill be printed in the RECORD at this time.

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

S. 2490

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pesticide Safety Improvement Act of 1990.".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
TITLE I—AMENDMENTS TO FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT
Sec. 101. References to Federal Insecticide, Fungicide, and Rodenticide Act.
Sec. 102. Definitions.
Sec. 103. Tolerance reevaluation as part of reregistration.
Sec. 104. Maintenance fees.
Sec. 105. Cancellation after five years.
Sec. 106. Cancellation or modification of registration.
Sec. 107. Suspension.
Sec. 108. Burden of persuasion.
Sec. 109. Periodic update of information supporting registration.
Sec. 110. Records.
Sec. 111. Inspections.
Sec. 112. Data disclosure to States.
Sec. 113. Certification and training for pesticide applicators.
Sec. 114. Unlawful acts.
Sec. 115. Penalties.
Sec. 116. Imports and exports.
Sec. 117. Scientific Advisory Panel and Pesticide Advisory Board.
Sec. 118. Cooperation with Secretary of Agriculture.
Sec. 119. Collection of exposure information.
Sec. 120. Technical amendments.
Sec. 121. Conforming amendments.
Sec. 122. Conforming amendments to table of contents.
TITLE II—AMENDMENTS TO FEDERAL FOOD, DRUG, AND COSMETIC ACT
Sec. 201. References to Federal Food, Drug, and Cosmetic Act.
Sec. 202. Definitions.
Sec. 203. Prohibited acts.
Sec. 204. Adulterated food.
Sec. 205. Tolerances and exemptions for pesticide chemical residues.
Sec. 206. Authorization of appropriations for increased monitoring.
TITLE III—AMENDMENTS TO POULTRY PRODUCTS INSPECTION ACT
Sec. 301. Definitions.
TITLE IV—AMENDMENTS TO FEDERAL MEAT INSPECTION ACT
Sec. 401. Definitions.
TITLE V—AMENDMENTS TO EGG PRODUCTS INSPECTION ACT
Sec. 501. Definitions.

TITLE I—AMENDMENTS TO FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

SEC. 101. REFERENCES TO FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), except to the extent otherwise specifically provided.

SEC. 102. DEFINITIONS.

Section 2 (7 U.S.C. 136) is amended—

(1) by striking subsection (e) and inserting the following new subsection:

"(e) COMMERCIAL APPLICATOR, ETC.—

"(1) COMMERCIAL APPLICATOR.—

"(A) Except as provided in subparagraph (B), the term 'commercial applicator' means a person who—

"(i) uses or supervises the use of any pesticide that is classified for restricted use;

"(ii) uses or supervises the use of any pesticide for hire as the principal part of the business or work of the person; or

"(iii) as an employee of a person described in clause (ii), uses or supervises the use of any pesticide.

"(B) The term does not include a person when the person is using or supervising the use of a pesticide as described in paragraph (2).

"(2) PRIVATE APPLICATOR.—The term 'private applicator' means a person who uses or supervises the use of any pesticide that is classified for restricted use for purposes of producing any agricultural commodity—

"(A) on property owned or rented by the person or the employer of the person; or

"(B) on other property if applied without compensation (other than trading of personal services between producers of agricultural commodities).

"(3) CERTIFIED APPLICATOR.—The term 'certified applicator' means a commercial or private applicator who is certified under section 11.

"(4) UNDER THE DIRECT SUPERVISION OF A CERTIFIED APPLICATOR.—Unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under direct supervision of a certified applicator if the pesticide is applied by a person acting under the instructions and control of a certified applicator who is available if and when needed, even though the certified applicator is not physically present at the time and place the pesticide is used.";

(2) by striking subsection (l);

(3) in subsection (bb)—

(A) by inserting "(1)" after "means"; and

(B) by inserting before the period at the end the following: ", or (2) a human dietary risk from residues that result from use of a pesticide and that generally occur in or on any food above the level the Administrator determines will protect the public health within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) (as in effect on the date of enactment of the Pesticide Safety Improvement Act of 1990)"; and

(4) by adding at the end the following new subsection:

"(hh) PESTICIDE TESTING FACILITY.—The term 'pesticide testing facility' means any place where any person conducts any test, study, survey, or investigation of the properties, effects, or behavior of any pesticide (or any ingredient, metabolite, or degradation product thereof), device, or container or packaging of any pesticide or device, on the person's own behalf or on behalf of any registrant, applicant for registration, or other person who distributes or sells the pesticide. The term does not include any place solely on account of the participation of an agricultural producer as a cooperator in field testing of a pesticide.".

SEC. 103. TOLERANCE REEVALUATION AS PART OF REREGISTRATION.

Section 4(g)(2) (7 U.S.C. 136b(g)(2)) is amended by adding at the end the following new subparagraph:

"(E) Any time after the Administrator has sufficient information with respect to the dietary risk of a particular active ingredient, but in any event no later than the time the Administrator makes a determination under subparagraph (C) or (D) with respect to pesticides containing a particular active ingredient, the Administrator shall—

"(i) reassess each associated tolerance and exemption from the requirement for a tolerance issued under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a);

"(ii) determine whether the tolerance or exemption meets the requirements of such Act;

"(iii) determine whether additional tolerances or exemptions should be issued;

"(iv) publish in the Federal Register a notice setting forth the determinations made under this subparagraph; and

"(v) commence promptly such proceedings under this Act and section 408 of the Federal Food, Drug, and Cosmetic Act as are warranted by the determinations.".

SEC. 104. MAINTENANCE FEES.

Section 4(i)(5) (7 U.S.C. 136a-1(i)(5)) is amended—

(1) by striking subparagraph (C); and

(2) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

SEC. 105. CANCELLATION AFTER FIVE YEARS.

Section 6(a) (7 U.S.C. 136d(a)) is amended—

(1) in the first sentence, by striking "shall" and inserting "may"; and

(2) in the second sentence, by inserting after "canceled" the following: "or suspended".

SEC. 106. CANCELLATION OR MODIFICATION OF REGISTRATION.

(a) IN GENERAL.—Subsection (b) of section 6 (7 U.S.C. 136d(b)) is amended to read as follows:

"(b) CANCELLATION OR MODIFICATION OF REGISTRATION.—

"(1) IN GENERAL.—

"(A) The Administrator may issue a final order under this subsection to ensure that—

"(i) a pesticide, its labeling, or other material required to be submitted to the Administrator complies with the requirements of this Act; and

"(ii) the pesticide, when used in accordance with its labeling or widespread or commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

"(B) A final order under this subsection may—

"(i) cancel the registration of a pesticide (or the registrations of a group of pesticides containing a common active or inert ingredient) and prohibit the future registration of such a pesticide;

"(ii) prescribe requirements regarding the composition, packaging, or labeling of any such pesticide, or any other conditions of registration, state that the registration of any such currently-registered pesticide is to be canceled if its registration is not modified to comply with the requirements, and prohibit the future registration of any pesticide that does not comply with the requirements; or

"(iii) classify the pesticide for restricted use or change the classification of the pesticide.

"(2) INITIATION.—

"(A) The Administrator may initiate a proceeding in accordance with this subsection if the Administrator determines, on the basis of criteria regarding data and information on adverse effects and exposure set forth in regulations published by the Administrator, that there are prudent concerns that a pesticide may cause unreasonable adverse effects to man or to the environment.

"(B) Except as provided by paragraphs (3) and (13)(e)(ii), a proceeding under this subsection may not be initiated unless the Administrator first makes the determination described in subparagraph (A).

"(C)(i) Prior to issuing an advance notice or a proposed order to cancel or change the classification of a pesticide, the Administrator shall notify the Secretary of Agriculture and, if the proposed action is based on potential adverse effects to human health, the Secretary of Health and Human Services, of the proposed action and the bases for the action.

"(ii) No advance notice or proposed order shall be issued until after—

"(I) notice has been provided to the Secretary of Agriculture and, if appropriate, the Secretary of Health and Human Services; and

"(II) the Secretary of Agriculture and the Secretary of Health and Human Services have had an adequate opportunity to submit written comments and consult effectively with the Administrator on the proposed order and the bases for the order, and on any scientific, agricultural, health, and economic issues (including, if appropriate, the consideration of whether agricultural practices such as integrated pest management, crop rotation, or other alternative practices are being used or could be used to decrease the exposure to the pesticide, to the extent the information is available) or other matters related to the advance notice or proposed order.

"(D) The Administrator shall enter into a written memorandum of understanding with the Secretary of Agriculture and the Secretary of Health and Human Services that shall specify the points in the process at which consultation provided for in this subsection shall occur and stipulate how the consultation shall be accomplished.

"(3) EXCEPTIONS.—

"(A) Paragraphs (2)(B), (5), and (10)(G) shall not apply to a proceeding under this subsection if—

"(i) the proceeding and any proposed order or final order—

"(I) concern only general requirements for labeling and packaging of pesticides;

"(II) relate to the chemical properties or effects of a group of pesticides; and

"(III) do not unconditionally prohibit the use of any pesticide or group of pesticides on any crop or site; or

"(ii) the proceeding and any proposed order or final order are limited to questions relating to—

"(I) whether a pesticide is misbranded within the meaning of section 2(q) (other than subparagraph (F) or (G) of section 2(q)(1)); or

"(II) whether material required to be submitted does not comply with the requirements of this Act.

"(B) The Administrator may waive the requirements of paragraph (5) if the Administrator issues a suspension order under subsection (c).

"(4) ADMINISTRATIVE RECORD.—

"(A) The Administrator shall establish an administrative record for each proceeding initiated under paragraph (1). The administrative record shall be made available to the public consistent with the requirements of section 10 and shall include a copy of—

"(i) any advance notice or determination published under paragraph (5);

"(ii) any proposed order published under paragraph (6);

"(iii) each comment received under paragraph (5) or (6);

"(iv) the transcript of any hearing conducted pursuant to paragraph (7);

"(v) any report submitted by the Scientific Advisory Panel under paragraph (8);

"(vi) the transcript of any meeting conducted by the Science Advisory Panel under paragraph (8);

"(vii) any decision by the Administrator to withdraw a proposed order published under paragraph (10); and

"(viii) any final order issued under paragraph (10).

"(B) The person who submits a document for inclusion in the administrative record shall also submit a copy of any study or information on which the document is based, unless—

"(i) it is already a part of the record; or

"(ii) it is widely available to the public without restriction.

"(5) ADVANCE NOTICE.—

"(A) Except as provided in paragraph (3), the Administrator may initiate a proceeding under this subsection only by publishing in the Federal Register an advance notice.

"(B) An advance notice shall contain—

"(i) a statement of the basis and purpose of the decision by the Administrator to initiate the proceeding;

"(ii) a summary of the factual data on which the advance notice is based;

"(iii) a statement of any significant scientific assumptions, legal interpretations, policy considerations on which the advance notice is based, and the manner in which any risk calculations were performed; and

"(iv) any comments that the Administrator has received from the Secretary of Agriculture or the Secretary of Health and Human Services as a result of a consultation described in paragraph (2)(C) and the response of the Administrator to the comments.

"(C) The Administrator shall provide a period for public comment of not less than 60 days after the date of the publication of the advance notice described in subparagraph (A).

"(D)(i) After the comment period described in subparagraph (C) and after considering any comments received, the Administrator may issue a proposed order in accordance with paragraph (6) or may determine not to issue a proposed order.

"(ii) The Administrator shall publish a notice in the Federal Register setting forth any determination not to issue a proposed order made under clause (i) and the basis for the determination.

"(6) PROPOSED ORDER.—

"(A) After publishing any advance notice required by this subsection and considering any comments on the notice, the Administrator may publish a proposed order in the Federal Register.

"(B) A proposed order shall—

"(i) set forth the factual and legal bases and purpose of the proposed order;

"(ii) summarize the relevant scientific data and studies that the Administrator considered in developing the proposed order;

"(iii) provide a summary of the methods used to estimate risk;

"(iv) if the pesticide is used to produce an agricultural commodity, a general analysis of the impact of the proposed action on consumers, retail food prices, production of agricultural commodities, and otherwise on the agricultural economy;

"(v) summarize the available information on the risks and the benefits of the pesticides, including any benefit and use data, an analysis of the data, or any other comments submitted by the Secretary of Agriculture or the Secretary of Health and Human Services, as appropriate, and the response of the Administrator to the comments;

"(vi) include an analysis and preliminary conclusions by the Administrator concerning the balancing of the risks and benefits of use of the pesticide; and

"(vii) a summary of comments received under paragraph (5)(C).

"(C) The Administrator shall provide a period for public comment of not less than 90 days after the date of publication of the proposed order.

"(D)(i) The Administrator shall send a copy of a proposed order to cancel or change the classification of a pesticide to the Secretary of Agriculture and, if the proposed order to cancel or change classification is based on potential adverse effects on human health, to the Secretary of Health and Human Services.

"(ii) Unless the opportunity to comment is waived by the appropriate Secretary, the Administrator shall allow—

"(I) the Secretary of Agriculture and, in the case of a proposal based on potential adverse effects on human health, the Secretary of Health and Human Services, at least 90 days from receipt of a proposed order to cancel or change classification to submit written comments on the proposed order; and

"(II) in the case of the Secretary of Agriculture and the Secretary of Health and Human Services, to consult with the Administrator on the proposed order.

"(E) If no comments opposing the proposed order are timely received, the Administrator may issue a final order identical to the proposed order. The final order shall be effective on its publication in the Federal Register, and shall not be subject to judicial review. In such a case, paragraphs (7) and (8), and subparagraphs (B) through (E) of paragraph (10), shall not apply.

"(7) INFORMAL HEARING.—

"(A) Any person may, not later than 10 days after the end of the comment period described in paragraph (6)(C), request that the Administrator hold an informal hearing for the purpose of discussing significant issues with regard to the order published under paragraph (6).

"(B)(i) If the Administrator receives any timely requests for a hearing under subparagraph (A), the Administrator shall make a determination concerning the questions raised by the requests.

"(ii) If the Administrator determines that any such question is significant, the Administrator shall schedule an informal hearing and designate a presiding officer to conduct the hearing, schedule presentations, and ensure the completion of the hearing in accordance with clauses (i) and (ii) of subparagraph (C).

"(iii) The Administrator shall publish a notice of the hearing in the Federal Register that includes information concerning the time, place, and purpose of the hearing.

"(C) A hearing conducted under this paragraph—

"(i) shall not exceed 20 days in duration;

"(ii) shall terminate not later than 45 days after the end of the comment period described in paragraph (6)(C); and

"(iii) shall be limited in scope to addressing the significant issues raised in any request for hearing.

"(D) For each hearing conducted under this paragraph, the Administrator may designate not less than one employee of the Environmental Protection Agency for the purpose of participating in the hearing. Any person who requests a hearing may present evidence or argument in oral or written form on issues within the scope of the hearing. A transcript shall be made of any oral presentation.

"(8) REVIEW BY SCIENTIFIC ADVISORY PANEL.—

"(A) After the close of the comment period and following any hearing conducted under paragraph (7), the Administrator shall—

"(i) transmit to the Scientific Advisory Panel established under section 25(d) all of the material contained in the administrative record and a summary of the significant scientific issues raised by the comments; and

"(ii) request the Panel to prepare a report concerning the comments, evaluations, and recommendations of the Panel on any scientific issues identified by the Administrator in the summary of comments, other scientific issues of significance as determined by the Administrator, or by the Panel.

"(B) The Panel may hold a public meeting to discuss the issues raised in subparagraph (A)(ii) and shall include a transcript of any such meeting in the report to the Administrator.

"(C) The Panel shall file any report to the Administrator not later than 60 days after the request of the Administrator for the comments of the Panel, unless the Administrator provides additional time for filing the report. If the report is not filed within the 60-day period or any extension of the period, the Administrator may proceed to issue a final order in accordance with paragraph (10).

"(9) SUPPLEMENTAL INFORMATION.—After a proceeding under this subsection has commenced, if the Administrator determines that further information is needed in order to reach a decision in the proceeding, the Administrator shall take such steps as are necessary to collect all such needed information as promptly as possible and to avoid delays in the timely completion of the proceeding, including the issuance of requests as appropriate under section 3(c)(2)(B) for various items of needed information as soon as possible. The Administrator shall also carefully monitor the responses to the requests and to the extent possible avoid sequential requests.

"(10) FINAL ACTION.—

"(A) After considering all material in the administrative record, the Administrator shall publish in the Federal Register either a final order or a withdrawal of the proposed order. A final order shall state any requirements, classifications, or prohibitions imposed by the order, and shall contain a summary of the provisions of paragraph (11). The action of the Administrator shall be consistent with paragraph (1).

"(B) If a final order to cancel or change classification differs significantly from a proposed order, the Administrator shall (prior to issuing the final order)—

"(i) notify the Secretary of Agriculture and, if the proposed order to cancel or change classification was based on potential adverse effects on human health, the Secretary of Health and Human Services, of the significant differences; and

"(ii) provide the Secretary of Agriculture and the Secretary of Health and Human Services with an additional opportunity to submit written comments and consult with the Administrator.

"(C) A final order or a withdrawal of a proposed order shall include a statement that—

"(i) explains the reasons for the action;

"(ii) responds to any comments made by the Secretary of Agriculture or the Secretary of Health and Human Services, and responds to any report of the Scientific Advisory Panel submitted in accordance with paragraph (8); and

"(iii) responds to each significant comment contained in the administrative record.

"(D) A final order shall also include a statement that—

"(i) explains the reasons for any major differences between the final order and the proposed order;

"(ii) analyzes the effect of the final order on consumers, the production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy;

"(iii) explains any significant disagreements the Administrator may have with the report of the Scientific Advisory Panel under paragraph (8) or the comments of the Secretary of Agriculture and the Secretary of Health and Human Services under paragraph (6)(D); and

"(iv) with respect to any agricultural use of the pesticide, considers whether agricultural practices such as integrated pest management, crop rotation, or other alternative practices are being used or could be used to decrease the exposure to the pesticide to an acceptable level, to the extent the information is available.

"(E) In issuing a final order under this subsection, the Administrator shall—

"(i) allow a registrant to apply to amend the terms and conditions of a registration as an alternative to cancellation, if the Administrator determines that such an amendment will ensure that the pesticide, when used in accordance with its labeling or widespread or commonly recognized practice, will not generally cause unreasonable adverse effects on the environment;

"(ii) take into account the effect of the action on production and prices of agricultural commodities, retail food prices, and otherwise on agricultural economy; and

"(iii) take into account any significant differences in risk between agricultural and nonagricultural pesticides.

"(F) A final order issued under this subsection shall become effective on the date of the publication of the order in the Federal Register or on such later date as is stated in the order.

"(G) The Administrator may issue a final order under this Act whenever the registration of a pesticide is cancelled to allow the continued sale or use of existing stocks of the pesticide, subject to such conditions and limitations as the Administrator considers appropriate to satisfy the purposes of this Act.

"(H)(i) Except as provided by clause (ii), the Administrator shall take such steps as are reasonably necessary to allow final action to be taken under subparagraph (A)—

"(I) within a period of 18 months after the publication of the advance notice under paragraph (4); or

"(II) if no such advance notice was published, within a period of 12 months after the publication of the proposed order under paragraph (6).

"(ii) If the Administrator is unable to take action under subparagraph (A) within the period, the Administrator shall at the end of the period, and every 6 months thereafter until final action is taken, publish in the Federal Register a report stating the reasons for the delay and describes actions being taken to ensure that a final action will be taken within 180 days from the date of the publication of the report. The report shall also be submitted to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate prior to publication in the Federal Register.

"(11) MODIFICATION OR CANCELLATION OF REGISTRATION.—

"(A) A registrant whose registration is affected by a final order published under paragraph (10) may, during the 30-day period beginning on the date of the publication in the Federal Register of the final order—

"(i) apply for an amendment to the registration to make the registration comply with the order; or

"(ii) request voluntary cancellation of the registration.

"(B) If a final order unconditionally prohibits all uses of a pesticide, the order may provide that the cancellation of the registration of the pesticide is effective on the effective date of the order.

"(C) Notwithstanding any other provision of this Act, if an application for an amendment to the registration to make the registration comply with an order issued under subparagraph (A) is not submitted within the 30-day period, the Administrator may publish in the Federal Register a notice that the registration of the pesticide has been canceled, effective on the date of publication of the notice.

"(12) EFFECT OF ORDER ON CERTAIN APPLICATIONS.—If a final order has been issued under paragraph (10) and is in effect, an application for initial or amended registration of any pesticide under section 3 or 24(c) may not be approved by the Administrator if the final order prohibits the registration of such a pesticide.

"(13) PETITION TO ISSUE, MODIFY, OR REVOKE ORDER.—

"(A) Any interested person may petition the Administrator to initiate a proceeding to—

"(i) issue a new order under this subsection; or

"(ii) amend or revoke a final order that has been issued under this subsection.

"(B) A petition submitted under subparagraph (A) shall describe the factual material and argument that form the basis for the petition.

"(C) On receipt of a petition described in subparagraph (A), the Administrator shall publish a notice of receipt of the petition in the Federal Register.

"(D) The Administrator shall provide a period for public comment of not less than 60 days after the date of the publication of the notice described in subparagraph (C).

"(E)(i) Not later than 180 days after the date of publication of the notice described in subparagraph (C), the Administrator shall determine what action to take on the petition and publish the determination and the basis for the action in the Federal Register.

"(ii) In the case of a petition to issue a new order, the Administrator shall either deny the petition utilizing the standard set forth in paragraph (2)(A) (and state the basis for denial) or commence a proceeding in accordance with this subsection.

"(iii) In the case of a petition to amend or revoke an existing order, the Administrator shall either deny the petition (and state the basis for denial) or initiate a proceeding to amend or revoke the order. If the Administrator initiates such a proceeding, the proceeding shall be conducted in accordance with this subsection, except that paragraphs (2) and (5) shall not be applicable to such a proceeding. In determining whether to deny a petition to amend or revoke an existing order, the Administrator shall give due regard to the desirability of finality, to the opportunity that the petitioner had to present the factual material and argument in question in the prior proceeding, and to any substantial new evidence submitted by the petitioner.

"(D) A denial of a petition under this paragraph shall be judicially reviewable as provided in paragraph (14).

"(14) JUDICIAL REVIEW.—

"(A) A decision not to issue a proposed order published under paragraph (5)(D), a final order or a withdrawal of a proposed order published under paragraph (10), or a denial of a petition issued under paragraph (13) shall be judicially reviewable under section 16(b)(2).

"(B) Nothing in this section relating to the provision of notice to other Federal agencies and the opportunity for consultation with other Federal agencies shall be construed as creating any right or benefit, substantive or procedural, enforceable at law by a party against the United States, or an agency or officer of the United States, or any person.

"(C) No court of the United States shall have jurisdiction to review any challenge to any action or failure to take action by the agency pursuant to this section if the challenge is based on an assertion that the agency failed to notify or consult with, or improperly notified or consulted with, any other Federal agency.".

(b) IMPLEMENTATION.—

(1) PUBLIC INTERIM ADMINISTRATIVE REVIEW PROCEEDING.—If the Administrator of the Environmental Protection Agency, on or before the date of enactment of this Act, has published a document instituting a public interim administrative review proceeding or has issued a notice under sections 3(c)(6), 6(b) or 6(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(c)(6), 136(b), or 136(d)) (as those sections were in effect on the day before the date of enactment of this Act) with respect to a particular pesticide or active ingredient thereof, in order to avoid delay or duplication of effort, the Administrator may, in lieu of proceeding under section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (as amended by subsection (a) of this section), elect to continue the review proceeding and, on its completion, take action as warranted in accordance with sections 3(c)(6), 6(b), 6(c), and 6(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (as those sections were in effect on the day before the date of enactment of this Act).

(2) CRITERIA IN EXISTING REGULATIONS.—For purposes of implementing section 6(b)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (as amended by subsection (a) of this section), the Administrator shall deem the criteria for initiating a special review set forth in the regulations appearing in part 154 of title 40, Code of Federal Regulations, to be "criteria regarding data and information on adverse effects and exposure set forth in regulations published by the Administrator", unless and until the regulations are modified or revoked.

SEC. 107. SUSPENSION.

Subsection (c) of section 6 (7 U.S.C. 136d(c)) is amended to read as follows:

"(c) SUSPENSION.—

"(1) AUTHORITY.—

"(A) If the Administrator determines that a pesticide poses an imminent hazard within the meaning of paragraph (5), the Administrator may issue an order suspending registration of the pesticide and forbidding or limiting the distribution, sale, or use of the pesticide.

"(B) The suspension order shall include—

"(i) an explanation of the reasons of the Administrator;

"(ii) a statement of the uses and geographic areas to which the order applies; and

"(iii) appropriate instructions regarding distribution, sale, and use of the pesticide for purposes that are not affected by the order.

"(C) The order may allow the use of existing stocks of the pesticide to the extent the Administrator finds that the use would be consistent with the purposes of this Act.

"(D) The order shall become effective on the date of the publication of the order in the Federal Register.

"(2) RELATION TO OTHER PROCEEDINGS.—The Administrator may issue a suspension order under this subsection before issuing a proposed order under subsection (b).

"(3) PROCEDURE.—

"(A)(i) Prior to issuing a suspension order or an exception to a suspension order under paragraph (8), the Administrator shall notify the Secretary of Agriculture and, if the proposed suspension is based on potential adverse effects to human health, the Secretary of Health and Human Services, of the proposed suspension and the bases for the suspension.

"(ii) No proposed suspension order shall be issued until the Administrator has provided the Secretary of Agriculture and, if appropriate, the Secretary of Health and Human Services, an adequate opportunity, consistent with the need to take prompt action, to consult effectively with the Administrator on the proposed suspension and the bases for the suspension, and on any scientific, agricultural, health, and economic issues or other matters related to the proposed suspension.

"(B) The Administrator shall enter into a written memorandum of understanding with the Secretary of Agriculture and the Secretary of Health and Human Services that shall specify the points in the process at which consultation provided for in this subsection shall occur and stipulate how the consultation shall be accomplished.

"(C) As soon as possible after the Administrator issues an order under paragraph (1), the Administrator shall furnish each affected registrant of the pesticide a notice that includes a copy of the order. The order shall afford any person who is adversely affected by the order the opportunity to request an expedited public hearing before the Administrator on the question of whether and to what extent the suspension order is justified under this subsection.

"(D) If no request for a hearing is submitted to the Administrator within 15 days of the date of the receipt of the notice by the registrant, or the date of publication of the order, whichever is later, or if each request for a hearing that has been submitted is withdrawn, the suspension order shall not be reviewable by any court.

"(E)(i) If a hearing is requested within the time provided, the hearing shall commence within 15 days of the receipt of the request unless the Administrator and the person requesting the hearing agree that it shall commence at a different time.

"(ii) The presentation of evidence in the hearing shall conclude not later than 60 days after the hearing commences, and the administrative law judge shall issue such rulings regarding the conduct of the hearing as are necessary for the completion of the hearing within the limits.

"(iii) The administrative law judge shall have 10 days from the conclusion of the presentation of evidence to submit recommended findings and conclusions to the Administrator, who shall then have 7 days to render a final order on whether the suspension order should be revoked, modified, or left unchanged.

"(iv) In all other respects, the hearing shall be held in accordance with sections 551 and 554 through 559 of title 5, United States Code, and subsection (d).

"(4) DURATION.—A suspension order issued under paragraph (1) shall terminate—

"(A) if a proposed order regarding the pesticide in question and the risks that are the basis for the suspension order is not issued in accordance with subsection (b) within 180

days after the date of publication of the order;

"(B) if and to the extent that the Administrator revokes the order;

"(C) if and to the extent that a reviewing court revokes the order; or

"(D) on cancellation of the registration of the pesticide.

"(5) IMMINENT HAZARD.—

"(A) For the purposes of this subsection, the term 'imminent hazard' means an imminent and substantial risk that unreasonable adverse effects on human health or the environment will be caused by the continued distribution, sale, or use of a pesticide for one or more purposes.

"(B) For the purposes of this paragraph:

"(i) The Administrator may determine that a risk is imminent only if the risk could not be regulated adequately by cancellation of the registration without prior suspension, taking into account (to the extent information is or can be made readily available) the exposure to the pesticide that may occur during the period likely to be required for a cancellation proceeding under subsection (b), whether or not the adverse effects from the exposure would be manifested during the period.

"(ii) In deciding whether a risk is substantial, the Administrator shall take into account (among other relevant factors)—

"(I) the nature of the potential adverse effects;

"(II) the pertinence of any relevant study results to risk to humans or other species of concern;

"(III) the magnitude and scope of the risk to humans or other species of concern, based on the information that is or can be made readily available concerning the expected actual exposure to the pesticide, except that in predicting nondietary exposure levels under this section, the Administrator may, as appropriate, take into account both data from any relevant studies concerning the application or use of the pesticide in question and available data from relevant studies that concern the application or use of other pesticides in a manner similar to the use of the pesticide in question and therefore are predictive of the levels of nondietary exposure to the pesticide in question; and

"(IV) the nature of the information on which the risk assessment is based and the degree of confidence or certainty that the risk actually exists.

"(iii)(I) An imminent and substantial risk shall be considered unreasonable within the meaning of this subsection if the Administrator finds, on the basis of reasonably available information, that the benefits of use of the pesticide that would be foreclosed by the suspension order do not clearly outweigh the risks that would be avoided by the order. In determining whether a risk is unreasonable within the meaning of this subsection, the Administrator shall take into account both the potential severity of the risk that may result from continued use of the pesticide during the course of a cancellation proceeding and the reliability and sufficiency of the information characterizing the risk.

"(II) The Administrator shall consider, consistent with the need to take prompt action, the information that is or can be made readily available on the benefits of the various uses of the pesticide that would be affected by a suspension order (including, where relevant, the continued availability of a wholesome, adequate, economical, and dependable aggregate domestic supply of any affected food).

"(III) The Administrator need not otherwise gather additional information regarding the benefits to the extent that the action might unreasonably delay the issuance of the suspension order.

"(IV) A risk posed by a pesticide shall not be considered unreasonable within the meaning of this subsection, if the Administrator determines that a greater risk to human health or the environment would be caused by suspending the use of a pesticide than by not suspending the use.

"(6) JUDICIAL REVIEW.—

"(A) A final order issued by the Administrator following a hearing under paragraph (3) shall be reviewable immediately in accordance with section 16(b)(1), even if any related proceedings under subsection (b) have not been completed.

"(B) Nothing in this section relating to the provision of notification to other Federal agencies and the opportunity for consultation with other Federal agencies shall be construed as creating any right or benefit, substantive or procedural, enforceable at law by a party against the United States, or any agency or officer of the United States, or any person.

"(C) No court of the United States shall have jurisdiction to review any challenge to any action or failure to take action by the agency pursuant to this section where the challenge is based on an assertion that the agency failed to notify or consult with, or improperly notified or consulted with, any other Federal agency.

"(7) PETITIONS.—

"(A) Any person may file with the Administrator a written petition to suspend the registration of a pesticide under this subsection. Such a petition shall set forth the factual basis for the petition and an explanation of why the criteria for suspension have been met.

"(B) The Administrator shall publish a summary of the petition in the Federal Register.

"(C) If the Administrator does not take action on the petition within 180 days after receiving the petition, the petition shall be deemed denied. The petitioner may obtain judicial review of the denial of a petition in accordance with section 16(a).

"(8) EXCEPTION.—

"(A) A State may request an exception from a suspension order issued or to be issued in accordance with this subsection for a particular pesticide use in the State or an area of the State if severe economic dislocation in the State will result from the suspension order. The application shall contain—

"(i) the justification for the claim of severe economic dislocation;

"(ii) a certification that there are no known practical alternatives to the pesticide use;

"(iii) conditions for the use of the pesticide, including methods and plans for reducing the rate of application to reduce the risk of adverse effects and any other conditions to be imposed by the State to reduce the risk of adverse effects;

"(iv) the estimated volume of the pesticide to be applied and acreage to be treated;

"(v) provisions for reporting the sales and use volumes of the pesticide; and

"(vi) research that is being or will be conducted to develop alternative methods to perform the function for which the suspended pesticide use was intended.

The Administrator shall promptly act on the application. The Administrator may grant such an exception only if the Administrator determines that the use of the pesticide under the exception, together with all other uses of the suspended pesticide that remain in effect or for which the Administrator has granted an exception in accordance with this subparagraph, do not pose an imminent hazard as defined in paragraph (5).

"(B) An exception for a pesticide use granted in accordance with subparagraph (A) shall expire not later than 1 year after the exception was granted. If a subsequent application is submitted in accordance with subparagraph (A) for the pesticide use, the application shall contain details regarding compliance with the conditions for the previously granted exception. An exception shall not allow a use of a pesticide to occur after 36 months after the suspension order was published.".

SEC. 108. BURDEN OF PERSUASION.

Subsection (h) of section 6 (7 U.S.C. 136d(h)) is amended to read as follows:

"(h) BURDEN OF PERSUASION.—Notwithstanding any other provision of law, with respect to any proceeding under subsections (b), (c), and (d), the party contesting the decision by the Administrator to deny, suspend, classify, or otherwise modify or restrict the registration of a pesticide, or the party contesting a decision by the Administrator to modify or restrict the distribution, sale, or use of a pesticide, has the burden of persuasion.".

SEC. 109. PERIODIC UPDATE OF INFORMATION SUPPORTING REGISTRATION.

Section 6 (7 U.S.C. 136d) is amended by adding at the end the following new subsection:

"(i) PERIODIC UPDATE OF INFORMATION SUPPORTING REGISTRATION.—

"(1) REQUIREMENT TO PERIODICALLY UPDATE INFORMATION SUPPORTING REGISTRATION.—Every registrant of a pesticide registered under this Act shall, in accordance with the schedule established in paragraph (3), update the information supporting each pesticide registration held by the registrant in order to ensure that the Administrator has the same level of information supporting the registration as is required at the time of new applicants for registration. In determining what information shall be required to be submitted by registrants pursuant to this subsection, the Administrator shall consider whether additional information would be duplicative of information previously submitted to the Administrator.

"(2) NOTIFICATION TO REGISTRANTS OF REQUIREMENTS.—The Administrator shall provide to registrants notification of the specific items of information required to be submitted by registrants or classes of registrants pursuant to this subsection. No order of suspension may be issued pursuant to paragraph (6) for failure to submit an item of information unless the registrant has received notification of the requirement to submit the information at least 2 years before issuance of such an order, except that if the Administrator routinely allows registrants more than 2 years to develop a particular piece of information, no order of suspension shall be issued with respect to a failure to submit the information unless a registrant received notification of the requirement to submit the information and was afforded at a minimum the amount of time routinely allowed by the Administrator to submit the information.

"(3) TIME PERIODS.—

"(A) A registrant of a pesticide product containing an active ingredient contained in

any pesticide first registered before November 1, 1984, shall initially be required to supply the information required by paragraph (1) by the later of—

"(i) 20 years after the date on which the first product containing the active ingredient was first registered; or

"(ii) 10 years after the date on which the Administrator determines, pursuant to section 4(g)(2)(A), that pesticide products containing the active ingredient are eligible for reregistration.

Thereafter, a registrant of a pesticide product containing the active ingredient shall be required to supply the information required by paragraph (1) every 10 years after the date on which the information was first required pursuant to this paragraph.

"(B) A registrant of a pesticide product containing an active ingredient contained in a pesticide first registered after October 31, 1984, shall initially be required to supply the information required by paragraph (1) 10 years after the date on which the first product containing the active ingredient was first registered. Thereafter, a registrant of a pesticide product containing the active ingredient shall be required to supply the information required by paragraph (1) every 10 years after the date on which the information was first required pursuant to this paragraph.

"(4) PUBLICATION OF DATES IN FEDERAL REGISTER.—The Administrator shall publish in the Federal Register the dates by which registrants are initially required to supply the information required by paragraph (1).

"(5) EXTENSIONS OF TIME.—The Administrator, at the discretion of the Administrator or on application by a registrant, may extend the time period required for submitting any portion of the information required to be submitted pursuant to this subsection if circumstances beyond the control of the registrant prevent the registrant from submitting data within the prescribed period. If an extension is granted pursuant to this paragraph, the Administrator shall establish a reasonable deadline for the submission of the information.

"(6) ORDER OF SUSPENSION.—

"(A) If a registrant fails to submit the information required by this subsection within the time period required by this subsection, the Administrator may issue an order suspending the registration, except that, if the Administrator determines that a registrant made a good faith effort to submit the required information, the Administrator shall provide the registrant with a reasonable additional period of time to submit the information before issuing an order suspending the registration.

"(B) The Administrator may make such provisions concerning the sale or use of existing stocks of a pesticide that has had its registration suspended pursuant to this paragraph as the Administrator considers appropriate to carry out this Act.

"(C) A suspension order issued pursuant to this paragraph shall be sent to the registrant and shall be effective on receipt by the registrant.

"(D) The order shall include a statement of the factual and legal basis for the suspension, and shall include any provisions the Administrator has made concerning the sale and use of existing stocks.

"(E) A registration suspended under this paragraph shall be reinstated by the Administrator if the Administrator determines that the registrant has complied fully with the requirements that served as the basis for the suspension of the registration.

"(F) Nothing in this paragraph shall be construed as preventing the Administrator from initiating cancellation or suspension action under the appropriate provisions of this section if the Administrator determines that the action is warranted based on the information submitted by a registrant pursuant to this subsection.

"(7) CANCELLATION AFTER 3 YEARS.—If a registration remains suspended for more than 3 years after an order of suspension has been issued pursuant to paragraph (6), the Administrator may issue an order cancelling the registration. The cancellation order shall be published in the Federal Register and sent to the registrant. A cancellation order issued pursuant to this paragraph shall be effective on publication in the Federal Register.

"(8) FEES.—

"(A) On or after September 31, 1997, the Administrator is authorized to issue regulations to assess fees from registrants reasonably calculated to cover the costs (or some portion of the costs) associated with the periodic review of registrations pursuant to this subsection.

"(B) If any fee prescribed by regulations issued pursuant to this paragraph with respect to the registration of a pesticide is not paid by the time prescribed by the regulations, the Administrator, by order and without hearing, may cancel the registration.

"(9) EFFECT ON AUTHORITY OF ADMINISTRATOR TO REQUIRE INFORMATION.—Nothing in this subsection shall be construed as limiting in any way the authority of the Administrator to require, pursuant to subsection (c)(2)(B), registrants to submit data to maintain in effect an existing registration of a pesticide.".

SEC. 110. RECORDS.

Section 8 (7 U.S.C. 136f) is amended to read as follows:

"SEC. 8. RECORDS.

"(a) IN GENERAL.—The Administrator, by regulation, may require any producer, importer, or exporter of a pesticide, registrant, applicant for registration, applicant for or holder of an experimental use permit, owner or operator of a pesticide testing facility, or any holder of a pesticide that is the subject of a regulation or order issued under subsection (a) or (b) of section 19—

"(1) to prepare, and to maintain for reasonable periods of time, such records as the Administrator finds to be necessary for the effective implementation or enforcement of the Act;

"(2) to furnish to the Administrator reports stating the location where the records are maintained; and

"(3) to furnish a copy of any such record to the Administrator on written request.

"(b) RECORDS OF COMMERCIAL APPLICATORS.—The Administrator, by regulation or request, may require any commercial applicator—

"(1) to prepare, and to maintain for reasonable periods of time, records of each pesticide application, including the identity and quantity of pesticide applied and the date and location of the application;

"(2) to furnish to the Administrator reports stating the location where the records are maintained; and

"(3) to furnish a copy of any such record to the Administrator on written request.

"(c) RECORDS OF PESTICIDE DEALERS.—

"(1) IN GENERAL.—The Administrator, by regulation, shall require each pesticide dealer to prepare and maintain a record of each sale or distribution of—

"(A) a pesticide classified for restricted use; or

"(B) any other pesticide designated for purposes of this subsection by the Administrator by regulation that states why such a designation is necessary to carry out this Act.

"(2) CONTENTS.—The records shall include the identity of the pesticide sold or distributed, the identity of the person to whom the pesticide was distributed or sold, the date of the distribution or sale, and the quantity of the pesticide distributed or sold.

"(3) DURATION.—A pesticide dealer shall maintain the records required under this subsection for at least 3 years after the date of the distribution or sale.

"(4) DEFINITION.—For the purposes of this subsection, the term 'pesticide dealer' means any person who, in the ordinary course of business, distributes or sells any pesticide that is classified for restricted use or designated under paragraph (1)(B).

"(d) LIMITATIONS.—

"(1) IN GENERAL.—Except as provided in this section, the Administrator may not require any person to prepare, maintain, or submit any records that consist of—

"(A) financial data, pricing data, or sales data other than shipment data;

"(B) personnel data, except for data concerning exposure of employees to pesticides or ingredients of pesticides, or concerning health effects on employees that could reasonably be attributable to the exposure; or

"(C) research or test data, other than data relating to—

"(i) a registered pesticide;

"(ii) any pesticide for which an application for registration or for an experimental use permit has been filed;

"(iii) a pesticide for which an exemption pursuant to section 18 has been requested;

"(iv) a pesticide for which a regulation has been promulgated in accordance with section 3(a);

"(v) testing at a pesticide testing facility; or

"(vi) the storage or disposal of a pesticide whose registration has been suspended or canceled.

"(2) PRIVATE APPLICATORS.—Except as provided by this section, this Act shall not be construed to require, or to authorize the Administrator to require, any private applicator to prepare, maintain, or submit records or reports.".

SEC. 111. INSPECTIONS.

Section 9 (7 U.S.C. 136g) is amended to read as follows:

"SEC. 9. INSPECTIONS.

"(a) AUTHORITY.—An officer or employee of the United States or of any State, duly designated by the Administrator, is authorized—

"(1) to enter and inspect—

"(A) any place where any pesticide, active ingredient, or device is produced, packaged, distributed, or sold;

"(B) any place where any records required under this Act are maintained, or any place reported under section 8 as a place where the records are maintained;

"(C) any pesticide testing facility; or

"(D) any place where the officer or employee has reason to believe that this Act has been or is being violated; and

"(2) to obtain, in connection with the entry or inspection—

"(A) samples of any pesticide (or any ingredient, metabolite, or degradation product thereof), of any device, of any container or packaging of any pesticide or device, or of

any label or labeling of a pesticide, active ingredient, or device;

"(B) copies of any records required by or under this Act;

"(C) copies of any data, or samples of any specimens, involved in the testing of any pesticide (or of any ingredient, metabolite, or degradation product thereof), or in the testing of any device, at any pesticide testing facility; and

"(D) samples of any things in or on which pesticide residues may be found, including, without limitation, agricultural commodities, animals, pests, soil, or water.

"(b) WARRANTS.—

"(1) ENTRY BY CONSENT OR PURSUANT TO WARRANT.—This section shall not be construed to authorize any entry or inspection of a place not open to the general public unless—

"(A) the person who holds the current possessory interest in the place, or the person in charge of the place, has consented to the entry and inspection; or

"(B) the entry and inspection is authorized by a warrant issued in accordance with this section.

"(2) OBTAINING WARRANTS.—

"(A) An officer or employee of the United States or of any State, duly authorized by the Administrator, is empowered to obtain from a court of competent jurisdiction and execute a warrant authorizing—

"(i) entry, inspection, and obtaining of evidence, in accordance with subsection (a);

"(ii) inspection and copying of records required by or under this Act; and

"(iii) seizure of any pesticide, device, active ingredient, labeling, or packaging that is in violation of this Act.

"(B) An officer or employee of the United States or of any State, duly designated by the Attorney General, may obtain and execute a warrant in accordance with rule 41 of the Federal Rules of Criminal Procedure, if a court or magistrate determines under the rule that there is probable cause to believe that—

"(i) a criminal violation of this Act has occurred or is occurring on the place to be entered or searched; or

"(ii) evidence of a criminal violation of this Act will be found on the place.

"(c) PROCEDURE.—

"(1) CREDENTIALS AND STATEMENTS.—Before any entry or inspection of any place not open to the general public is made under this section, the person conducting the inspection shall present to the person in charge of the place appropriate identifying credentials and a written statement of the reason for the entry and inspection and whether a violation of this Act is suspected, unless the entry is made pursuant to a warrant that authorizes entry without the presentation of credentials and statement.

"(2) PROMPTNESS.—Each entry or inspection shall be commenced and completed with reasonable promptness.

"(3) SAMPLES.—If the person conducting the entry or inspection obtains any samples as authorized by subsection (a)(2), before leaving the place the person shall give to the person in charge of the place a receipt describing the sample and, if requested and practicable, a portion of each such sample equal in volume or weight to the portion retained. If an analysis is made of any such sample, a copy of the results of the analysis shall be furnished on request to the person in charge of the place.

"(d) COORDINATION.—The Administrator shall coordinate actions taken under this section with actions taken under other Federal laws for the purpose of avoiding unnecessary duplication of inspections.".

SEC. 112. DATA DISCLOSURE TO STATES.

Section 10 (7 U.S.C. 136h) is amended by adding at the end the following new subsection:

"(h) DISCLOSURE TO STATES.—The Administrator shall, on request by a State, disclose to the State any data or information acquired under this Act if the State ensures the Administrator, and the Administrator determines, that—

"(1) the submitter of the data or information will receive no less protection with respect to the disclosure and use of the data or information by the State than is otherwise provided by this Act; and

"(2) the law of the State allows the submitter of the data or information to recover just compensation in a civil action against the State for losses resulting from the disclosure or use of the data or information by the State or its employees or agents in a manner inconsistent with this Act.".

SEC. 113. CERTIFICATION AND TRAINING FOR PESTICIDE APPLICATORS.

(a) IN GENERAL.—Section 11 (7 U.S.C. 136i) is amended—

(1) by striking subsection (d);

(2) by redesignating subsection (e) as subsection (l); and

(3) by inserting after subsection (c) the following new subsections:

"(d) USE BY COMMERCIAL APPLICATORS.—

"(1) IN GENERAL.—It shall be a violation of this Act for any person to use any pesticide as a commercial applicator unless the person is—

"(A) a certified commercial applicator; or

"(B) a registered commercial applicator under the direct supervision of a certified commercial applicator.

"(2) CERTIFIED COMMERCIAL APPLICATORS.—To be considered to be a certified commercial applicator, a person, at a minimum, shall—

"(A) have met the standards prescribed under subsection (a) and have received training—

"(i) prescribed by the State agency, including training in the material referred to in subsection (g);

"(ii) conducted by a trainer who has met the requirements prescribed under subsection (h); and

"(iii) that satisfies the minimum standards for training programs prescribed under subsection (h);

"(B) have had field, institutional, or industrial experience in pesticide use and application;

"(C) have passed an examination prescribed by the State agency; and

"(D) possess a valid commercial applicator certification issued by the State agency.

"(3) REGISTERED COMMERCIAL APPLICATORS.—

"(A) To be considered to be a registered commercial applicator, a person, at a minimum, shall—

"(i) have received training—

"(I) prescribed by the State agency, including training in the material referred to in subsection (g); and

"(II) conducted by a trainer who has met the requirements prescribed under subsection (h); and

"(ii) possess a valid registration issued by the State agency.

"(B) A person may obtain a registration by providing to the State agency a report, signed and dated by the trainer and by the person who received the training, stating that the prescribed minimum training has been provided and received.

"(e) USE BY PRIVATE APPLICATORS.—

"(1) IN GENERAL.—A restricted use pesticide shall be considered to have been applied by, or under the direct supervision of, a certified private applicator only if the pesticide is applied by a person who is either—

"(A) a certified private applicator; or

"(B) a supervised private applicator who uses the pesticide under the direct supervision of a certified private applicator.

"(2) CERTIFIED PRIVATE APPLICATORS.—To be considered to be a certified private applicator, a person, at a minimum, shall—

"(A) have met the standards prescribed under subsection (a) and have received training—

"(i) prescribed by the State agency, including training in the material described in subsection (g);

"(ii) conducted by a trainer who has met the requirements prescribed under subsection (h); and

"(iii) that satisfies the minimum standards for training prescribed under subsection (h); and

"(B) possess a valid private applicator certification issued by the State agency.

"(3) SUPERVISED PRIVATE APPLICATORS.—

"(A) To be considered to be a supervised private applicator, a person, at a minimum, shall have received basic instruction—

"(i) prescribed by the State agency or based on material prescribed by the State agency, including basic instruction material concerning the use of appropriate pesticide application and safety procedures, appropriate clothing and protective equipment for pesticide applications, the detection of common symptoms of pesticide poisoning, the means of obtaining emergency medical treatment, hazards posed by pesticides to workers, the public health, and the environment, and the requirements of applicable laws, regulations, and labeling; and

"(ii) given by a certified private applicator, a commercial applicator who is certified in the pest control category appropriate for the instruction being provided, or a trainer who has met the requirements prescribed under subsection (h).

"(B) The State agency may require the employer of a supervised private applicator to confirm that the basic instruction described in subparagraph (A)(i) has been received.

"(f) RECERTIFICATION AND REREGISTRATION.—

"(1) IN GENERAL.—Each certified applicator and each registered commercial applicator within a State shall undergo refresher training and be recertified or reregistered within a period established by the State agency of the State of not more than 5 years.

"(2) TRAINING MATERIAL.—The refresher training shall be prescribed by the State agency and shall include training in the materials referred to in subsection (g) and in the relevant requirements of other subsections of this section and sections 3(d), 12, and 14.

"(3) RECERTIFICATION.—To be recertified, an applicator, at a minimum, shall meet—

"(A) the requirements of subparagraphs (A), (B), and (D) of subsection (d)(2); or

"(B) the requirements of paragraphs (1) and (2) of subsection (e).

"(4) REREGISTRATION.—To be reregistered, a commercial applicator, at a minimum, shall meet the requirements of subsection (d)(3).

"(g) TRAINING MATERIAL.—

"(1) DEVELOPMENT.—The Administrator, in consultation with the Secretary of Agriculture, shall develop training material on the use of appropriate procedures for the application of pesticides (including integrated pest management and integrated crop management), safety procedures for pesticide application (including prevention of surface and ground water contamination), clothing and protective equipment for pesticide application, the detection of common symptoms of pesticide poisoning, the means of obtaining emergency medical treatment, hazards posed by pesticides to workers, the public health, and the environment, specific commercial application categories, and the requirements of applicable laws, regulations, and labeling.

"(2) REVISIONS.—Within 12 months after the effective date of this section, the Administrator, in consultation with the Secretary of Agriculture, shall revise and make current the material and thereafter shall update the material as appropriate.

"(h) MINIMUM STANDARDS FOR TRAINERS AND TRAINING PROGRAMS.—

"(1) TRAINING OF COMMERCIAL APPLICATORS.—

"(A) The Administrator shall establish within 1 year after the effective date of this section—

"(i) minimum standards of competency, and experience or expertise, for trainers referred to in subsection (d); and

"(ii) minimum standards for the training programs referred to in subsection (d).

"(B)(i) Training programs prescribed by any State under subsection (d) shall comply with the minimum standards established by the Administrator under subparagraph (A) not later than 2 years after the effective date of the standards.

"(ii) If on the expiration of the 2-year period the training program of a State fails to meet the minimum standards, or if a State fails to prescribe such a program, the Administrator shall notify the State of the failure.

"(iii) After receipt of a notice, a State shall have 90 days to bring the training program of the State into compliance with the standards.

"(iv) If on expiration of the 90-day period, the training program of the State does not meet the standards, the Administrator shall prescribe the training programs referred to in subsection (d) for use in the State.

"(2) TRAINING OF PRIVATE APPLICATORS.—

"(A) The Administrator shall establish within 2 years after the effective date of this section—

"(i) minimum standards of competency, and experience or expertise, for trainers referred to in subsection (e); and

"(ii) minimum standards for the training programs referred to in subsection (e).

"(B)(i) Training programs prescribed by any State under subsection (e) shall comply with the minimum standards established by the Administrator under subparagraph (A) not later than 2 years after the effective date of the standards.

"(ii) If on the expiration of the 2-year period the training program of a State fails to meet the minimum standards, or if a State fails to prescribe such a program, the Administrator shall notify the State of the failure.

"(iii) After receipt of a notice, a State shall have 90 days to bring the training program of the State into compliance with the standards.

"(iv) If on expiration of the 90-day period the training program of the State does not meet the standards, the Administrator shall prescribe the training programs referred to in subsection (e) for use in the State.

"(i) PRIVATELY ADMINISTERED TRAINING PROGRAMS.—A State agency may approve any privately administered training program that the Administrator determines meets the more stringent of—

"(1) requirements established under this section; or

"(2) requirements established by the State agency.

"(j) ENFORCEMENT OFFICER TRAINING.—Federal and State field personnel responsible for on-site observations and inspections of pesticide use shall have training that, at a minimum, includes training covering materials specified in subsection (g) for the commercial application categories for which the personnel are assigned enforcement responsibility.

"(k) DEFINITION OF STATE AGENCY.—For purposes of this section, the term 'State agency' means the agency of a State that is designated under subsection (a)(2)(A) if the State has primary enforcement responsibility for pesticide use violations, as provided for by section 26. In the case of a State that does not have the primary enforcement responsibility or that does not have an agency designated under subsection (a)(2)(A), a reference to a State agency shall be considered a reference to the Administrator.".

(b) EFFECTIVE DATES.—

(1) COMMERCIAL APPLICATORS.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), subsection (d) of section 11 of the Federal Insecticide, Fungicide, and Rodenticide Act (as added by subsection (a)) shall become effective in a State on the expiration of the period prescribed by subsection (h) of such section within which training programs of the State under subsection (d) are required to be in compliance with minimum standards prescribed by the Administrator of the Environmental Protection Agency under subsection (h).

(B) CERTIFIED COMMERCIAL APPLICATORS.—If an applicator in a State is certified as a commercial applicator under subsection (a) of section 11 of the Federal Insecticide, Fungicide, and Rodenticide Act before the effective date prescribed by subparagraph (A) and the Administrator has determined that the previous certification or recertification requirements in that State do not conform to the requirements of subsection (d) of such section, the applicator shall be recertified—

(i) within 2 years after the date the training programs of the State under subsection (d) comply with the minimum standards of the Administrator; or

(ii) within such earlier time as the State may prescribe.

(C) REGISTERED COMMERCIAL APPLICATORS.—The requirements of subsection (d) of section 11 for registered commercial applicators shall become effective 1 year after the expiration of the period prescribed by subsection (h) of such section within which training programs of the State under subsection (d) are required to be in compliance with minimum standards prescribed by the Administrator of the Environmental Protection Agency under subsection (h).

(2) PRIVATE APPLICATORS.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), subsection (e) of section 11 of the Federal Insecticide, Fungicide, and Rodenticide Act (as added by subsection (a)) shall become effective in a State on the expiration of the period prescribed by subsection (h) of such section within which training programs of the State under subsection (e) are required to be in compliance with minimum standards prescribed by the Administrator of the Environmental Protection Agency under subsection (h).

(B) CERTIFIED PRIVATE APPLICATORS.—If an applicator in a State is certified as a private applicator under subsection (a) of section 11 before the effective date prescribed by subparagraph (A) and the Administrator has determined that the previous certification or recertification requirements in the State do not conform to the requirements of subsection (d) of such section, the applicator shall be recertified—

(i) within 2 years after the date the training programs of the State under subsection (e) comply with the minimum standards of the Administrator; or

(ii) within such earlier time as the State may prescribe.

(C) SUPERVISED PRIVATE APPLICATORS.—The requirements of subsection (e) of section 11 for supervised private applicators shall become effective 1 year after the expiration of the period prescribed by subsection (h) of such section within which training programs of the State under subsection (e) are required to be in compliance with minimum standards prescribed by the Administrator of the Environmental Protection Agency under such subsection.

(3) ENFORCEMENT OFFICER TRAINING.—The requirements of subsection (j) of section 11 of the Federal Insecticide, Fungicide, and Rodenticide Act (as added by subsection (a)) shall become effective 1 year after the Administrator issues the training materials specified in subsection (g) of such section.

SEC. 114. UNLAWFUL ACTS.

(a) IN GENERAL.—Section 12(a)(2) (7 U.S.C. 136j(a)(2)) is amended—

(1) by striking subparagraphs (M) and (N) and inserting the following new subparagraph:

"(M) to knowingly make any false material statement, false representation, or false certification in—

"(i) any application filed under this Act;

"(ii) any data or information submitted under this Act to support the issuance or continuation in effect of any registration, permit, or exemption;

"(iii) any record required to be maintained by this Act; or

"(iv) any report filed under this Act;

"(N) to fail to file any report required by this Act;";

(2) by striking "or" at the end of subparagraph (O);

(3) by striking the period at the end of subparagraph (P) and inserting a semicolon;

(4) by striking "or" at the end of subparagraph (R); and

(5) by striking subparagraph (S) and inserting the following new subparagraphs:

"(S) to violate any regulation issued under section 3(a), 17(c), or 19, or any order issued under section 17(d); or

"(T) who is a registrant, to violate any term or condition of a registration issued pursuant to this Act.".

(b) TECHNICAL AMENDMENTS.—Section 12 is amended by adding at the end the following new subsection:

"(c) ACTS OF OFFICERS, AGENTS, ETC.—When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of the person as well as that of the person employed.".

SEC. 115. PENALTIES.

Section 14 (7 U.S.C. 136l) is amended to read as follows:

"SEC. 14. PENALTIES.

"(a) CIVIL PENALTIES.—

"(1) IN GENERAL.—If any person who is (or who is acting for or employed by) a registrant, applicant for registration, producer, pesticide testing facility, seller or distributor of pesticides or devices, commercial applicator, or holder of a pesticide that is subject to an order or regulation under section 19(b) violates any provision of this Act, the Administrator may assess a civil penalty against the person of not more than $25,000 for each violation. If such a person violates any provision of this Act after having been issued a warning or citation under this section for violating the same or a similar provision of this Act, the Administrator may assess a civil penalty against the person of not more than $50,000 for each such subsequent violation.

"(2) PRIVATE APPLICATOR.—Any private applicator who violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than $1,000 for each offense. If the applicator violates any provision of this Act after violating the same or similar provision of this Act, the Administrator may assess a civil penalty of not more than $2,000 for each subsequent violation.

"(3) OTHER PERSONS.—Any other person not included in paragraph (1) or (2) who violates any provision of this Act subsequent to receiving a written warning from the Administrator or following a citation for a prior violation may be assessed a civil penalty by the Administrator of not more than $1,000 for each offense. If the person violates any provision of this Act after violating the same or similar provision of this Act, the Administrator may assess a civil penalty of not more than $2,000 for each subsequent violation. The Administrator may waive the requirements for a warning or citation for a first offense if the Administrator determines that the violation was intentional or caused (or had the potential to cause) significant harm to health or the environment.

"(4) HEARING.—No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing in accordance with section 6(d) at a time and place that is reasonably convenient for the person to attend.

"(5) DETERMINATION OF PENALTY.—In determining the amount of the civil penalty to be assessed under this subsection, the Administrator shall consider the appropriateness of the penalty to the size of the business of the person charged, the effect of the penalty on the ability of the person to continue in business, the economic gains that resulted from the violation, and the gravity of the violation. If the Administrator finds that the violation occurred despite the exercise of due care and the violation did not cause significant harm to health or the environment, the Administrator shall consider issuing a warning in lieu of assessing a penalty.

"(6) REFERENCE TO ATTORNEY GENERAL.—If a person fails to pay the full amount of a civil penalty the Administrator shall refer the matter to the Attorney General, who shall recover any unpaid amount by action in the appropriate United States district court.

"(b) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any person who is (or who is acting for or employed by) a registrant, applicant for registration, producer, pesticide testing facility, seller or distributor of a pesticide or device, commercial applicator, or a holder of a pesticide that is subject to an order or regulation under section 19(b), and who knowingly violates any provision of this Act, shall on conviction be fined not more than $50,000 or imprisoned for not more than 3 years, or both.

"(2) DISCLOSURE OF INFORMATION.—Any person who, with intent to defraud, uses or reveals information relative to the formula of a pesticide product acquired under section 3 shall be fined not more than $10,000 or imprisoned for not more than 3 years, or both.

"(3) KNOWING ENDANGERMENT.—

"(A) Any person who knowingly commits any violation described in section 12 and who knows at the time of the violation that the violation places another person in danger of death or serious bodily injury shall, on conviction, be subject to a fine of not more than $250,000 or imprisonment for not more than 15 years, or both, except that any such person that is an entity (such as a corporation or partnership) shall be subject to a fine of not more than $1,000,000.

"(B) If the conviction of a person that is an entity is for a violation committed after a first violation under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

"(C) For purposes of this paragraph, the term 'serious bodily injury' means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss of impairment of the function of a bodily member, organ, or mental facility.

"(4) OTHER PERSONS.—Any person not included in paragraph (1), (2), or (3) who knowingly violates any provision of this Act shall on conviction be fined not more than $5,000 or imprisoned for not more than 1 year, or both.

"(c) WARNING IN LIEU OF PENALTY.—Nothing in this Act shall be construed as requiring the Administrator to institute or recommend the institution of civil or criminal penalty proceedings if the Administrator believes that the public interest will be adequately served by a suitable written notice of warning.".

SEC. 116. IMPORTS AND EXPORTS.

Section 17 (7 U.S.C. 136o) is amended—

(1) in subsection (a), by striking "and 8 of this Act" and inserting "8, and 19 (a) and (e) of this Act";

(2) by redesignating subsections (c) through (e) as subsections (f) through (h), respectively; and

(3) by inserting after subsection (b) the following new subsections:

"(c) COMPLIANCE WITH INTERNATIONAL PESTICIDE NOTIFICATION AND CONTROL AGREEMENTS.—

"(1) REGULATIONS.—The Administrator may issue regulations requiring persons who export any pesticide from the United States to comply with international pesticide notification and control provisions—

"(A) adopted by an international agency, if the United States is a member of the international agency and—

"(i) has consented to the adoption of the provisions; or

"(ii) has not officially disapproved the adoption of the provisions; or

"(B) reached through an international agreement—

"(i) to which the United States is a signatory; or

"(ii) under which the United States has not officially disapproved the adoption of the provisions.

"(2) EQUIVALENT INFORMATION.—If the Administrator determines that the provisions referred to in paragraph (1) provide equivalent information to foreign countries, the Administrator may exempt persons complying with the provisions from the requirements of subsection (a)(2).

"(3) VOLUNTARY COMPLIANCE.—If the Administrator has not issued regulations requiring compliance with the pesticide notification provisions referred to in paragraph (1), but has published in the Federal Register a notice of determination that voluntary compliance by an exporter with the provisions would provide notice equivalent to that provided by subsection (a)(2), an exporter who complies fully with the provisions need not comply with subsection (a)(2).

"(d) CONFIDENTIALITY OF EXPORT INFORMATION.—Notwithstanding sections 7(d) and 10(b), the Administrator shall make the following information concerning exports of pesticides available to the public on request without restriction:

"(1) The fact that an exporter has submitted a notice under subsection (a)(2) or subsection (c).

"(2) The active ingredients in an exported pesticide product.

"(3) The name of an exported pesticide product.

"(4) The countries to which a pesticide product is exported, including the country of final destination.

"(e) RESTRICTIONS ON EXPORTS OF CERTAIN PESTICIDES.—

"(1) ORDERS.—Notwithstanding subsection (a), the Administrator may issue an order prohibiting persons from exporting a pesticide to a foreign country that has indicated to the Administrator or to an international agency of which the United States is a member that the country does not wish to import the pesticide.

"(2) LIMITATIONS.—The Administrator may prohibit the export of a pesticide described in paragraph (1) to a specific country—

"(A) only if—

"(i) the country has indicated that it does not wish to import the pesticide pursuant to an international system of pesticide export and import controls—

"(I) adopted by an international agency, if the United States is a member of the international agency and has consented to the adoption of the system; or

"(II) reached through an international agreement to which the United States is a signatory; or

"(ii) all registrations of the pesticide, or the registrations for a significant number of the uses of the pesticide, have been suspended, cancelled, or denied by the Administrator, or cancelled by the registrant voluntarily, on the basis of the Administrator's concerns about the health or environmental effects of the pesticide; and

"(B) unless the country has certified that the country—

"(i) is not producing and will not produce the pesticide for use in the country; and

"(ii) is not importing and will not import the pesticide from any other country.".

SEC. 117. SCIENTIFIC ADVISORY PANEL AND PESTICIDE ADVISORY BOARD.

Section 25(d) (7 U.S.C. 136w(d)) is amended—

(1) by striking "(d) SCIENTIFIC ADVISORY PANEL.—The Administrator shall" and inserting:

"(d) SCIENTIFIC ADVISORY PANEL.—

"(1) IN GENERAL.—The Administrator shall";

(2) by aligning the remainder of paragraph (1) (as so redesignated) two ems to the right; and

(3) by adding at the end the following new paragraphs:

"(2) PESTICIDE ADVISORY BOARD.—There is established a Pesticide Advisory Board to consist of up to 30 members appointed by the Administrator who shall be available as individuals to advise the Administrator or the Scientific Advisory Panel on matters under this Act involving special expertise. Members of the Board shall be compensated in the same manner as members of the Panel.

"(3) CONFLICTS OF INTEREST.—Within 18 months after the date of enactment of this paragraph, the Administrator shall develop and issue regulations governing the participation of members of the Science Advisory Panel and members of the Pesticide Advisory Board in matters under this Act. In developing the regulations, the Administrator shall—

"(A) consider the general availability of members with specific needed expertise; and

"(B) consider information that is necessary to determine the financial or other interests or activities of members that may constitute an actual or apparent conflict of interest, and provide for the proper disclosure of the information.".

SEC. 118. COOPERATION WITH SECRETARY OF AGRICULTURE.

Section 28 (7 U.S.C. 136w-3) is amended to read as follows:

"SEC. 28. COOPERATION WITH SECRETARY OF AGRICULTURE.

"(a) IN GENERAL.—The Administrator, working with the Secretary of Agriculture, shall identify those pests that must be brought under control and the chemical, biological, and alternative control measures available to control the pests. The Secretary shall provide the Administrator with an annual report—

"(1) detailing the pests and measures and shall identify areas of concern where the number of currently-registered pesticides and other pest control alternatives is small enough to pose a risk to continued effective pest control or where pest resistance to current pest control measures has been detected; and

"(2) containing a description of research and extension efforts underway to develop pest control methods for those areas where effective pest control is threatened, including those pesticide uses for which an exception in accordance with section 6(c)(8) has been approved.

"(b) DEVELOPMENT OF METHODS.—The Administrator shall coordinate and cooperate with the research and implementation programs of the Secretary of Agriculture to develop and improve the safe use and effectiveness of chemical, biological, and alternative methods to combat and control pests that reduce the quality and economical production and distribution of agricultural products to domestic and foreign consumers.".

SEC. 119. COLLECTION OF EXPOSURE INFORMATION.

This Act is amended—

(1) by redesignating sections 29, 30, and 31 (7 U.S.C. 136w-4, 136x, and 136y) as sections 30 through 32, respectively; and

(2) by inserting after section 28 the following new section:

"SEC. 29. PESTICIDE USE AND DIETARY EXPOSURE INFORMATION.

"(a) USE INFORMATION.—The Secretary of Agriculture shall establish and operate a program to gather, organize, report, and furnish to the Administrator on an ongoing basis, information on the extent of use of pesticides in commercial-scale agricultural production, and in the storage, transportation, and processing of food and food items. The Administrator shall notify the Secretary of Agriculture in a timely manner of specific needs regarding information on pesticides and food items.

"(b) RESIDUE INFORMATION.—The Secretary of Agriculture and the Secretary of Health and Human Services shall establish and operate programs to gather, organize, report, and furnish to the Administrator on an ongoing basis, information on the representative actual levels of residues of pesticide chemicals on food items.

"(c) OPERATION.—The programs established under subsections (a) and (b) shall be designed and operated in such a manner as to ensure to the extent possible that information on the approximate actual level of human dietary exposure to pesticides will be readily available to the Administrator on an ongoing basis in order to avoid delays in reaching sound decisions by the Administrator under subsections (b) and (c) of section 6. The Administrator shall consult with the Secretary of Agriculture and the Secretary of Health and Human Services regarding the types and amounts of information needed for the purposes.

"(d) STORAGE.—The Administrator shall establish and operate a program for the efficient storage, management, retrieval, and utilization of information obtained by the Administrator concerning pesticide use and on levels of dietary exposure to pesticide chemical residues, including the information from the programs established under subsections (a) and (b). The Administrator shall use the information if available in reaching decisions under subsections (b) and (c) of section 6 and in other actions as appropriate under this Act and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

"(e) ASSUMPTION BY ADMINISTRATOR.—On or after January 1, 1993, if appropriate information regarding actual extent of use and actual residue levels has not been made available to the Administrator under subsections (a) and (b) or otherwise, the Administrator shall assume, for purposes of subsections (b) and (c) of section 6, that a pesticide used in the production, storage, transportation, or processing of a food results in dietary residues on each article of the food at the highest level permitted by a tolerance or exemption in effect under the Federal Food, Drug, and Cosmetic Act.

"(f) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated for each of the 1991 and subsequent fiscal years $8,200,000 to carry out subsection (a) and $15,800,000 to carry out subsection (b).".

SEC. 120. TECHNICAL AMENDMENTS.

(a) Section 2(gg) (7 U.S.C. 136(2)(gg) is amended—

(1) by inserting after "The term 'distribute or sell' " the following: "(or any grammatical variation thereof, such as 'distributes or sells', 'distribution or sale', or 'distributes, sells')"; and

(2) by inserting after "offer to deliver" the following: "(or grammatical equivalents thereof)".

(b) Section 4(f) (7 U.S.C. 136b(f)) is amended by aligning the margin of paragraph (3) to correspond to that of paragraph (2).

(c) The heading of section 11 (7 U.S.C. 136i) is amended by striking "APPPLICATORS" and inserting "APPLICATORS".

SEC. 121. CONFORMING AMENDMENTS.

(a) Paragraph (6) of section 3(c) (7 U.S.C. 136a(c)(6)) is amended to read as follows:

"(6) DENIAL OF REGISTRATION.—

"(A) Except as provided in subparagraph (B), if the Administrator proposes to deny an application for registration because it does not satisfy the requirements of paragraph (5), the Administrator shall notify the applicant of the denial and the reasons for the denial (including the factual basis for the denial). Unless the applicant makes the necessary corrections to the application and notifies the Administrator during the 30-day period beginning with the day after the date the applicant receives the notice, or during such period the applicant submits a request for a hearing, the Administrator may issue an order denying the application. The order shall be published in the Federal Register and shall not be subject to judicial review. If during such period, the Administrator receives a request for a hearing, a hearing shall be conducted under section 6(d). If the hearing is held, a decision after completion of the hearing shall be final and shall be subject to judicial review under section 16(b)(1).

"(B) The Administrator shall deny an application for registration if the application does not comply with the requirements of a final order issued under section 6(b). The Administration shall notify the applicant of the denial. The notice shall explain why the application does not comply with the requirements and shall state that the applicant may petition to amend or revoke the rule under section 6(b)(13).".

(b) Section 3(c) (7 U.S.C. 136a(c)) is amended by striking paragraph (8).

(c) Section 3(d) (7 U.S.C. 136a(d)) is amended—

(1) in paragraph (1)(A), by striking "on the initial classification and registered pesticides" and inserting "under section 6(b). Registered pesticides"; and

(2) in paragraph (2), by striking all that follows "on the environment," and inserting "the Administrator may initiate a proceeding under section 6(b).".

(d) Section 4(e)(3)(B)(iii)(III) (7 U.S.C. 136b(e)(3)(B)(iii)(III)) is amended—

(1) by striking "section 6(d), except that the" and inserting "section 6(d). The"; and

(2) by inserting after the first sentence the following new sentence: "If a hearing is held, a decision after completion of the hearing shall be final.".

(e) Section 6(d) (7 U.S.C. 136d(d)) is amended—

(1) by striking the first sentence and inserting the following new sentence: "If a hearing is requested pursuant to section 3(c)(2)(B)(iv), 3(c)(6), 4(e)(3)(B)(iii)(III), 6(c)(3), 6(e)(2), or 17(d) the hearing shall be held for the purpose of receiving evidence and material relevant to the issues raised by the request for a hearing."; and

(2) by striking all that follows the eighth sentence and inserting the following: "A hearing under this subsection shall be held in accordance with sections 551 and 554 through 559 of title 5, United States Code. As soon as practicable after the completion of the hearing, the Administrator shall issue a final order setting forth the decision of the Administrator. The order and decision shall be based only on substantial evi-

dence of record of the hearing shall set forth detailed findings of fact on which the order is based, and shall be subject to judicial review under section 16(b)(1).".

(f) The first sentence of section 11(c) (7 U.S.C. 136i(c)) is amended by striking ", but such plans may not require" and all that follows through the period at the end of the sentence and inserting a period.

(g) Section 15(a) (7 U.S.C. 136m(a)) is amended by striking paragraph (1) and inserting the following new paragraph:

"(1) IN GENERAL.—Except as otherwise provided in this section, if—

"(A) the Administrator publishes a suspension order under section 6(c);

"(B) the registration in question thereafter is canceled under section 6(b), 6(d), or 6(f); and

"(C) any person who owned any quantity of the pesticide immediately before the publication of the suspension order suffered losses by reason of suspension or cancellation of the registration,

the Administrator shall make an indemnity payment to the person.".

(h) Section 15(b) (7 U.S.C. 136m(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) END USERS.—If—

"(A) the Administrator publishes a suspension order under section 6(c);

"(B) the registration in question thereafter is canceled under section 6(b), 6(d), or 6(f); and

"(C) any person who, immediately before the publication of the suspension order, owned any quantity of the pesticide for purposes of applying or using the pesticide as an end user, rather than for purposes of distributing or selling the pesticide or further processing the pesticide for distribution or sale, suffered a loss by reason of suspension or cancellation of the registration,

the person shall be entitled to an indemnity payment under this subsection for the quantity of the pesticide.";

(2) in paragraph (2)(B), by striking clauses (i) and (ii) and inserting the following:

"(i) the Administrator publishes a suspension order under section 6(c);

"(ii) the registration in question thereafter is canceled under section 6(b), 6(d), or 6(f);"; and

(3) in paragraph (2)(B)(iii) by striking "notice to the registrant under clause (i)" and inserting "publication in the Federal Register".

(i) Section 15(c)(1) (7 U.S.C. 136m(c)(1)) is amended by striking "issuance of the notice to the registrant" and inserting "publication of the suspension order".

(j) Subsection (a) of section 16(a) (7 U.S.C. 136n(a)) is amended to read as follows:

"(a) DISTRICT COURT REVIEW.—Except as otherwise provided in this Act, any final action of the Administrator is judicially reviewable by the district courts of the United States unless the action is—

"(1) reviewable under subsection (b); or

"(2) committed to the discretion of the Administrator by law.".

(k) Section 16(b) (17 U.S.C. 136n(b)) is amended—

(1) by striking "(b) REVIEW BY COURT OF APPEALS.—In the case of" and inserting the following:

"(b) REVIEW BY COURT OF APPEALS.—

"(1) REVIEW OF CERTAIN ORDERS.—In the case of";

(2) by aligning the remainder of paragraph (1) (as so redesignated) two ems to the right; and

(3) by inserting after "following a public hearing," the following: "other than any action that is reviewable under paragraph (2),";

(4) by striking the fifth sentence of paragraph (1) (as so redesignated) and inserting the following new sentences: "If a party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the proceeding before the Administrator, the court may order that the additional evidence (and evidence in rebuttal thereof) shall be taken before the Administrator. The Administrator may modify prior findings as to the facts by reason of the additional evidence so taken and may modify the order accordingly. The Administrator shall file with the court any such modified finding or order. The standard of review shall be that set forth in section 706 of title 5, United States Code.";

(5) by striking "under this section" wherever it appears in such subsection and inserting "under this paragraph"; and

(6) by adding at the end the following new paragraph:

"(2) REVIEW OF CERTAIN DECISIONS UNDER SECTION 6(b).—

"(A) In the case of an actual controversy as to the validity of any final order issued by the Administrator under section 6(b)(10), any decision by the Administrator under section 6(b)(4) or 6(b)(10) not to issue a proposed order or to withdraw a proposed order, or any denial under section 6(b)(13) of a petition to issue, revoke, or amend a final order, any person who will be adversely affected by the order, decision, or denial may obtain judicial review by filing a petition in the United States court of appeals for the circuit in which the person resides or has a place of business, within 60 days after the publication in the Federal Register of the order, decision, or denial.

"(B) A copy of the petition shall be immediately transmitted to the Administrator or any officer designated by the Administrator for the purpose. On receipt, the Administrator shall file in court the record of the proceedings on which the Administrator based the order, decision, or denial, as provided in section 2112 of title 28, United States Code.

"(C) If a party applies to the court for permission to supplement the administrative record with additional factual information, and shows to the satisfaction of the court that the additional information is material and that there were reasonable grounds for the failure to submit the information in the proceeding before the Administrator, the court may order that the additional information (and evidence in rebuttal thereof) shall be added to the administrative record by the Administrator in the manner and on the terms and conditions the court considers proper.

"(D) The Administrator may modify prior findings as to the facts by reason of the additional information and may modify the order, decision, or denial accordingly.

"(E) The Administrator shall file with the court any such modified order, decision, or denial.

"(F) On the filing of the petition, the court shall have exclusive jurisdiction to affirm or set aside the order, decision, or denial in whole or in part.

"(G) The standard of review shall be that set forth in section 706 of title 5, United States Code, except that section 706(2)(E) of such title shall not apply.

"(H) The judgment of the court under this paragraph shall be final, subject to review by the Supreme Court on certiorari or certification, as provided in section 1254 of title 28, United State Code.

"(I) The commencement of proceedings under this paragraph shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order, decision, or denial.".

(l) Section 25(a) (7 U.S.C. 136w(a)) is amended by adding at the end the following new paragraph:

"(5) EXCEPTION.—The requirements of this subsection shall not apply to any action or proceeding under section 6(b).".

(m) Section 25(d)(1) (7 U.S.C. 136w(d)) (as amended by section 117 of this Act) is further amended—

(1) in the first sentence by striking "in notices of intent issued under subsection 6(b) and"; and

(2) in the second sentence—

(A) by striking "notices of intent and"; and

(B) by striking "section 6(b) or".

SEC. 122. CONFORMING AMENDMENTS TO TABLE OF CONTENTS.

The table of contents in section 1(b) (7 U.S.C. prec. 121) is amended—

(1) by striking the items relating to subsection (e) of section 2 and inserting the following new items:

"(e) Commercial Applicator, Etc.

"(1) Commercial applicator.

"(2) Private applicator.

"(3) Certified applicator.

"(4) Under the direct supervision of a certified applicator.";

(2) by striking the item relating to subsection (l) of section 2;

(3) by adding at the end of the items relating to section 2 the following new item:

"(hh) Pesticide testing facility.";

(4) by striking the item relating to paragraph (8) of section 3(c);

(5) by striking the items relating to subsections (b) and (c) of section 6 and inserting the following new items:

"(b) Cancellation or modification of registration.

"(1) In general.

"(2) Initiation.

"(3) Exceptions.

"(4) Administrative record.

"(5) Advance notice.

"(6) Proposed order.

"(7) Informal hearing.

"(8) Review by Scientific Advisory Panel.

"(9) Supplemental information.

"(10) Final action.

"(11) Modification or cancellation of registration.

"(12) Effect of order on certain applications.
"(13) Petition to issue, modify, or revoke order.
"(14) Judicial review.
"(c) Suspension.
"(1) Authority.
"(2) Relation to other proceedings.
"(3) Procedure.
"(4) Duration.
"(5) Imminent hazard.
"(6) Judicial review.
"(7) Petitions.
"(8) Exception.";

(6) by striking the item relating to subsection (h) of section 6 and inserting the following new items:

"(h) Burden of persuasion.
"(i) Periodic update of information supporting registration.
"(1) Requirement to periodically update information supporting registration.
"(2) Notification to registrants of requirements.
"(3) Time periods.
"(4) Publication of dates in Federal register.
"(5) Extensions of time.
"(6) Order of suspension.
"(7) Cancellation after 3 years.
"(8) Fees.
"(9) Effect on authority of Administrator to require information.";

(7) by striking the items relating to sections 8 and 9 and inserting the following new items:

"Sec. 8. Records.
"(a) In general.
"(b) Records of commercial applicators.
"(c) Records of pesticide dealers.
"(1) In general.
"(2) Contents.
"(3) Duration.
"(4) Definition.
"(d) Limitations.
"(1) In general.
"(2) Private applicators.
"Sec. 9. Inspections.
"(a) Authority.
"(b) Warrants.
"(1) Entry by consent or pursuant to warrant.
"(2) Obtaining warrants.
"(c) Procedure.
"(1) Credentials and statements.
"(2) Promptness.
"(3) Samples.
"(d) Coordination.";

(8) by adding at the end of the items relating to section 10 the following new item:

"(h) Disclosure to States.";

(9) by striking the items relating to subsections (d) and (e) of section 11 and inserting the following new items:

"(d) Use by commercial applicators.
"(1) In general.
"(2) Certified commercial applicators.
"(3) Registered commercial applicators.
"(e) Use by private applicators.
"(1) In general.
"(2) Certified private applicators.
"(3) Supervised private applicators.
"(f) Recertification and reregistration.
"(1) In general.
"(2) Training material.
"(3) Recertification.
"(4) Reregistration.
"(g) Training material.
"(1) Development.
"(2) Revisions.
"(h) Minimum standards for trainers and training programs.
"(1) Training of commercial applicators.
"(2) Training of private applicators.
"(i) Privately administered training programs.
"(j) Enforcement officer training.
"(k) Definition of State agency.
"(l) Separate standards.";

(10) by adding at the end of the items relating to section 12 the following new item:

"(c) Acts of officers, agents, etc.";

(11) by striking the items relating to section 14 and inserting the following new items:

"Sec. 14. Penalties.
"(a) Civil penalties.
"(1) In general.
"(2) Private applicator.
"(3) Other persons.
"(4) Hearing.
"(5) Determination of penalty.
"(6) Reference to Attorney General.
"(b) Criminal penalties.
"(1) In general.
"(2) Disclosure of information.
"(3) Knowing endangerment.
"(4) Other persons.
"(c) Warning in lieu of penalty.";

(12) by striking the item relating to subsection (d) of section 15 and inserting the following new item:

"(d) Scientific Advisory Panel.
"(1) In general.
"(2) Pesticide Advisory Board.
"(3) Conflicts of interest.";

(13) by striking the item relating to subsection (b) of section 16 and inserting the following new items:

"(b) Review by Court of Appeals.
"(1) Review of certain orders.
"(2) Review of certain decisions under section 6(b).";

(14) by striking the items relating to subsections (c) through (e) of section 17 and inserting the following new items:

"(c) Compliance with pesticide notification and control agreements.
"(1) Regulations.
"(2) Equivalent information.
"(3) Voluntary compliance.
"(d) Confidentiality of export information.
"(e) Restrictions on exports of certain pesticides.
"(1) Orders.
"(2) Limitations.
"(f) Importation of pesticides and devices.
"(g) Cooperation in international efforts.
"(h) Regulations.";

(15) by adding at the end of the items relating to section 25(a) the following new item:

"(5) Exception.";

and

(16) by striking the items relating to sections 28 through 31 and inserting the following new items:

"Sec. 28. Cooperation with Secretary of Agriculture.
"(a) In general.
"(b) Development of methods.
"Sec. 29. Pesticide use and dietary exposure information.
"(a) Use information.
"(b) Residue information.
"(c) Operation.
"(d) Storage.
"(e) Assumption by Administrator.
"(f) Authorization for appropriations.
"Sec. 30. Annual report.
"Sec. 31. Severability.
"Sec. 32. Authorization for appropriations.".

TITLE II—AMENDMENTS TO FEDERAL FOOD, DRUG, AND COSMETIC ACT

SEC. 201. REFERENCES TO FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, or refers to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 202. DEFINITIONS.

(a) PESTICIDE CHEMICAL.—Subsection (q) of section 201 (21 U.S.C. 321(q)) is amended to read as follows:

"(q)(1) The term 'pesticide chemical' means—

"(A) any substance that is a pesticide within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), or

"(B) any active or inert ingredient of a pesticide within the meaning of such Act.

"(2) The term 'pesticide chemical residue' means a residue in or on any agricultural commodity or processed food of—

"(A) a pesticide chemical, or

"(B) any other added substance that is present in or on the commodity or food primarily as a result of the metabolism or other degradation of a pesticide chemical.

"(3) Notwithstanding paragraphs (1) and (2), the Administrator may by regulation exempt a substance from the definition of 'pesticide chemical' or 'pesticide chemical residue' if—

"(A) the Administrator determines that the occurrence of the substance as a residue

on a raw agricultural commodity or processed food is attributable primarily to—

"(i) human activities not involving the use of any substance for a pesticidal purpose in the production, storage, processing, or transportation of any raw agricultural commodity or processed food, or

"(ii) natural causes (which shall not include the result of the prior use of any substance for such a pesticidal purpose), and

"(B) the Administrator, after consultation with the Secretary of Health and Human Services, or the Secretary of Agriculture, or both, as appropriate, also determines that the substance more appropriately should be regulated under one or more provisions of this Act other than sections 402(a)(2)(B) and 408.".

(b) FOOD ADDITIVE.—Section 201(s) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) a pesticide chemical residue in or on a raw agricultural commodity or processed food, or

"(2) a pesticide chemical, or".

(c) ADDITIONAL DEFINITIONS.—Section 201 is amended by adding at the end the following new subsections:

"(bb) The term 'processed food' means any food other than a raw agricultural commodity and includes any raw agricultural commodity that has been subject to processing, such as canning, cooking, freezing, dehydration, or milling.

"(cc) The term 'Administrator' means the Administrator of the United States Environmental Protection Agency.".

SEC. 203. PROHIBITED ACTS.

Section 301(j) (21 U.S.C. 331(j)) is amended by inserting before the period at the end the following: ", or the violation of section 408(h) or any regulation or order issued under such section".

SEC. 204. ADULTERATED FOOD.

Paragraph (2) of section 402(a) (21 U.S.C. 342(a)(2)) is amended to read as follows:

"(2)(A) If it bears or contains any added poisonous or added deleterious substance (other than a substance that is a pesticide chemical residue in or on a raw agricultural commodity or processed food, a food additive, a color additive, or a new animal drug) that is unsafe within the meaning of section 406.

"(B) If it bears or contains a pesticide chemical residue that is unsafe within the meaning of section 408(b).

"(C) If it is or if it bears or contains—

"(i) any food additive that is unsafe within the meaning of section 409, or

"(ii) a new animal drug (or conversion product thereof) that is unsafe within the meaning of section 512.".

SEC. 205. TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES.

Section 408 (21 U.S.C. 346a) is amended to read as follows:

"SEC. 408. TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES.

"(a) DEFINITION OF FOOD.—For the purposes of this section, the term 'food', when used as a noun without distinguishing modification, shall mean a raw agricultural commodity or processed food.

"(b) REQUIREMENT FOR TOLERANCE OR EXEMPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2) or (3), any pesticide chemical residue in or on a food shall be deemed unsafe for the purpose of section 402(a)(2)(B) unless—

"(A) a tolerance for the pesticide chemical residue in or on the food is in effect under this section and the concentration of the residue is within the limits of the tolerance, or

"(B) an exemption from the requirement of a tolerance is in effect under this section for the pesticide chemical residue in or on the food.

"(2) PROCESSED FOOD.—Notwithstanding paragraph (1)—

"(A) if a tolerance is in effect under this section for a pesticide chemical residue in or on a raw agricultural commodity, a pesticide chemical residue that is present in or on a processed food because the food is made from that raw agricultural commodity shall not be considered unsafe within the meaning of section 402(a)(2)(B), despite the lack of a tolerance for the pesticide chemical residue in or on the processed food, if the concentration of the pesticide chemical residue in or on the processed food when ready for consumption or use is not greater than the tolerance prescribed for the pesticide chemical residue in or on the raw agricultural commodity, and

"(B) if an exemption from the requirement for a tolerance is in effect under this section for a pesticide chemical residue in or on a raw agricultural commodity, a pesticide chemical residue that is present in or on a processed food because the food is made from that raw agricultural commodity shall not be considered unsafe within the meaning of section 402(a)(2)(B).

"(3) RESIDUES OF DEGRADATION PRODUCTS.—If a pesticide chemical residue is present in or on a food because it is a metabolite or other degradation product of a precursor substance that itself is a pesticide chemical or pesticide chemical residue, such a residue shall not be considered to be unsafe within the meaning of section 402(a)(2)(B), despite the lack of a tolerance or exemption from the need for a tolerance for the residue in or on the food, if—

"(A)(i) a tolerance is in effect under this section for residues of the precursor substance in or on the food, and the combined level of residues of the precursor substance and each metabolite or other degradation product in or on the food is at or below the stoichiometrically equivalent level that would be permitted by the tolerance if the residue consisted only of the precursor substance rather than the combination of the precursor substance and any metabolite or other degradation product thereof, or

"(ii) an exemption from the requirement for a tolerance is in effect under this section for residues of the precursor substance in or on the food, and

"(B) the tolerance or exemption from the requirement of a tolerance for residues of the precursor chemical in or on the food—

"(i) does not state that it applies only to residues of the precursor chemical, and

"(ii) does not state that it does not apply to the metabolite or degradation product.

"(4) EFFECT OF TOLERANCE OR EXEMPTION.—While a tolerance or exemption from the requirement for a tolerance is in effect under this section for a pesticide chemical residue with respect to any food, the food shall not by reason of bearing or containing any amount of such a residue be considered to be adulterated within the meaning of section 402(a)(1).

"(c) AUTHORITY AND STANDARD FOR TOLERANCES.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Administrator may issue regulations establishing, modifying, or revoking a tolerance for a pesticide chemical residue in or on a food—

"(i) in response to a petition filed under subsection (e), or

"(ii) on the initiative of the Administrator under subsection (f).

"(B) EXPIRATION DATE.—A regulation establishing or modifying a tolerance for a pesticide chemical residue or pesticide chemical may contain a provision stating an expiration date for the tolerance.

"(2) STANDARD.—

"(A) IN GENERAL.—A tolerance may not be established for a pesticide chemical residue in or on a food at a level that is higher than a level that the Administrator determines will protect the public health, based on the information available to the Administrator.

"(B) MODIFICATION OR REVOCATION.—The Administrator shall modify or revoke a tolerance if the tolerance is at a level higher than the level that the Administrator determines will protect the public health.

"(C) FACTORS.—In making a determination under this paragraph, the Administrator shall take into account (among other relevant factors)—

"(i) the validity, completeness, and reliability of the available data from studies of the pesticide chemical residue,

"(ii) the nature of any adverse effects shown to be caused by the pesticide chemical in the studies,

"(iii) available information and reasonable assumptions concerning the relationship of the results of the studies to human risk,

"(iv) available information and reasonable assumptions concerning the dietary exposure levels of food consumers to the pesticide chemical residue (and variations in the exposure levels), and

"(v) other factors, to the extent required by subparagraph (E).

"(D) NEGLIGIBLE RISKS.—For purposes of subparagraphs (A) and (B), a tolerance level for a pesticide chemical residue in or on a food will protect the public health if the dietary risk posed to food consumers by the level of the pesticide chemical residue is not greater than negligible. Such a risk shall be considered negligible—

"(i) with regard to a type of adverse human health effect that the Administrator determines would not be caused by dietary exposure to the pesticide chemical residue below an identifiable exposure level, if the level of dietary exposure allowed by the tolerance and all other tolerances in effect for the pesticide chemical will result in a total level of dietary exposure to residues of the pesticide chemical that is lower by a generally accepted margin of safety than the identifiable exposure level, and

"(ii) with regard to carcinogenic risk, if the level of dietary exposure to a residue in or on a particular food to a person in the 90th percentile of consumption of that food is at or below a level that the Administrator has determined will present at most a negligible increase in the lifetime risk to such a person of experiencing such an adverse human health effect.

For purposes of clause (ii), an increased risk shall be considered negligible if the Administrator determines that the upper bound increase in risk to such a person from lifetime dietary exposure to the residue, determined by reasonable methods, does not exceed a range of 10^{-6}.

"(E) CONSIDERATION OF BENEFITS.—For purposes of subparagraphs (A) and (B), the Administrator may establish a tolerance for a pesticide chemical residue that results in a greater than negligible risk if the Administrator determines that the risk is not unreasonable because—

"(i) use of the pesticide chemical that produces the residue protects humans or the environment from adverse effects that would, directly or indirectly, result in greater risk to humans or the environment than the dietary risk from the pesticide chemical residue,

"(ii) use of the pesticide chemical avoids risks to workers, the public, or the environment that would be expected to result from the use of another pesticide chemical on the same food and that are greater than the dietary exposure risk from the pesticide chemical residue, or

"(iii) the unavailability of the pesticide chemical would reduce the availability to food consumers of an adequate, wholesome, and economical domestic supply of the food, and the adverse economic or health effects to food consumers from the reduction would outweigh the dietary risk from the pesticide chemical residue.

"(3) LIMITATIONS.—

"(A) OTHER CONSIDERATIONS.—A tolerance may not be issued on the basis of paragraph (2)(E), and a petition to revoke an existing tolerance may not be denied on the basis of paragraph (2)(E), unless—

"(i) the Administrator has assessed the extent to which efforts are being made to develop either an alternative method of pest control (including modified use of the pesticide chemical) or an alternative pesticide chemical for use on the commodity or food that would meet the requirements of paragraph (2)(D),

"(ii) the tolerance is limited in duration to a period of 5 years or less from the date of the issuance or denial, unless the tolerance is reissued in accordance with this section, and

"(iii) the Administrator has proposed the issuance or denial in accordance with subsection (f) and has allowed not less than 60 days for comment thereon.

"(B) METHOD OF DETECTION OR MEASUREMENT.—A tolerance for a pesticide chemical residue in or on a food shall not be established by the Administrator unless the Administrator determines, after consultation with the Secretary of Health and Human Services or the Secretary of Agriculture, as appropriate, that there is a practical method for detecting and measuring the levels of the pesticide chemical residue in or on the food.

"(C) MINIMUM LEVEL.—A tolerance for a pesticide chemical residue in or on a food shall not be established at a level lower than the limit of detection of the method for detecting and measuring the pesticide chemical residue specified by the Administrator under subparagraph (B).

"(d) AUTHORITY AND STANDARD FOR EXEMPTIONS.—

"(1) AUTHORITY.—The Administrator may issue a regulation establishing, modifying, or revoking an exemption from the requirement for a tolerance for a pesticide chemical residue in or on a food—

"(A) in response to a petition filed under subsection (e), or

"(B) on the initiative of the Administrator under subsection (f).

"(2) STANDARD.—

"(A) IN GENERAL.—An exemption from the requirement for a tolerance for a pesticide chemical residue in or on a food may be established only if the Administrator determines that a tolerance is not needed to protect the public health, in view of the levels of dietary exposure to the pesticide chemical residue that could reasonably be expected to occur.

"(B) REVOCATION.—An exemption from the requirement for a tolerance for a pesticide chemical residue in or on a food shall be revoked if the Administrator, determines that the exemption does not satisfy the criterion of subparagraph (A).

"(C) FACTORS.—In making a determination under this subparagraph, the Administrator shall take into account, among other relevant factors, the factors set forth in subsection (c)(2)(C).

"(e) PETITION FOR TOLERANCE OR EXEMPTION.—

"(1) PETITIONS AND PETITIONERS.—Any person may file with the Administrator a petition proposing the issuance of a regulation—

"(A) establishing, modifying, or revoking a tolerance for a pesticide chemical residue in or on a food, or

"(B) establishing, modifying, or revoking an exemption from the requirement of a tolerance for such a residue.

"(2) PETITION CONTENTS.—

"(A) IN GENERAL.—A petition under paragraph (1) to establish a tolerance or exemption for a pesticide chemical residue shall be supported by such data and information as are specified in regulations issued by the Administrator, including—

"(i)(I) an informative summary of the petition and of the data, information, and arguments submitted or cited in support of the petition, and

"(II) a statement that the petitioner agrees that the summary or any information the summary contains may be published as a part of the notice of filing of the petition to be published under this subsection and as part of a proposed or final regulation issued under this section,

"(ii) the name, chemical identity, and composition of the pesticide chemical residue and of the pesticide chemical that produces the residue,

"(iii) data showing the recommended amount, frequency, method, and time of application of the pesticide chemical,

"(iv) full reports of tests and investigations made with respect to the safety of the pesticide chemical, including full information as to the methods and controls used in conducting the tests and investigations,

"(v) full reports of tests and investigations made with respect to the nature and quantity of the pesticide chemical residue that is likely to remain in or on the food, including a description of the analytical methods used,

"(vi) analytical methods for detecting and measuring the levels of the pesticide chemical residue in or on the food, or a statement why such a method is not needed,

"(vii) a proposed tolerance level for the pesticide chemical residue, if a tolerance is proposed,

"(viii) reports of investigations conducted using the processing methods associated with the food, if the tolerance is for residues in or on a processed food,

"(ix) such information as the Administrator may require to make the determination under subsection (c)(2)(E), and

"(x) such other data and information as the Administrator requires to support the petition.

If information or data required by this subparagraph is available to the Administrator, the person submitting the petition may cite the availability of the information or data in lieu of submitting the information or data. The Administrator may require a petition to be accompanied by samples of the pesticide chemical with respect to which the petition is filed.

"(B) MODIFICATION OR REVOCATION.—The Administrator may by regulation establish the requirements for information and data to support a petition to modify or revoke a tolerance or to revoke an exemption from the requirement for a tolerance.

"(3) NOTICE.—A notice of the filing of a petition that the Administrator determines has met the requirements of paragraph (2) shall be published in the Federal Register by the Administrator within 30 days after the determination. The notice shall announce the availability of a description of the analytical methods available to the Administrator for the detection and measurement of the pesticide chemical residue with respect to which the petition is filed or shall set forth the statement of the petitioner of why such a method is not needed. The notice shall include the summary required by paragraph (2)(A)(i).

"(4) ACTIONS BY THE ADMINISTRATOR.—The Administrator shall (after giving due consideration to a petition filed under paragraph (1) and any other information available to the Administrator)—

"(A) issue a final regulation (which may vary from the regulation sought by the petition) establishing, modifying, or revoking a tolerance for the pesticide chemical residue or an exemption of the pesticide chemical residue from the requirement of a tolerance,

"(B) issue a proposed regulation under subsection (f), and thereafter either issue a final regulation under subsection (f) or an order denying the petition, or

"(C) issue an order denying the petition.

"(5) EFFECTIVE DATE.—A final regulation issued under paragraph (4) shall take effect on the date of the publication of the final regulation in the Federal Register.

"(6) FURTHER PROCEEDINGS.—

"(A) OBJECTIONS.—Within 60 days after the date of publication in the Federal Register of a final regulation or order issued under paragraph (4), subparagraph (A) or (B) of subsection (f)(1), or subsection (g), any person may file objections to the regulation or order with the Administrator, specifying with particularity the provisions of the regulation or order considered objectionable and stating reasonable grounds for the objection. If the regulation or order was issued in response to a petition under subsection (e)(1), a copy of each objection filed by a person other than the petitioner shall be served by the Administrator on the petitioner. The Administrator shall publish a summary of the objections in the Federal Register and allow a period of not less than 30 days for comment.

"(B) ISSUANCE OF ORDER.—As soon as practicable after the comment period has closed, the Administrator shall publish in the Federal Register an order stating the action taken on each such objection and setting forth any revision to the regulation or prior order that the Administrator has found to be warranted.

"(C) EFFECTIVE DATE OF ORDER.—An order issued under this paragraph ruling on an objection shall not take effect before the 90th day after the publication of the order, unless the Administrator finds that emergency conditions exist necessitating an earlier effective date, in which event the Administrator shall specify in the order the findings of the Administrator as to the conditions.

"(7) JUDICIAL REVIEW.—

"(A) FILING OF PETITION.—In a case of an actual controversy as to the validity of any

order issued under paragraph (6) or any regulation that is the subject of such an order, any person who will be adversely affected by the order or regulation may obtain judicial review by filing in the United States Court of Appeals for the circuit in which the person resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, within 60 days after publication of the order, a petition praying that the order or regulation be set aside in whole or in part.

"(B) RECORD.—A copy of the petition shall be immediately transmitted by the clerk of the court to the Administrator, or any officer designated by the Administrator for the purpose. On receipt, the Administrator shall file in the court the record of the proceedings on which the Administrator based the order or regulation, as provided in section 2112 of title 28, United States Code.

"(C) JURISDICTION.—On the filing of such a petition, the court shall have exclusive jurisdiction to affirm or set aside the order or regulation complained of in whole or in part.

"(D) ADDITIONAL EVIDENCE.—If a party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the proceeding before the Administrator, the court may order that the additional evidence (and evidence in rebuttal to the additional evidence) shall be taken before the Administrator. The Administrator may modify prior findings as to the facts by reason of the additional evidence so taken and may modify the order or regulation accordingly. The Administrator shall file with the court any such modified finding, order, or regulation.

"(E) FINALITY.—The judgment of the court affirming or setting aside, in whole or in part, any order under paragraph (6) and any regulation that is the subject of such an order shall be final, subject to review by the Supreme Court of the United States as provided in section 1254 of title 28 of the United States Code. The commencement of proceedings under this paragraph shall not, unless specifically ordered by the court to the contrary, operate as a stay of a regulation or order.

"(F) REVIEW.—Any issue that was or could have been reviewed under paragraph (6) and this paragraph shall not be the subject of judicial review under any other provision of law.

"(f) ACTION ON ADMINISTRATOR'S OWN INITIATIVE.—

"(1) IN GENERAL.—The Administrator may issue a regulation—

"(A) establishing, modifying, or revoking a tolerance for a pesticide chemical or a pesticide chemical residue, or

"(B) establishing or revoking an exemption of a pesticide chemical residue from the requirement of a tolerance,

"(2) EFFECTIVE DATE.—A final regulation issued under paragraph (1) shall become effective on the date of the publication of the regulation in the Federal Register and shall on publication be subject to subsection (e)(6).

"(3) NOTICE.—Before issuing a final regulation under paragraph (1), the Administrator shall issue a notice of proposed rulemaking and provide a period of not less than 60 days for public comment on the proposed regulation, except that a shorter period for comment may be provided if the Administrator for good cause finds that it would be contrary to the public interest to do so and states the reasons for the finding in the notice of proposed rulemaking.

"(g) SPECIAL DATA REQUIREMENTS.—

"(1) ADDITIONAL DATA.—If the Administrator determines that additional data or information are reasonably required to support the continuation of a tolerance or exemption that is in effect under this section for a pesticide chemical residue in or on a food, the Administrator shall—

"(A) issue a notice requiring the persons holding the pesticide registrations associated with the tolerance or exemption to submit the data or information under section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(c)(2)(B)), or

"(B) publish in the Federal Register, after first providing notice and an opportunity for comment of not less than 90 days' duration, an order—

"(i) requiring the submission to the Administrator by one or more interested persons of a notice identifying the person or persons who will submit the required data and information,

"(ii) describing the type of data and information required to be submitted to the Administrator and stating why the data and information could not be obtained under section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act,

"(iii) describing the reports to the Administrator required to be prepared during and after the collection of the data and information,

"(iv) requiring the submission to the Administrator of the data, information, and reports referred to in clauses (ii) and (iii), and

"(v) establishing dates by which the submissions described in clauses (i) and (iv) must be made.

"(2) ERRORS.—The Administrator may revise any order issued under paragraph (1) to correct an error.

"(3) NONCOMPLIANCE.—If a submission required by a notice issued in accordance with paragraph (1)(A), or an order issued under paragraph (1)(B), is not made by the time specified in the notice or order, the Administrator may by order published in the Federal Register modify or revoke the tolerance or exemption in question or suspend the tolerance or exemption until the submission has been made. The order shall become effective on the date of the publication of the order in the Federal Register or on such later date as is stated in the order.

"(4) REVIEW.—An order issued under this subsection shall be effective on the date of the publication of the order in the Federal Register and shall be subject to review in accordance with paragraphs (6) and (7) of subsection (e).

"(h) CONFIDENTIALITY OF DATA.—

"(1) IN GENERAL.—Data and information that are submitted to the Administrator under this section, and are also submitted to the Administrator to support an application for a registration under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) or to maintain such a registration in effect, shall be entitled to confidential treatment for reasons of business confidentiality to the same extent provided by section 10 of such Act (7 U.S.C. 136h). Disclosure of data and information submitted under this section otherwise shall be governed by section 552 of title 5, United States Code.

"(2) EXCEPTIONS.—Data that are entitled to confidential treatment under paragraph (1)—

"(A) shall on request be disclosed to either House of Congress and, to the extent of matter within its jurisdiction, to any committee or subcommittee and to any joint committee or any subcommittee of a joint committee,

"(B) may be disclosed under such security arrangements as the Administrator may by regulation or order provide—

"(i) to any officer or employee of the United States or of any State, in connection with the official duties of the officer or employee under any law for the protection of health or the environment, or for specific law enforcement purposes,

"(ii) to contractors with the United States and employees of the contractors, if, in the opinion of the Administrator, the disclosure is necessary for the satisfactory performance by the contractor of a contract with the United States for performance of work in connection with this section or with other Federal laws intended to protect the public health,

"(iii) to other persons, to the extent the Administrator determines disclosure is necessary to protect public health, or

"(iv) when relevant in any proceeding under this section, except that disclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding.

"(3) SUMMARIES.—Notwithstanding any provision of this subsection or other law, the Administrator may publish the informative summary required by subsection (e)(2)(A)(i) and may, in issuing a proposed or final regulation or order under this section, publish an informative summary of the data relating to the regulation or order.

"(i) STATUS OF PREVIOUSLY ISSUED REGULATIONS.—

"(1) REGULATIONS UNDER SECTION 406.—Regulations affecting pesticide chemical residues in or on raw agricultural commodities promulgated, in accordance with section 701(e), under the authority of section 406(a) on the basis of public hearings instituted before January 1, 1953, shall be deemed to be regulations issued under this section and shall be subject to modification or revocation under subsections (e) and (f).

"(2) REGULATIONS UNDER SECTION 409.—Regulations that established or modified tolerances or exemptions from the requirement for a tolerance for substances that are pesticide chemical residues on or in processed food, or that otherwise stated the conditions under which the pesticide chemicals could be safely used, and that were issued under section 409 on or before the date of the enactment of this section, shall be deemed to be regulations issued under this section and shall be subject to modification or revocation under subsection (e) or (f).

"(3) REGULATIONS UNDER THIS SECTION.—Regulations that established or modified tolerances or exemptions under this section that were issued on or before the date of the enactment of this section shall remain in effect unless modified or revoked under subsection (e) or (f).

"(j) TRANSITIONAL PROVISION.—If, on the day before the date of the enactment of this section, a substance that is a pesticide chemical was, with respect to a particular pesticidal use of the substance and any resulting pesticide chemical residue in or on a particular food—

"(1) regarded by the Administrator or the Secretary of Health and Human Services as generally recognized as safe for use within

the meaning of subsection (b) or section 201(s) as then in effect, or

"(2) regarded by the Administrator, the Secretary of Health and Human Services, or the Secretary of Agriculture, as appropriate, as a substance described by section 201(s)(4),

such a pesticide chemical residue shall be regarded as exempt from the requirement for a tolerance, as of the date of enactment of this section. The Administrator shall by regulation indicate which substances are described by this subsection. An exemption under this subsection may be revoked or modified as if it had been issued under subsection (d).

"(k) HARMONIZATION WITH ACTION UNDER OTHER LAWS.—

"(1) LIMITATION.—Notwithstanding any other provision of this Act, a final rule under this section that revokes, modifies, or suspends a tolerance or exemption for a pesticide chemical residue in or on a food may be issued only if the Administrator has taken any necessary action under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) with respect to the registration of the pesticide whose use results in the residue to ensure that any use of the pesticide authorized by this Act in producing, storing, processing, or transporting food that occurs after the issuance of the final rule under this section will not result in pesticide chemical residues on the food that are unsafe within the meaning of subsection (b).

"(2) REVOCATION OF TOLERANCE OR EXEMPTION FOLLOWING CANCELLATION OF ASSOCIATED REGISTRATIONS.—

"(A) IN GENERAL.—If the Administrator, acting under the Federal Insecticide, Fungicide, and Rodenticide Act, cancels the registration of each pesticide that contains a particular pesticide chemical and that is labeled for use on a particular food, or requires that the registration of each such pesticide be modified to prohibit the use of the pesticide in connection with the production, storage, processing or transportation of the food, due in whole or in significant part to dietary risks to humans posed by residues of the pesticide chemical in or on the food, the Administrator shall revoke any tolerance or exemption that allows the presence of the pesticide chemical, or any pesticide chemical residue that results from its use, in or on the food.

"(B) PROCEDURES.—The Administrator shall use the procedures set forth in subsection (f) in taking action under this paragraph.

"(C) EFFECTIVE DATE.—A revocation under this paragraph shall become effective not later than 180 days after—

"(i) the date by which each such cancellation of a registration has become effective, or

"(ii) the date on which the use of the canceled pesticide becomes unlawful under the terms of the cancellation, whichever is later.

"(3) SUSPENSION OF TOLERANCE OR EXEMPTION FOLLOWING SUSPENSION OF ASSOCIATED REGISTRATIONS.—

"(A) IN GENERAL.—If the Administrator, acting under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), suspends the use of each registered pesticide that contains a particular pesticide chemical and that is labeled for use on a particular food, due in whole or in part to dietary risks to humans posed by residues of the pesticide chemical in or on the food, the Administrator shall suspend any tolerance or exemption that allows the presence of the pesticide chemical, or any pesticide chemical residue that results from its use, in or on the food.

"(B) PROCEDURES.—The Administrator shall use the procedures set forth in subsection (f) in taking action under this paragraph.

"(C) EFFECTIVE DATE.—A suspension under this paragraph shall become effective not later than 120 days after the date by which each such suspension has become effective.

"(D) TERM.—The suspension of a tolerance or exemption under subparagraph (A) shall be effective as long as each associated registration of a pesticide is suspended under the Federal Insecticide, Fungicide, and Rodenticide Act.

"(E) EFFECT OF SUSPENSION.—While a suspension of a tolerance or exemption is effective the tolerance or exemption shall not be considered to be in effect. If the suspension of the associated registration of the pesticide under such Act is terminated, leaving the registration of the pesticide for the use in effect under such Act, the Administrator shall rescind any associated suspension of a tolerance or exemption.

"(4) TOLERANCES FOR UNAVOIDABLE RESIDUES.—

"(A) IN GENERAL.—In connection with action taken under paragraph (2) or (3) or taken with respect to pesticides whose registrations were canceled prior to the effective date of this section, if the Administrator determines that a residue of the canceled or suspended pesticide chemical will unavoidably persist in the environment and be present in or on a food, the Administrator may establish a tolerance for the pesticide chemical residue at a level that permits the unavoidable residue to remain in the food and will not pose an unreasonable dietary risk. In establishing such a tolerance, the Administrator shall use the procedures set forth in subsection (f).

"(B) REVIEW.—The Administrator shall review any such tolerance periodically and modify the tolerance as necessary so that the tolerance allows only that level of the pesticide chemical residue that is unavoidable.

"(5) DELAY OF EFFECTIVE DATE.—

"(A) LOWER LEVEL.—The Administrator shall delay the effective date of a modification or revocation of a tolerance or exemption from the requirement of a tolerance for a pesticide chemical residue in or on a food under this section if the modification or revocation would require a lower level of the pesticide chemical residue in or on the food than the level in effect under the tolerance or exemption immediately before the date the modification or revocation would otherwise take effect.

"(B) SAME LEVEL.—The Administrator shall delay the effective date, to permit the tolerance or exemption to remain at the level in effect immediately before the date the modification or revocation would otherwise take effect, for the period of time that the Administrator determines is necessary to allow foods that could contain the pesticide chemical residue as a result of lawful application of the pesticide chemical prior to the date the modification or revocation would otherwise take effect to be sold to consumers in the course of the usual practice for the production, processing, transportation, storage, and distribution of that type of food.

"(C) ORDER.—The Administrator shall designate the delayed effective date and describe the determinations supporting the selection of the date in the order modifying or revoking the tolerance or exemption.

"(D) SHORTER PERIOD OR NO DELAY.—Notwithstanding subparagraph (A), the Administrator may, in the order modifying or revoking the tolerance or exemption, establish a shorter period of time for delay of the effective date, or provide for no delay of the effective date, for the modification or revocation, if the Administrator determines that the shorter period, or no delay of the effective date, is necessary to protect the public health during the period of the delay that would be required under subparagraph (A).

"(l) FEES.—The Administrator shall by regulation require the payment of such fees as will in the aggregate, in the judgment of the Administrator, be sufficient over a reasonable term to provide, equip, and maintain an adequate service for the performance of the functions of the Administrator under this section. Under the regulations, the performance of the services or other functions of the Administrator under this section, including—

"(1) the acceptance for filing of a petition submitted under subsection (e),

"(2) the promulgation of a regulation establishing, modifying, or revoking a tolerance or establishing or revoking an exemption from the requirement of a tolerance under this section, or

"(3) the acceptance for filing of objections under subsection (e)(6),

may be conditioned on the payment of the fees. The regulations may further provide for waiver or refund of fees in whole or in part when in the judgment of the Administrator such a waiver or refund is equitable and not contrary to the purposes of this subsection.

"(m) NATIONAL UNIFORMITY.—

"(1) PREEMPTION OF STATE AND LOCAL LIMITS.—

"(A) STANDARD.—Except as provided in paragraph (2), no State or political subdivision of a State may establish or enforce any limit on a pesticide chemical residue in or on a particular food, unless the limit is identical to the tolerance or exemption from the requirement of a tolerance established by the Administrator for the pesticide chemical residue in or on the food under this section, including any modification of the tolerance or exemption, if either—

"(i) the tolerance or exemption is established or modified by the Administrator for the pesticide chemical residue in or on the food after the date of enactment of this section, based on a complete data set for the pesticide chemical as of the date the tolerance or exemption is established or modified, or

"(ii) in the case of any other tolerance or exemption established by the Administrator, or modified, for the pesticide chemical residue in or on the food the Administrator has determined, after the date of enactment of this section, that the tolerance or exemption, or modification, complies with subsection (c) or (d), based on a complete data set for the pesticide chemical as of the date of the determination.

"(B) DEFINITION.—For purposes of clauses (i) and (ii) of subparagraph (A), a 'complete data set' means a set of data that the Administrator determines would meet all of the requirements under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), in effect at the time of the determination, for unconditional registration of pesticide products containing the pesticide chemical, the use of which results in the pesticide chemical residue.

"(C) PROCEDURE.—

"(i) IN GENERAL.—In establishing a tolerance or exemption from the requirement of a tolerance, or a modification, described in subparagraph (A)(i) for a pesticide chemical residue in or on a food, the Administrator shall, in establishing the tolerance or exemption, or modifying the order, state that the tolerance or exemption is established or modified based on a data set that the Administrator has determined is a complete data set and that the tolerance or exemption has the effect of preempting any limit on the pesticide chemical residue in or on the food established by any State or political subdivision of a State.

"(ii) ORDER.—To make the determination described in clause (i) for a tolerance or exemption from the requirement of a tolerance for a pesticide chemical residue in or on a food, or a modification of the tolerance or exemption, the Administrator shall issue an order (after notice and an opportunity for comment)—

"(I) stating that the tolerance or exemption, or modification, complies with subsection (c) or (d) based on a data set that the Administrator has determined is a complete data set; and

"(II) amending the order that established or modified the tolerance or exemption to state that the tolerance or exemption has the effect of preempting any limit on the pesticide chemical residue in or on the food established by any State or political subdivision of a State.

"(iii) COMBINED ACTION.—The procedure for issuing the orders described in this subparagraph may be combined with any other action the Administrator is undertaking with respect to the pesticide chemical or pesticide chemical residue.

"(2) WAIVER.—

"(A) PETITION.—Any State may petition the Administrator for authority to establish in the State a limit for a pesticide chemical residue in or on a food that is more stringent than the tolerance or exemption from the requirement of a tolerance established by the Administrator for the pesticide chemical residue in or on the food.

"(B) STANDARD.—The Administrator may, by order, after public notice and an opportunity for comment, grant the State petition if the Administrator determines that—

"(i) the limit proposed by the State would be more stringent than the tolerance or exemption established by the Administrator under this section, and

"(ii) the State limit is warranted by special local circumstances in the State.

"(C) EFFECTIVE DATE.—If the Administrator grants a petition under this paragraph, the State limit shall go into effect no earlier than 6 months from the date of the publication in the Federal Register of the determination of the Administrator, unless the Administrator determines, in the order, that the special local circumstances in the State warrant allowing the State limit to go into effect in less than 6 months.

"(D) RULES.—The Administrator shall, by regulation, establish procedures and requirements for filing petitions under this paragraph and criteria for acting on petitions under this paragraph.

"(3) ALTERNATIVE ACTION.—In lieu of any action authorized under paragraph (2)(B), the Administrator may treat a petition under paragraph (2)(A) as a petition to revoke or modify a tolerance or to revoke an exemption, if the Administrator determines that the action is consistent with protection of public health. If the Administrator elects to treat a petition under paragraph (2)(A) as a petition to revoke or modify a tolerance or to revoke an exemption, the Administrator shall thereafter act on the petition pursuant to subsection (e).".

SEC. 206. AUTHORIZATION OF APPROPRIATIONS FOR INCREASED MONITORING.

There are authorized to be appropriated $12,000,000 for each of the 1991 and subsequent fiscal years, in addition to any other amounts authorized to be appropriated, for increased monitoring by the Secretary of Health and Human Services of pesticide residues in imported and domestic food.

TITLE III—AMENDMENTS TO POULTRY PRODUCTS INSPECTION ACT

SEC. 301. DEFINITIONS.

(a) ADULTERATED.—Section 4(g)(2) of the Poultry Products Inspection Act (21 U.S.C. 453(g)) is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

"(A) if it bears or contains (by reason of administration of any substance to the live poultry or otherwise) any added poisonous or added deleterious substance (other than one that is (i) a pesticide chemical or pesticide chemical residue in or on a raw agricultural commodity or processed food, (ii) a food additive, or (iii) a color additive) that may, in the judgment of the Secretary, make the article unfit for human food;

"(B) if it is, in whole or in part, a raw agricultural commodity or processed food and the raw agricultural commodity or processed food bears or contains a pesticide chemical or pesticide chemical residue that is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a).

(b) REFERENCE TO FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Subsection (y) of section 4 of such Act (21 U.S.C. 453(y)) is amended to read as follows:

"(y) The terms 'pesticide chemical', 'pesticide chemical residue', 'food additive', 'color additive', raw agricultural commodity', and 'processed food' shall have the same meanings for purposes of this Act as under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

TITLE IV—AMENDMENTS TO FEDERAL MEAT INSPECTION ACT

SEC. 401. DEFINITIONS.

(a) ADULTERATED.—Section 1(m)(2) of the Federal Meat Inspection Act (21 U.S.C. 601(m)(2)) is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

"(A) if it bears or contains (by reason of administration of any substance to the live animal or otherwise) any added poisonous or added deleterious substance (other than one that is (i) a pesticide chemical or pesticide chemical residue in or on a raw agricultural commodity or processed food, (ii) a food additive, or (iii) a color additive) that may, in the judgment of the Secretary, make the article unfit for human food;

"(B) if it is, in whole or in part, a raw agricultural commodity or processed food and the raw agricultural commodity or processed food bears or contains a pesticide chemical or pesticide chemical residue that is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a);".

(b) REFERENCE TO FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Subsection (r) of section 1 of such Act (21 U.S.C. 601(r)) is amended to read as follows:

"(r) The terms 'pesticide chemical', 'pesticide chemical residue', 'food additive', 'color additive', raw agricultural commodity', and 'processed food' shall have the same meanings for purposes of this Act as under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

TITLE V—AMENDMENTS TO EGG PRODUCTS INSPECTION ACT

SEC. 501. DEFINITIONS.

(a) ADULTERATED.—Section 4(a)(2) of the Egg Products Inspection Act (21 U.S.C. 1033(a)(2)) is amended by striking subparagraphs (A) and (B) of paragraph (2) and inserting the following new subparagraphs:

"(A) if it bears or contains any added poisonous or added deleterious substance (other than one that is (i) a pesticide chemical or pesticide chemical residue in or on a raw agricultural commodity or processed food, (ii) a food additive, or (iii) a color additive) that may, in the judgment of the Secretary, make the article unfit for human food;

"(B) if it is, in whole or in part, a raw agricultural commodity or processed food and the raw agricultural commodity or processed food bears or contains a pesticide chemical or pesticide chemical residue that is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a);".

(b) REFERENCES TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Subsection (u) of 4 of such Act (21 U.S.C. 1033(u)) is amended to read as follows:

"(u) The terms 'pesticide chemical', 'chemical residue', 'food additive', 'color additive', raw agricultural commodity', and 'processed food' shall have the same meanings for purposes of this Act as under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

SECTION-BY-SECTION ANALYSIS OF THE PESTICIDE SAFETY IMPROVEMENT ACT OF 1990

Sec. 1—Short title—The Pesticide Safety Improvement Act of 1990.

Title 1—Amendments to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Sec. 101—References to FIFRA.

Sec. 102—Definitions. Adds a dietary risk element to FIFRA's definition of "unreasonable adverse effects on the environment"; establishes a definition for a "pesticide testing facility"; and redefines the terms "commercial applicator", "private applicator", "certified applicator" and "under the direct supervision of a certified applicator".

Sec. 103—requires EPA to reevaluate tolerances under the Food, Drug and Cosmetic Act no later than the time at which it makes a reregistration decision for a pesticide under FIFRA.

Sec. 104—removes existing annual caps on fees to maintain pesticide chemical registrations. Such caps are currently established at $20,000 and $35,000.

Sec. 105—modifies existing Section 6(a) to give the Administrator discretionary authority to cancel a registration of a pesticide chemical every 5 years. Current law mandates cancellation every 5 years.

Sec. 106—Streamlines existing procedures for cancellation of a pesticide's registration by eliminating the formal adjudicatory hearing and replacing it with a shorter, non-adjudicatory informal hearing.

Establishes a three step process for cancellation: (1) advance notice; (2) proposed order and (3) final order.

Requires consultation with USDA and HHS prior to issuing advance notice, proposed order.

Provides for public notice and comment on EPA's advance notice and proposed order of cancellation.

Requires the Scientific Advisory Panel to review the administrative record on cancellation actions and addresses significant scientific issues.

Requires a cancellation action to be completed within 18 months of initiation.

Permits registrants to modify their registration to avoid cancellation.

Allows any person to petition Administrator to cancel a pesticide registration or amend or revoke an existing cancellation order.

Allows ongoing EPA "special reviews" of pesticide chemicals to proceed under existing law.

Provides for judicial review in U.S. Court of Appeals.

Sec. 107—simplifies existing procedures for suspension of a pesticide's registration by providing flexibility for EPA to consider the benefits of a pesticide commensurate with the need to take prompt action to suspend registration.

Establishes specific risk and benefit factors which EPA must consider in determining whether a pesticide creates an imminent hazard and when such hazard is unreasonable.

Requires EPA to consult with USDA and HHS before taking action on suspension.

Requires EPA to issue cancellation notices within 180 days of suspension.

Allows any person to petition EPA to suspend a pesticide's registration.

Permits any affected person to request a hearing to review suspension order.

Allows any state to request an exemption from a suspension order if any severe economic dislocation in the state would result from the suspension order.

Provides for judicial review in U.S. Court of Appeals

Sec. 108—places the burden of persuasion on parties who oppose EPA's action against a pesticide.

Sec. 109—requires Administrator to periodically request and reevaluate data to support a pesticide registration.

Sec. 110—gives EPA broad authority to require pesticide producers, registrants, importers/exporters, and others connected with the pesticide industry to keep records and provide them to EPA upon request.

Gives EPA authority to require recordkeeping by commercial pesticide applicators and dealers.

Sec. 111—increases EPA's authority under FIFRA to conduct inspections pursuant to warrant.

Sec. 112—directs EPA to disclose FIFRA data to States under certain conditions.

Sec. 113—establishes certification and training requirements for commercial pesticide applicators and for private applicator who use restricted use pesticides, and requires recertification/reregistration after refresher training at least every five years.

Requires EPA, in consultation with USDA, to develop and periodically update training material and to set minimum standards for trainers and training programs.

Sec. 114—broadens EPA's definition of unlawful acts to include violation of regulations pertaining to the export of pesticides.

Sec. 115—increases civil and criminal penalties for FIFRA violations.

Civil Penalties—increase penalty for first violations of a provision of act to $25,000. Permits a $50,000 fine for subsequent violations of same provision; for private applicators establishes a $1,000 penalty and $2,000 for subsequent violations; for other reasons requires Administrator to first issue a warning prior to establishing fines similar to private applicators.

Criminal Penalties—For persons covered by the Act who knowingly violate a provision of Act not more than $50,000 or not more than 3 years imprisonment or both. For persons covered by Act knowing endangerment that places another person in danger of death or serious bodily injury not more than $250,000 or partnerships or other entity the penalty increases to $1,000,000. For second knowing endangerment violation the penalties may be doubled. All other persons subject to $5,000 fine or one year imprisonment or both.

Sec. 116—allows EPA to require compliance by U.S. exporters with notification procedures established by an international agency or agreement involving the U.S.

Permits the Administrator to prohibit the export of certain pesticides under certain conditions.

Sec. 117—establishes a Pesticide Advisory Board to advise the Scientific Advisory Panel and EPA.

Requires the Administrator to develop and issue regulations regarding actual or apparent conflicts of interest by members of the Pesticide Advisory Board and Science Advisory Panel.

Sec. 118—directs USDA and EPA to work together to identify pests and control measures.

Sec. 119—directs USDA and HHS to collect information on pesticide use and on actual pesticide residue levels, and to provide such information to EPA.

Provides that in the absence of such use and residue information, the Administrator may assume for purposes of cancellation and/or suspension that the dietary residues on food are at the highest level permitted by an existing tolerance.

Sec. 120—technical amendments.

Sec. 121—conforming amendments.

Sec. 201—states that Title II amends the Federal Food, Drug and Cosmetic Act (FFDCA).

Sec. 202—amends FFDCA definition of "pesticide chemical," specifically including inert ingredients, and adds definitions of "pesticide chemical residue" and "processed food".

Sec. 203—expands the list of "prohibited acts" to cover disclosure of certain confidential information.

Sec. 204—modifies definition of "adulterated food" in accordance with other provisions of Title II.

Sec. 205—establishes a new Section 408 to cover all pesticide tolerances, eliminating the differential treatment of potentially carcinogenic pesticide residues in raw commodities and processed foods by not treating pesticides as food additives under section 409.

Generally requires EPA to set tolerances at a level which poses no more than a negligible risk to public health;

(a) Establishes separate negligible risk standards for threshold and oncogenic risks for the purpose of setting residue tolerances.

(b) Defines negligible for threshold risks as the level of dietary exposure allowed by the tolerance and all other tolerances in effect that will result in a total dietary exposure to the pesticide which is lower by a generally accepted margin of safety than an identifiable "no-effect" exposure level.

(c) Defines negligible for cancer risks as the level of dietary exposure to a pesticide in or on a particular food that is at or below a level which poses a risk which does not exceed the range of a 10^{-6} upper bound increase in lifetime risk, using the 90th percentile consumer of the particular food as the basis of exposure.

(d) Allows EPA to consider benefits in setting tolerances posing greater than negligible risks, good for five years or less, in certain limited circumstances;

Sets forth standards for granting tolerance exemptions;

Establishes a procedure whereby any person may petition EPA to establish, modify, or revoke a tolerance or exemption;

Requires EPA to revoke or suspend tolerances consistent with, and following, the cancellation or suspension of a pesticide's registration under FIFRA;

Provides for national uniformity of tolerances as to those pesticides which have complete sets of health and environmental data; a state could set its own tolerances only if it can show that they are necessary to protect public health because of special local circumstances.

SEC. 206—authorizes an annual increase of $12 million for FDA monitoring of pesticide residues on imported and domestic food.

Titles III, IV, and V contain conforming amendments to the Poultry Products Inspection Act, the Federal Meat Inspection Act, and the Egg Products Inspection Act, respectively to reflect changes made to FIFRA and FFDCA by the Pesticide Safety Improvement Act of 1990.●

By Mr. DANFORTH (for himself, Mr. BOND, Mr. DOLE, Mr. WALLOP, and Mrs. KASSEBAUM):

S.J. Res. 295. Joint resolution proposing an amendment to the Constitution of the United States to prohibit the Supreme Court or any inferior court of the United States from ordering the laying or increasing of taxes; to the Committee on the Judiciary.

COURT-ORDERED IMPOSITION OF TAXES

Mr. DANFORTH. Mr. President, last Wednesday, in the case of Missouri versus Jenkins, the U.S. Supreme Court held that a Federal court has power to order the imposition of taxes. That decision flatly contradicts a fundamental premise of American democracy which predates the Constitution itself. The Supreme Court's holding cannot be allowed to stand.

I am today introducing with Senator BOND a constitutional amendment which would overturn the Supreme Court's decision. The text of the proposed amendment is:

Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a State or political subdivision thereof, or an official of such State or political subdivision, to lay or increase taxes.

It is my hope that this proposed amendment receives the careful attention of the Judiciary Committee at an early date.

Mr. BOND. Mr. President, the constitutional amendment that I am proposing today with my colleague from Missouri is simple and straightforward. In fact, I am surprised that it

has even become necessary to offer it because I believe the Constitution is clear on this point. Unfortunately, however, the Supreme Court in a ruling earlier this week, issued an opinion which calls for a clarification such as the one we are proposing today.

The proposed amendment would simply clarify the powers of the individual branches of Government by explicitly stating that unelected Federal judges do not have power to impose taxes.

Personally, I do not now see any ambiguity in the Constitution. Article I, section 8 states that "Congress shall have Power To lay and collect Taxes." Article III, which sets forth the powers of the Federal courts, makes no mention of taxes. And the 10th amendment clearly reserves for the individual States all powers not clearly delegated or prohibited in the Constitution. Thus, it seems obvious that Congress is the only branch of the Federal Government given power to impose taxes.

Despite the clear language of the Constitution, the Supreme Court Wednesday upheld a decision of the Eighth Circuit Court of Appeals which imposed a tax increase on the people of Kansas City. Though the Court made clear that a Federal judge may not directly increase taxes, it then undercut that ruling by saying that a judge could force local and State governments to raise taxes. As Justice Anthony Kennedy said in his dissent, "Any purported distinction between direct imposition of a tax increase by the Federal court and an order commanding the school district to impose the tax is but a convenient formalism."

Our system is a representative democracy—based on the principle that our leaders are directly elected by, and therefore accountable to, the people. Federal judges, appointed for life, have no such accountability. And as Justice Kennedy said in his dissent, giving them the power to levy taxes "disregards fundamental precepts for the democratic control of public institutions."

Certainly communities have a responsibility to ensure that they adhere to constitutional tenets in public education and in the provision of other public services. But the desire to see improvements made should not be used as an excuse to abandon one of the precepts that constitute the foundation of our democracy.

I am amazed that we've come to a point where we need to reaffirm that the courts cannot tax the American people. No, taxation without representation is not a slogan, it's a fundamental American right.

Our forefathers fought for this right and preserved it in the Constitution. We should not abandon it now.

Ceding the power to tax to the courts doesn't steal that power from the Congress, but from the American people with whom it belongs.

The amendment we are offering today will clarify the intent of the drafters of the Constitution. It deserves support not only in Congress, but in the States as well.

Mr. President, I seldom agree with the Washington Post editorial board. This morning, however, the Post ran an editorial on this subject which I believe frames the issue very well. I ask unanimous consent that it be included in the RECORD.

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

[From the Washington Post, Apr. 20, 1990]

COURT-ORDERED TAXATION

The taxpayers of Kansas City, Mo., must be wondering if they have for years completely misunderstood all the civics courses they took in high school: the ones where they learned about the separation of powers and the inequity of taxation without representation. Here they have been going along innocently believing that elected officials—people whose positions must be in some measure responsive to the views of their constituents and whose tenure in office is dependent on those constituents' approval—are the ones who set and impose taxes. But in a case involving school desegregation in their city, a series of federal courts has insisted that these principles are flexible and can be disregarded by a judge who assumes ultimate authority for raising and allocating this burden. This week five justices of the U.S. Supreme Court agreed that the Kansas City judge could order local authorities to double property taxes.

This case is unprecedented in two respects. The first is the scope of the remedies ordered by the judge. He ruled that in order to overcome the effects of previous segregation the Kansas City schools had to be made so exemplary that suburban youngsters would choose to return to the inner city to school. All schools were required to be completely renovated and air-conditioned. Every classroom was to be equipped with 15 microcomputers. Swimming pools, a planetarium and a temperature-controlled art gallery were mandated. And extras such as a broadcasting system, a 25-acre farm, movie studios and a model U.N. with simultaneous translation facilities were found to be necessary to vindicate constitutional rights. The judge, of course, didn't have to consider the cost—hundreds of millions of dollars—or the competing demands for city money for health, social services or law enforcement.

The second astonishing aspect of the case is the expansion of judicial power into an area understood to be the prerogative of a representative body of elected officials. As Justice Anthony Kennedy and three colleagues protested, "[The court's] casual embrace of taxation imposed by the unelected, life-tenured federal judiciary disregards fundamental precepts for the democratic control of public institutions." The precedent for court-ordered tax increases to provide all sorts of services when constitutional rights are asserted is ominous. Imagine, for example, three separate federal judges in this city resolving cases involving St. Elizabeths, Lorton and Cedar Knolls ordering massive tax increases without regard to overall budget priorities, necessary expenditures not before the courts or even the cumulative impact of these three separate orders.

It is very hard to understand how the Supreme Court could have refused to review the fantastic remedies ordered by the Kansas City judge and why a majority of justices has approved the concept of judicially mandated taxes. There are other ways for a court to compel compliance with even an order like this without imposing a tax to pay for it.

By Mr. SPECTER:

S.J. Res. 296. Joint resolution designating August 7, 1990, as "National Neighborhood Crime Watch Day"; to the Committee on the Judiciary.

NATIONAL NEIGHBORHOOD CRIME WATCH DAY

Mr. SPECTER. Mr. President, today I introduce a joint resolution which commends the Nation's Neighborhood Crime Watch groups and designates August 7, 1990, as "National Neighborhood Crime Watch Day."

One such group, the National Association of Town Watch [NATW], has made significant contributions in helping neighborhoods throughout the country in their fight against crime. The association's sixth annual National Night Out crime prevention project, which was held on August 8, 1989, involved citizens and police in 7,600 communities in all 50 States. Two years ago, I joined then-Vice President Bush and NATW's executive director, Matt Peskin, for the kick-off ceremony in Philadelphia.

During National Night Out, residents in neighborhoods across the Nation will sit on lighted porches, enjoy visits from local police, and participate in a variety of special events such as block parties, cookouts, and parades.

Nationally, 20.2 million Americans participated in National Night Out in 1989. This unique anticrime effort heightens crime prevention awareness and reunites communities and local law enforcement agencies. Many communities in your State are dedicated National Night Out supporters.

The National Association of Town Watch is a unique organization, serving as liaison among thousands of communities involved in crime prevention programs and representing the entire spectrum of programs concerned with the serious problem of crime in our neighborhoods. As such, it helps coordinate the anticrime efforts of, and provide information and assistance to, the many communities involved in organized crime prevention programs.

Under the leadership of Mr. Matt Peskin, NATW received the prestigious National Constituency Organization Award in 1986 and 1988, presented by the National Crime Prevention Council, the Crime Prevention Coalition, and the U.S. Department of Jus-

tice, for the association's extraordinary efforts in fighting crime.

In association with other anticrime organizations, NATW works to reduce the neighborhood crime rate and to enhance the police-community relationship. Nearly obsolete in the 1960's and 1970's, the notion of the police and the community cooperating with each other now is being institutionalized. No longer are people as afraid to call the police, and law enforcement organizations now recognize the citizens' role in fighting crime.

In correspondences with my office, the U.S. Department of Justice noted that "NATW has done exemplary work and has made significant contributions to the overall national crime prevention effort." The Department also indicated that "National Night Out is an excellent program and should be continued."

As a former district attorney, current member of the Senate Judiciary Committee and cochairman of the Congressional Crime Caucus, I have actively pursued initiatives to fight street crime. Accordingly, I commend the efforts of NATW and all the participants in National Night Out.

Mr. President, I urge my colleagues to join in supporting this important resolution to recognize the active involvement of neighborhood organizations in the ongoing national fight against crime and to designate August 7, 1990, as National Neighborhood Crime Watch Day.

I ask unanimous consent that the joint resolution be printed in the RECORD.

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

S.J. RES. 296

Whereas neighborhood crime is of continuing concern to the American people;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;

Whereas neighborhood crime watch organizations are effective at promoting awareness of, and participation of volunteers in, crime prevention activities at the local level;

Whereas neighborhood crime watch groups can contribute to the national war on drugs by helping to prevent their communities from becoming markets for drug dealers;

Whereas citizens across the United States will soon take part in a "National Night Out", a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend the period from 8 to 10 o'clock p.m. on August 7, 1990, with their neighbors in front of their homes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 7, 1990, is designated as "National Neighborhood Crime Watch Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe National Neighborhood Crime Watch Day with appropriate programs, ceremonies, and activities.

ADDITIONAL COSPONSORS

S. 101

At the request of Mr. SANFORD, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 101, a bill to mandate a balanced budget, to provide for the reduction of the national debt, to protect retirement funds, to require honest budgetary accounting, and for other purposes.

S. 416

At the request of Mr. DOMENICI, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 416, a bill to provide that all Federal civilian and military retirees shall receive the full cost-of-living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes.

S. 513

At the request of Ms. MIKULSKI, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 513, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend certain retirement provisions of such chapters which are applicable to law enforcement officers to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the U.S. Customs Service, and revenue officers of the Internal Revenue Service.

S. 685

At the request of Mr. METZENBAUM, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 685, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to clarify the applicability of rules relating to fiduciary duties in relation to plan assets of terminated pensions plans and to provide for an explicit exception to such rules for employer reversions meeting certain requirements.

S. 1108

At the request of Mr. STEVENS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1108, a bill to provide another opportunity for Federal employees to elect coverage under the Federal employees' retirement system; to provide that the recently enacted Government pension offset provisions of the Social Security Act shall not apply to Federal employees who take advantage of the new election period; and for other purposes.

S. 1557

At the request of Mr. ROTH, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1557, a bill to amend title 17, United States Code, to permit the unlicensed viewing of videos under certain conditions.

S. 1933

At the request of Mr. HEINZ, the names of the Senator from Virginia [Mr. WARNER], the Senator from Hawaii [Mr. INOUYE], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 1933, a bill to provide for the minting of coins in commemoration of the bicentennial of the death of Benjamin Franklin and to enact a fireservice bill of rights and programs to fulfill those rights.

S. 1974

At the request of Mr. HARKIN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1974, a bill to require new televisions to have built in decoder circuitry.

S. 2166

At the request of Mr. HATCH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2166, a bill to amend 42 U.S.C. 1981 in regard to the formation and implementation of contracts, and title VII of the Civil Rights Act of 1964 to protect against discrimination in employment, and for other purposes.

S. 2250

At the request of Mr. DECONCINI, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 2250, a bill to amend title 5, United States Code, with respect to setting rates of basic pay for law enforcement officers, and for other purposes.

S. 2427

At the request of Mr. LEAHY, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 2427, a bill to provide for the establishment of a coordinated and cooperative Federal, State, and local forest program for the management and enhancement of forest lands, and for other purposes.

SENATE JOINT RESOLUTION 153

At the request of Mr. ROCKEFELLER, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 153, a joint resolution designating the third week in May 1990 as "National Tourism Week."

SENATE JOINT RESOLUTION 240

At the request of Mr. SYMMS, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Missouri [Mr. DANFORTH], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Joint Resolution 240, a joint resolution designating the week of June 10, 1990, through June 16, 1990, as "Multiple-Use Sustained-Yield week."

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SENATE JOINT RESOLUTION 265

At the request of Mr. DODD, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of Senate Joint Resolution 265, a joint resolution commemorating May 18, 1990, as the 25th anniversary of Head Start.

SENATE JOINT RESOLUTION 284

At the request of Mr. BYRD, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Kansas [Mr. DOLE], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Joint Resolution 284, a joint resolution to designate the week beginning September 16, 1990 as "National Give the Kids a Fighting Chance Week."

AMENDMENTS SUBMITTED

NONDISCRIMINATORY TREATMENT OF PRODUCTS OF THE PEOPLE'S REPUBLIC OF HUNGARY

DIXON AMENDMENT NO. 1491

Mr. DIXON proposed an amendment to the bill (H.R. 1594) to extend nondiscriminatory treatment to the products of the People's Republic of Hungary, as follows:

On page 71, after line 12, insert the following new section:

SEC. . PARTS OF IONIZATION SMOKE DETECTORS.

(a) IN GENERAL.—Chapter 90 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by inserting in numerical sequence the following new subheading with the article description having the same degree of indentation as the article description in subheading 9022.90.60:

"9022.90.70	Of smoke detectors, ionization type.	2.7%	Free (A, B, E, IL) 2.1% (CA).	35%".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(2) RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law to the contrary, upon a request filed with the appropriate customs officer after September 30, 1990 and before April 1, 1991, any entry or withdrawal from warehouse for consumption of goods to which the amendment made by this section applies and that was made—

(A) after December 31, 1988; and

(B) before October 1, 1990;

and with respect to which there would have been a lower duty if the amendment made by this section had applied to such entry or withdrawal, shall be liquidated or reliquidated as though such entry or withdrawal had occurred on October 1, 1990.

PACKWOOD AMENDMENT NO. 1492

Mr. PACKWOOD proposed an amendment to the bill H.R. 1594, supra, as follows:

At the end of the bill, insert:

TITLE V—FEDERAL TIMBER EXPORT RESTRICTIONS

SEC. 501. SHORT TITLE.

This title may be cited as the "Federal Timber Export Restriction Act of 1990".

SEC. 502. PURPOSES.

The purposes of this Act are—

(1) to make permanent the current Federal policy of restricting the export of unprocessed timber from Federal lands;

(2) to review and revise Federal policy with respect to the ability of timber operators to acquire and mill Federal logs in lieu of exported private logs;

(3) to promote the conservation of forest resources consistent with Federal resources management plans;

(4) to help relieve the critical short supply conditions in industries which rely on an adequate timber supply; and

(5) to effect measures aimed at meeting these objectives in conformity with the obligations of the United States under the General Agreement on Tariffs and Trade.

Subtitle A—Federal Lands

SEC. 511. RESTRICTIONS ON EXPORTING OF UNPROCESSED TIMBER.

Notwithstanding the act of April 12, 1926 (16 U.S.C. § 616.44 Stat. 242), and except as permitted by section 513 or 514 of this Act, no person who acquires, either directly or indirectly, unprocessed timber originating from Federal lands shall—

(1) export such timber from the United States;

(2) sell, trade, exchange, or otherwise convey such timber to any other person for the purpose of exporting such timber from the United States: or

(3) use, or assist or conspire with any other person to use, such timber in substitution for unprocessed timber originating from private lands exported or to be exported from the United States.

SEC. 512. INFORMATION GATHERING.

(a) REQUIREMENTS OF PERSONS ACQUIRING UNPROCESSED TIMBER.—In accordance with regulations issued under section 523, each person who acquires, either directly or indirectly, unprocessed timber originating from Federal lands shall report the disposition of such timber to the Secretary concerned on a quarterly basis.

(b) REQUIREMENTS OF PERSONS CONVEYING UNPROCESSED TIMBER.—

(1) IN GENERAL.—In accordance with regulations issued under section 523, each person who sells, trades, exchanges, or otherwise conveys to another person unprocessed timber originating from Federal lands shall identify in writing the original of such timber to that other person.

(2) ACKNOWLEDGEMENT.—The person to whom such timber is conveyed under this section shall submit to the Secretary concerned, in such manner as the Secretary may prescribe—

(A) written acknowledgment of receipt of the written identification of the origin of such timber under paragraph (1), and

(B) a written agreement to comply with all of the prohibitions in section 511.

(c) REPORTS BY SECRETARIES TO CONGRESS.—The Secretary concerned shall, on the basis of the information received under subsection (a) and (b), report annually to the Congress on the disposition of unprocessed timber originating from Federal lands administered by that Secretary. The Secretary of Agriculture may meet this requirement by including such information pertaining to the National Forest system as part of the annual report required by section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (17 U.S.C. 1606(c), 88 Stat. 478).

SEC. 513. EXCLUSIONS.

(a) EXEMPTION FROM PROHIBITION ON SUBSTITUTION.—The prohibitions contained in section 511 shall not apply to a person if, before the unprocessed timber otherwise subject to the prohibitions is obtained—

(1) that person applies to the Secretary concerned, in such form as is prescribed in regulations issued by such Secretary, for an exemption of the prohibitions contained in section 511:

(2) that person demonstrates in such application that the Federal lands from which the unprocessed timber will be obtained are not located in the same geographic area—

(A) from which that person exports any other unprocessed timber from private lands; or

(B) from which that person has exported unprocessed timber from private lands in the proceding 5-year period; and

(3) the Secretary concerned grants the exemption.

(b) DETERMINATION OF GEORGRAPHIC AREAS.—The Secretary concerned shall determine the boundaries of geographic areas for purposes of subsection (a)(2) in accordance with the procedures of rulemaking set forth in section 553 of title 5, United States Code. The Secretary shall consider whether persons other than the applicant for the exemption engage in commerce in unprocessed logs between the two geographic areas involved. Such commerce shall be sufficient to deny the exemption. Any such determination shall be reviewed at least once in each 2-year period. The Secretary concerned shall publish notice of such review in the Federal Register, and shall give the public an opportunity to comment on such review.

SEC. 514. SURPLUSES.

(a) DETERMINATIONS BY SECRETARIES.—The prohibitions contained in section 511 shall not apply to specific quanities of grades and species of unprocessed timber from Federal lands which the Secretary of Agriculture or the Secretary of the Interior determines to be surplus to domestic manufacturing needs.

(b) PROCEDURES.—Any determination under subsection (a) shall be made in regulations issued in accordance with section 553 of title 5, United States Code. Any such determination shall be reviewed at least once in every 3-year period. The Secretary concerned shall publish notice of such review in the Federal Register, and shall give the public an opportunity to comment on such review.

Subtitle B—Sanctions; Definitions; Effective Dates

SEC. 521. PENALTIES.

(a) IN GENERAL.—Any person who violates this title or an implementing regulation, or counsels, procures, solicits, or employs any other person to take an action in violation of this title or such regulation, shall be assessed a civil penalty by the Secretary concerned of not more than $10,000 for each violation.

(b) KNOWING VIOLATIONS.—Any person who knowingly violates this Act, or any im-

plementing regulation, shall be assessed a civil penalty by the Secretary concerned or not more than $1,000,000 or three times the gross value of the unprocessed timber involved in the violation, whichever is greater.

SEC. 522. DEBARMENT.

If the Secretary concerned finds, after notice and an opportunity for a hearing on the record, that a person has violated this Act or any regulation issued to carry out this Act, such Secretary shall issue an order prohibiting that person from entering into any contract for the purchase of unprocessed timber from any Federal lands for a period of not more than 5 years. such person shall also be precluded from taking delivery of Federal timber purchased by another party for the period of debarment. Such an order shall be subject to review in an appropriate District Court of the United States.

SEC. 523. REGULATIONS.

Within 1 year after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall, in consultation, each prescribe new coordinated and consistent regulations to implement this Act on lands which they administer.

SEC. 524. DEFINITIONS.

When used in this title, the term—

(1) "acquire" means to come into possession of, either directly or indirectly, through a sale, trade, exchange, or other transaction;

(2) "affiliate" of another person described in paragraph (4) of this section is a person that—

(A) controls or has the power to control such other person,

(B) is controlled by or is subject to control by such other person, or

(C) when such other person is controlled by, or is subject to control by, a third person,

except that in determining whether persons are affiliates, all appropriate factors shall be considered including, but not limited to, common ownership, common management, and contractual relationships;

(3) "Federal lands" means lands administered by the Secretary of Agriculture, the Secretary of the Interior, and the Secretary of Defense, and located west of the 100th meridian in the contiguous 48 States, excluding lands held in trust by the United States for the benefit of any Indian tribe or Indian individual;

(4) "person" means an individual, partnership, corporation, association, or other legal entity and shall include subcontractors and any subsidiary, parent company, or other affiliate;

(5) "private lands" means lands held or owned by a person but does not include lands held or owned by the United States, a State or political subdivision thereof, or any other public agency;

(6) "Secretary concerned" means the Secretary administering the Federal lands from which the unprocessed timber is removed;

(7) "substitution" is the practice of purchasing or otherwise obtaining timber from Federal lands west of the 100th meridian in the contiguous 48 States while at the same time exporting, or selling for export, timber from private lands west of the 100th meridian in the contiguous 48 States; and

(8) "unprocessed timber" means timber as defined by the regulations prescribed pursuant to section 523 of this Act.

SEC. 525. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act, but shall not apply with respect to timber removed pursuant to timber sale contracts entered into before the date of enactment of this Act.

(b) EXEMPTION FROM SUBSTITUTION.—Section 511(3) shall take effect 1 year after the date of the enactment of this Act. During such 1-year period, section 511(3) shall not apply with respect to the acquisition of unprecessed timber from Federal lands by a person who, in accordance with regulations of the Department of Agriculture and the Department of the Interior in effect on the date of enactment of this Act, demonstrates to the appropriate official that the Federal lands are in a tributary area as defined by the current regulations.

JOHNSTON AMENDMENTS NOS. 1493 THROUGH 1496

Mr. JOHNSTON proposed four amendments to the bill H.R. 1594, supra, as follows:

AMENDMENT NO. 1493

On page 59, after the matter preceding line 1, insert the following:

SEC. . PIGMENT RED 178.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"9902.32.10	Pigment red 178 (CAS No. 3049-71-6) (provided for in subheading 3204.17.10).	No change...	No change...	Free...	On or before 12/31/92".

AMENDMENT NO. 1494

On page 59, after the matter preceding line 1, insert the following:

SEC. . ACID BLACK POWDER AND PRESSCAKE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"9902.32.05	Acid black 210 powder and acid black 210 presscake (CAS No. 112484-44-3) (provided in subheading 3204.12.40).	Free...	No change...	No change...	On or before 12/31/92".

AMENDMENT NO. 1495

On page 52, after the matter preceding line 1, insert the following:

SEC. . PIGMENT RED 149 DRY AND PIGMENT RED 149 PRESSCAKE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"9902.32.50	Pigment red 149 dry and pigment red 149 presscake (CAS No. 4948-15-6) (provided for in subheading 3204.17.50).	Free...	No change...	No change...	On or before 12/31/92".

AMENDMENT NO. 1496

On page 59, after the matter preceding line 1, insert the following:

SEC. . ISOINDOLENINE RED PIGMENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"9902.32.30	Isoindolenine red pigment (CAS No. 71552-60-8) (provided for in subheading 3204.17.30).	Free...	No change...	No change...	On or before 12/31/92".

INOUYE AMENDMENT NO. 1497

Mr. KASTEN (for Mr. INOUYE) proposed an amendment to the bill H.R. 1594, supra, as follows:

At the end of H.R. 1594 insert the following: Any country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979 shall cease to be considered designated a "beneficiary developing country" for purposes of receiving benefits under the Generalized System of Preferences (GSP).

KASTEN (AND KERRY) AMENDMENT NO. 1498

Mr. KASTEN (for himself and Mr. KERRY) proposed an amendment to the bill H.R. 1594, supra, as follows:

On page 78, at line 14, strike "The Commissioner of Customs" and all that follows through "(2)" at line 24.

On page 79, after line 24, insert the following new paragraph:

"(2) In determining where to establish the operation described in paragraph (1), the Commisioner of Customs and the Commissioner of Immigration and Naturalization shall first determine the viability of establishing such operations in Jamaica. If the Commissioners determine, after full consultations with the Government of Jamaica, that it is not viable to establish pre-clearance operations in Jamaica, they shall so report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, including an explanation of how this determination was reached. Such report shall be submitted to those Committees within six months of the enactment of this Act. Following the submission of such a report, negotiations may be undertaken to establish such operations in another country.".

DURENBERGER AMENDMENT NO. 1499

Mr. DURENBERGER proposed an amendment to the bill H.R. 1594, supra, as follows:

On page 17, between lines 21 and 22, insert:

( ) Heading 9902.29.88 (relating to cyclosporine)

BENTSEN AMENDMENTS NOS. 1500 AND 1501

Mr. BENTSEN proposed two amendments to the bill H.R. 1594, supra, as follows:

AMENDMENT No. 1500

Beginning with page 81, line 8, strike all through page 83, line 20.

Redesignate sections 2012 and 2013 as sections 2011 and 2012, respectively.

AMENDMENT No. 1501

On page 12, strike lines 16 and 17, and insert:

Subheading 6702.90.40 is amended by striking out "Artificial flowers, of" in the article description and inserting in lieu thereof "Of".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing is scheduled to take place on Thursday, May 3, 1990, at 9:30 a.m. in room 366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony concerning applications received by the Department of Energy for authority under section 3 of the Natural Gas Act to import Canadian natural gas to serve markets in the Northeastern United States and applications received by the Federal Energy Regulatory Commission for authority under section 7 of the Natural Gas Act to construct and operate natural gas pipeline facilities in the United States to deliver such gas to markets in the Northeast.

Those wishing to submit written statements for the hearing record should deliver them to the Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, room 364, Washington, DC 20510. For further information, please contact Don Santa of the committee staff at (202) 224-4820.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, April 20, 1990, on reforming the Federal Employees Health Benefits Program.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Friday, April 20, at 10 a.m., for a hearing on the Health Objectives 2000 Act.

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

COMMITTEE ON SMALL BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Small Business Committee's Subcommittee on Innovation, Technology and Productivity be authorized to meet during the session of the Senate on Friday, April 20, 1990, at 9:30 a.m. The subcommittee will hold a hearing on the barriers to the sale of United States auto parts to Japanese auto companies located in the United States and abroad.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, April 20, 1989, 11 a.m., for a hearing to receive testimony from Thomas L. Sansonetti, nominee for Solicitor of the Department of the Interior.

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

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, April 20, 1990, at 9:30 a.m., to hold a hearing on Senate Joint Resolution 280, a joint resolution approving the findings of the Comptroller General of the United States contained in the General Accounting Office [GAO] report, dated March 29, 1990, regarding employer sanctions and S. 2446, a bill to take measures to improve the employment verification system under the Immigration and Nationality Act.

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

SUBCOMMITTEE ON READINESS, SUSTAINABILITY AND SUPPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Armed Services Committee's Subcommittee on Readiness, Sustainability and Support be authorized to meet in open session on Friday, April 20, 1990, at 9:30 a.m., to receive testimony on Department of Defense military construction programs in review of S. 2171, the Department of Defense Authorization Act for fiscal year 1991.

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

SUBCOMMITTEE ON HUD INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the HUD Investigations Subcommittee of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Friday, April 20, 1990, at 10 a.m., to hold hearings on staffing issues.

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

ADDITIONAL STATEMENTS

EARTH DAY 1990

● Mr. JOHNSTON. Mr. President, the eyes of the world will focus on the Nation's Capitol on Sunday, April 22, 1990, as thousands of people gather to observe the 20th anniversary of Earth Day and to commemorate the Nation's commitment to the protection of the environment that sustains all life on Earth.

The Committee on Energy and Natural Resources wishes to congratulate the sponsors of this extraordinary event and to join the celebrants in renewing our commitment to the goals of a healthy planet.

The committee has long been a leader in environmental concerns since the passage two decades ago of the National Environmental Policy Act of 1969 which was signed into Public Law 91-190 on January 1, 1970, under the jurisdiction of our predecessor, the Committee on Interior and Insular Affairs, chaired by Senator Henry M. Jackson.

Enactment of the National Environmental Policy Act in 1970 [NEPA] provided a statement of a national environmental policy and a declaration of national goals, requiring all Federal agencies to consider the environmental impact of their actions. It was a remarkable first step in environmental activism not only in the United States but throughout the world. Its purpose:

> To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation.

Ultimately, in the 1970's, a new concept of environmental management came to be an accepted Federal policy concern.

The act also established the Council on Environmental Quality [CEQ] as an advisory group in the Executive Office of the President. Because many energy issues have strong environmental considerations, CEQ has acquired a coordinating role in a number of energy related studies.

The annual report from the Council on Environmental Quality for 1990 will contain a chapter on the National Environmental Policy Act including the historical background of the legislation, its early implementation and Federal decisionmaking. Carl Bausch, Assistant General Counsel for CEQ, states that the report will also pay tribute to Senator Jackson, the author of the bill, as follows:

What was to become the national environmental policy was prepared at the direction of Senator Henry Jackson of Washington, who considered the policy a means of establishing priorities and giving expression to "our national goals and aspirations • • • [serving] a constitutional function in that people may refer to it for guidance in making decisions where environmental values are found to be in conflict with other values." According to Senator Jackson:

"A properly drafted Congressional statement of national environmental policy, along with a requirement for official statements of environmental findings in federal decisions and legislative proposals, will effectively make the quality of the environment everyone's responsibility. No agency will then be able to maintain that it has no mandate or no requirement to consider the environmental consequences of its actions."

Thus, each person has a responsibility to contribute to the preservation and enhancement of the environment.

As we approach the last decade of the 20th century and look forward to the 21st century, the Committee on Energy and Natural Resources pays tribute to the memory of our former chairman, Senator Henry M. Jackson, who helped awaken our environmental consciousness and pioneered the landmark legislation that established environmental quality as a national priority. Today, the committee reaffirms its commitment to carry on the legacy of Senator Jackson and to continue its responsibility in addressing our national and global goals of clean air, clean water and safe, efficient energy.●

THE ROLE OF THE NATIONAL GUARD

● Mr. BOND. Mr. President, since the introduction of the Total Force concept in the early 1970's, the role of the National Guard has changed significantly. While the National Guard remains the primary and early mobilization force in the event of local and State emergencies, it has grown to become a critical segment in our Nation's front line defense forces. The most recent illustration of this was in the key roles played by Army and Air National Guards units in "Operation Just Cause" in Panama.

Fifty-six members of the Ohio Air National Guard 180th Tactical Air Group were participating in routine training exercises in the Canal Zone at Howard Air Force Base when United States forces invaded Panama. These Air National Guard pilots played a critical part in the invasion by providing air-to-ground support for Just Cause ground troops. They flew missions daily against Gen. Manuel Noriega's Panamanian forces, flying A-7 Corsairs equipped with 20 mm cannons and bombs. The 180th Tactical Air Group successfully completed its mission in Panama with professionalism and competence proving to all America the readiness and willingness of the United States National Guard in the Total Force concept.

Fifty members of the Army and Air National Guard from my home State of Missouri also participated in "Operation Just Cause" as well. The Missouri guardsmen in Panama included 16 members from the 139th Tactical Airlift Group and 34 members from 1138th Military Police Co. The 16 airmen from the 139th Tactical Airlift Group and their C-130 four engine transport aircraft were assigned to Howard Air Force Base to provide tactical airlift support for the United States troops stationed throughout Central and South America. The 1138th Military Police Co. was the only unit of its kind in Panama. The Pentagon, therefore, specifically assigned the 34 military policemen from Missouri to design, build, and guard a compound for military prisoners. The assignments performed by these two Missouri units proved to be so critical that the Pentagon arranged for an extension of the units' 2-week rotation. My friend and colleague, Gov. John Ashcroft, promptly approved the agreement, and the Missouri guardsmen remained in Panama to continue their important work.

Missouri and Ohio National Guard troops were not the only Guard units to participate in "Operation Just Cause." Companies from 16 other States also played key roles in the invasion. The successful completion of every mission assigned to the National Guard in "Operation Just Cause" illustrates once again that guardsmen are not simply weekend warriors, but a vital segment in our Total Force concept. As cochairman of the National Guard Caucus, I commend the National Guard for their participation in "Operation Just Cause" and ask to submit two news releases into the RECORD that accurately describe the critical roles played by the Ohio Air National Guard 180th Tactical Fighter Group and the New York Air National Guard 105th Military Airlift Group in the successful implementation of "Operation Just Cause."

The releases follow:

THE 180TH IN ACTION IN "JUST CAUSE"

The 180th Tactical Fighter Group is the first Air National Guard unit in the Tactical Air Command to experience combat since the Vietnam War, said Master Sergeant Steven Stearns, Air National Guard Historian. The 180th A-7D's dodged hostile fire and provided close air support throughout Operation Just Cause, the American military operation to oust Panamanian strongman Manuel Noriega.

Fifty-six members of the 180th were deployed to Howard Air Force Base for "Coronet Cove," a normally scheduled annual training assignment, when President Bush ordered the military strike against Noriega. Under the direction of the Southern Command, the Guard unit flew more than 20 sorties.

"We never failed to meet a mission," said Col. John Smith, group commander, who monitored the operation from his office at the Toledo Air Base.

"We have always talked about Total Force and the readiness of the Guard and Just Cause proved that readiness," said Col. Smith. "Our aircraft were ready. Our people were ready. We accomplished the mission."

Col. Smith is confident in the training the 180th personnel have been receiving. "We could have had a whole different cast of people in Panama and the result would have been the same. The job would get done, and done well."

No flights were missed because of maintenance problems, said Maj. John Boggs, Coronet Cove liaison officer, attesting to the caliber of the Guard training. Boggs, in an interview with Air Force Times, said there was small arms fire directed at the A-7's, but there were no hits.

Lt. Col. Charles Vaughn, the 180th Detachment Commander, said there was a very professional feeling among the guardmembers. "There was a natural transition from training to combat," he said. "We were able to get into the air within 15 minutes of being alerted by the Southern Command."

Lt. Col. Vaughn has been a jet fighter pilot for more than 20 years. Just Cause was his first taste of actual combat.

"There was a feeling of excitement during the first flight, but after that it became rather routine. We felt very prepared and very confident. I think that's because we train under very realistic conditions."

Lt. Col. Vaughn said familiar sight of the A-7's in the air ended resistance. "The Panamanians know and respect the A-7. We have been flying there since 1978, when Coronet Cove began."

In Coronet Cove, Air National Guard A-7 units from ten states and Puerto Rico provide close air support for the Panama Canal from Howard Air Force Base.

"Coronet Cove has always been advertised as a real-world situation," said Maj. Boggs. "There has been no doubt that if hostilities were to break out, the Guard would be utilized."

The 180th is scheduled to participate in Coronet Cove again in February 1991.

NEWS RELEASE

New York state is the home base for an Air National Guard unit that has airlifted more than two million pounds of cargo into Panama during Operation Just Cause.

New Yorkers from large cities and small towns around the state—New York City, Pine Bush, Brooklyn, Maybrook, Syracuse, Cohoes, Schenectady, Saugerties, Newburgh, Yonkers, etc.—who are members of the New York Air National Guard's 105th Military Airlift Group volunteered to fly missions into the canal zone during the first days of the invasion and throughout the Hanukkah, Christmas and New Years holidays.

Based at Stewart Air National Guard Base in Newburgh, N.Y., the unit's C-5A Galaxies, the largest operational aircraft in the free world, also carried 637 passengers into Panama and flew over 56,000 miles in support of Operation Just Cause.

"Beginning on the first day of the invasion, our men and women played a vital role right here in the United States," said Col. Paul A. Weaver Jr., of Ballston Lake, N.Y., 105th MAG commander. "The southeastern states were experiencing unexpected severe weather conditions. Without our deicing equipment and people to operate it, the timing of the launching of the first and

second wave of the invasion force at Pope AFB, N.C., would have been seriously jeopardized. A few days after that, 105th aircraft and aircrews were flying missions into Howard AFB, Panama, with equipment, military passengers and supplies in direct support of the combat operation. Those crews worked 24 hour days. Maintenance and support people put in many 12-to-16 hour days for nearly two weeks. They've done a superb job."

Maj. Gen. Philip Killey, director of the Air National Guard, said of the 105th, "I want to express my heartfelt appreciation for the extraordinary efforts of the 105th MAG during this contingency. Your outstanding contributions in a nonmobilized status once again clearly demonstrates your patriotism, willingness and sense of duty as citizen soldiers to fully contribute to the defense of democracy and freedom, not only in the United States, but throughout the world. I am extremely proud of the personnel of the 105th MAG. Your actions document the capability of the Air National Guard to be a viable partner in the total military structure of the United States."

The 105th is one of only two Air National Guard strategic airlift units in the country to fly missions into the canal zone on this operation and the only ANG unit in the nation flying the C-5A.●

CASE OF SOVIET REFUSENIKS LEV AND LIA MILMAN

● Mr. GRAHAM. Mr. President, as an honored participant in the Congressional Call to Conscience Vigil, I would like to present the case of Mr. and Mrs. Lev Milman who are Soviet Jewish refuseniks living in Moscow.

Vladimir and Lia, 77 and 68 years old, respectively, are both seriously ill and in need of medical attention and the constant care only family can provide. Vladimir is nearly blind and suffers from cardiac arrythmia; Lia suffers from urolithiasis and spleen lymphoma.

They have been denied permission to join their daughter in the United States because of Vladimir's employment at the research institute. Although Vladimir retired in 1975, the Soviet government alleges that he possesses state secrets. They refuse to consider his application until 1995.

This refusal violates international agreements to which the Soviets are signatories, including the final document of the Helsinki Review, ratified in January 1989. Moreover, their refusal is an arbitrary measure which contradicts recent Soviet moves toward a more liberal and rational emigration policy.

Refusing exit visas as a form of punishment for openly expressing dissatisfaction with the Soviet system cannot be called glasnost. It can only be called unjust and repressive. By engaging in this type of action, the Soviet Union reveals how far it must go before it can join the ranks of democratic governments.

The real risk that the Milmans will not live to see 1995 is too great to deny them the opportunity to be cared for by their family during their declining years. Allowing the Milman's to emigrate is neither a political or a security issue; it is a humanitarian decision.

Mr. President, their frail health makes the Milman's case urgent. I hope our colleagues will join me in urging the Soviet Government to take the humanitarian action which this situation calls for, by allowing the Milmans to live out their lives under the loving care of their family.●

MINNEAPOLIS URBAN LEAGUE HONORS LOCAL HEROES

● Mr. DURENBERGER. Mr. President, I would like to talk today about some special residents of Minneapolis who were recently honored by the Minneapolis Urban League. These fine men and women come from many walks of life, but also share some basic values.

Each has contributed to this community, often on a voluntary basis, their work in the arts, social services and schools, to bring experiences and opportunities to the area's minority youth.

In this country, we are blessed with thousands of "silent" volunteers who contribute to society out of a sincere and steady desire to serve others. Some work in hospitals and nursing homes; others do their best work listening to and counseling young people who have no family on which to rely. I am fortunate to personally know one of these silent volunteers. He is warm and genuine, and truly has a heart of gold.

The Minneapolis Urban League recognized Horace and Mary Hill as the "Family of the Year," for the work they have done over the years providing support to the needy. Horace is employed in the Plymouth Building, the site of my Minneapolis office, and has an endless supply of cheer and good humor. I admire Horace and Mary for their enduring commitment to helping others as they experience life—like all of us, raising kids, working and meeting the many challenges of life.

At this point, I would like to submit to the RECORD an article about the Urban League Awards Dinner that appeared in the Minneapolis Spokesman on April 5, 1990. It reads as follows:

MUL ANNOUNCES AWARD RECIPIENTS

The Minneapolis Urban League will convene its 64th Annual Dinner Meeting on Thursday, April 5 at 6:30 pm.

During the meeting the Urban League will award community members who have exemplified the principles of the organization.

In addition to the traditional awards, the MUL has instituted a Special Achievement Award for those persons who have overcome obstacles and are positive role models in the community.

The following is a description of the awards and their recipients.

SPECIAL ACHIEVEMENT AWARD

Jimmy "Jam" Harris and Terry Lewis of FlyteTyme Productions in recognition of their success in the music industry.

VOLUNTEER SERVICE AWARD

Ernest Owens who, for the past three years has volunteered his services to the Minneapolis Urban League Street Academy.

FAMILY OF THE YEAR

Horace and Mary Hill family. The Hills have been married for 33 years and have six children, all of whom are high school graduates and all but one of whom went on from there. The family is active in the church and Mrs. Hill has ministered shut-ins and conducted a prison ministry.

The Hill children are all involved in civic affairs. The Hills were named the Church of God In Christ Family of the Year in 1978.

SPEICAL RECOGNITION AWARD

Ronald James, vice president and CEO for US West Communications. James serves on the boards of directors of the United Way, the Olympic Festival, Dunwoody Industrial Institute, the Guthrie Theatre and Doane College. He is also a member of the Minnesota Black Managers' Association, Tri-State Black Managers' Association and US West Black Alliance Association. He is also a member of the Urban League Board.

OUTSTANDING CIVIC AND SERVICE AWARD

Joyce Lake, vice-principal at Washburn High School, president of the Minnesota Alliance of Black School Educators, Chair of the NAACP Back to School/Stay in School Program, Co-Chair of the W. Harry Davis Foundation Education Committee, member of Jack and Jill, Zion Baptist Church and the Minneapolis Black Principals Association.●

TRIBUTE TO JULIUS B. KURIANSKY

● Mr. LIEBERMAN. Mr. President, it is with great pleasure that I bring to the attention of the Senate a very special individual from my home State of Connecticut, Mr. Julius B. Kuriansky. Mr. Kuriansky recently celebrated his 80th birthday. These 80 years have been full of achievement and service to the community by Julius Kuriansky.

Mr. Kuriansky has practiced law in the State of Connecticut since his admission to the Connecticut bar in 1934. He joined the firm of Wofsey, Rosen, Kweskin & Kuriansky, and has also served as assistant prosecuting attorney for the city court of Stamford, and as a State of Connecticut attorney trial referee. In addition to his distinguished career in law, Mr. Kuriansky also served in the U.S. Air Force from 1943 to 1946. While serving overseas, he received a direct commission as second lieutenant.

But what is truly special about Julius Kuriansky is his dedication to his family and his faith. In Stamford, Mr. Kuriansky has been a member of the Congregation Agudath Shalom all his life. In fact, his father helped to build the synagogue at the turn of the century. He brings enthusiasm and dedication to his congregation, instill-

ing in the younger generation the values of dedication and conviction.

After over 50 years of hard work, Mr. Kuriansky is now retiring. I would like to take this opportunity to commend him for his professional and military service, and for his spiritual guidance to his community. His presence has provided a sense of continuity to the city of Stamford; his dedication must be continued now by his children and the other younger members of the community. Mr. President, I hope that my colleagues will join me in paying tribute to this wonderful man.●

HISTORIC PRESERVATION IN RED WING, MN

● Mr. DURENBERGER. Mr. President, I want to share with my colleagues the excellent record of historic preservation by the city of Red Wing, MN. This record was noted by Office of Management and Budget Director Richard Darman in the 1991 budget. Darman recognized that the city and Red Wing Shoe Co., one of the cities oldest and most famous employers, utilized Federal rehab tax credits to renovate several blocks of historic downtown buildings. These efforts not only beautify this historic city on the banks of the Mississippi River, but preserve for future generations glimpses of our history. Having personally visited these beautifully renovated structures, I want to share with my colleagues the success story that has taken place in this Minnesota community.

I applaud the efforts of the Red Wing Shoe Co. and the citizens of Red Wing, MN. These efforts were recognized in the March 1990 issue of Preservation News, the newspaper of the National Trust for Historic Preservation, and I request that this article be printed in the RECORD at this time.

The article follows:

[From the Preservation News, March 1990]

"A REMARKABLE CHANGE" IN RED WING

In the midst of the budget's abstract notions and endless detail stands Red Wing, Minn.—a town of 14,000 people on the Mississippi river that OMB director Richard Darman praises for its use of the federal rehab tax credits.

The project Darman notes was carried out last year by the Red Wing Shoe Company, one of the town's oldest and most prominent employers. The company spent more than $4 million to renovate a row of five vacant Victorian commercial buildings into Riverfront Center, which now houses the company's offices and a ground-floor shopping mall. Developed in conjunction with the city, which built an adjacent park, the project made use of the 20 percent rehab tax credit. "It's quite a remarkable change; you'd hardly recognize the old place," says Red Wing Shoe Company President Bill Sweasy, pleased to be a part of the President's budget.

In combination with the shoe company's 1979 restoration of the St. James Hotel across the street and the city's planned restoration of the 1905 Chicago, Milwaukee and St. Paul Railroad depot down the street, Riverfront Center is sparking the rebirth of downtown Red Wing. Charles Nelson, historical architect for the state historic preservation office, lauds Red Wing's recent rehab as "an ultra-high-quality project."●

HONORING THE TOWN OF WEBSTER'S 150TH BIRTHDAY

● Mr. D'AMATO. Mr. President, I rise today to pay recognition to the town of Webster as they celebrate their 150th birthday.

The town of Webster, which was discovered in 1669 by the French explorer LaSalle and became a township in 1840, has prospered in many diverse industries. As did most Monroe County towns, Webster flourished in the earlier days through the use of its land for farming. The staple crop was fruit: apples, peaches, pears, cherries, and cider. Then, in the later part of the 19th century several other industries came to Webster. Through the use of the willow, elm, and oak trees which were prevalent in Webster, a basket factory was established and continued to operate until 1969. There was also a brief period of time when Webster was a producer of silk.

As time has passed and technology has changed dramatically, so too has the town of Webster's prospering economy. Today, two thriving industries which are located in Webster are the Xerox Corp. and Lawyers Cooperative Publishing Co. Both have found a welcoming atmosphere in Webster.

Mr. President, I wish to send my greetings and best wishes to the citizens of the town of Webster as ceremonies take place to celebrate its century and a half existence. I look forward to the town's continuing prosperity and to another 150 years of good fortune.●

THE 50TH ANNIVERSARY OF FELLOW FIREFIGHTER, GERALD CRAMER, SR., HAGAMAN VOLUNTEER FIRE DEPARTMENT, INC.

● Mr. D'AMATO. Mr. President, I rise today to pay recognition to Gerald Cramer, Sr., of the Hagaman Volunteer Fire Department, Inc., who has been an active member for 50 years.

Mr. Cramer has been a dedicated, reliable, and trustworthy member since 1940. Along with being a ready volunteer, he has held the position of treasurer for 13 years which is vital to the running of the company.

Volunteer firefighters are essential to every community. With limited funding available for professional firefighters, the all-volunteer staff becomes increasingly more valuable. Not only has Mr. Cramer given his unselfish time to the fire department but he has been active in other community programs. Mr. Cramer has served as village trustee for 8 years as well as being a member of the Village Youth Commission. It's always a pleasure to salute a fellow firefighter for his community service.

I would like to congratulate this fine volunteer on his 50 years of service and wish him continued good luck for the future.●

MEETING THE NEW CHALLENGES OF THE 1990'S

● Mr. BOSCHWITZ. Mr. President, what a difference a decade makes.

At the beginning of the 1980's, the United States was being challenged around the globe. We faced multiple tests, many of which, I might say, we were not handling very well. We seemed unable to sustain a consistent foreign policy and provide the leadership demanded by our allies and friends. Freedom and democracy seemed to be in retreat almost everywhere.

In Europe, the Soviets were installing a new generation of missiles, the intermediate range SS-20's, in an effort to intimidate NATO and compel our European allies to loosen their ties with the United States. In the Middle East, 52 Americans had already been held hostage for more than a year by Iran's hostile revolutionary government. In Afghanistan, more than 100,000 Soviet troops were brutally attempting to consolidate in power a Marxist puppet government.

In Africa, tens of thousands of Cubans were fighting in Ethiopia and Angola in support of openly avowed Marxist regimes. And in Asia, unrest was brewing in the Philippines and South Korea, while the Communist regimes of Vietnam, Laos, and Cambodia further tightened their grips. Closer to home, the most extreme left-wing elements of a popular revolution in Nicaragua were consolidating their power while supporting leftist guerrillas in neighboring El Salvador, where a violent civil war, accompanied by outrageous brutalities by both sides, was under way.

Our responses to most of these events were perceived to be largely weak and ineffective. Our prestige was at low ebb, and our self-confidence as a nation was in doubt.

The American people responded to these events by voting overwhelmingly for a new President, giving him a mandate to redress our failings. President Reagan seized this opportunity to reinvigorate our national commitment to the causes of freedom and democracy, and to a resurgence of American leadership. He at once set about to restore America's defenses, and Congress responded. Our common determination to rebuild America's armed strength

that took place under his leadership was, I believe, fundamental in convincing the Soviets to bargain seriously about arms control.

Without our new found resolve, I am sure that we would not have achieved either the agreement to eliminate all intermediate range nuclear missiles or the substantial progress we have made to date in moving toward other weapons' reduction agreements. Nor would the incredible march toward democracy occurring almost daily around the world have been possible. The revival of the American spirit and American ideals since 1981 has, in fact, been so successful that a number of the challenges we stand to face in the 1990's will have been caused by our successes in the 1980's.

NEW CHALLENGES

Today, at the beginning of a new decade, we are entering a new era. The postwar period that lasted since 1945 has finally ended. The world is witnessing more change, and more demands for change, than at any time I can recall in my lifetime. A week—sometimes a day—does not go by without news of a development in the U.S.S.R. or Eastern Europe which would have been unthinkable as recently as last summer. As a result, much of the generally accepted conventional wisdom that guided us for 45 years no longer seems applicable.

The Soviet empire is in a state of disarray at the same time that the military threat it poses is receding. Popular discontent in the Communist nations is widespread, as are calls for radical change. The responses to date have produced an unmistakeable trend. Except for Albania, all of the countries of Eastern Europe are in the process of a remarkable and stunning transformation, jettisoning with unprecedented speed the heavy loads of both Communist economic dogma and its totalitarian political system. The Soviet Union itself has set out on a course whose final destination remains uncertain.

Economically, Western Europe and the Asian tigers—Japan, Taiwan, South Korea, Singapore, and Hong Kong—pose immense challenges to us, a situation totally unlike that of much of the postwar past. By the end of 1992, the European Community will be transformed into one megamarket, as national borders become transparent to the movement of capital, labor, goods, and services: one huge free trade zone with a GNP greater than that of the United States. As a result, the Community, with tremendous economic and political clout, will be vying for advantage with us and with the still-booming Asian economies.

Our other major economic concerns in the new era will center around debt and trade. Our own trade deficit, which was almost $119 billion in 1988, comes from our insatiable appetite for imported goods—two-thirds of this deficit is with those Asian tigers.

There is a natural resentment felt by some Americans as we allow these countries' goods to flow freely, in most cases, into the United States, while in many cases our goods are restricted from entering their markets or face anticompetitive practices. For some, the answer has been to call for tightening our own barriers to trade. But I believe that could easily result in higher priced goods for everyone and a shrinking export market for American products. In considering barriers to trade, it can't be forgotten that the United States wins both championships: yes, we are the world's largest importers, but we are also the world's largest exporters. Restraining either will vitally and quickly impact our people.

Our basic trade policy should be based on the strong pursuit of free and fair trade among all nations. It's so often a frustrating pursuit. Yet, there simply should be no artifical barriers to trade. We must continue to demand that other countries open up their economies to American goods, giving us a fair chance to compete. Free trade encourages economic expansion and interdependence, both of which are welcome in today's world. If Third and Fourth World economies are ever to rise above poverty for their people they must begin with the ability to trade, and if America doesn't stand for lowering barriers, no one will.

As for foreign investment here in the United States, much of the fear of foreign ownership is somewhat misplaced. Foreign investments in the United States are really a sign of confidence in our economic health. The net assets of the United States were recently estimated at $15 trillion; that's after the national debt has been subtracted. All foreigners combined own only $0.3 trillion in American real estate and have portfolio investments—stocks, bonds, et cetera—of about $1.5 trillion, about the same as our investments abroad as currently valued. So we're not really in much danger of being taken over. In fact, we have much less foreign ownership here than do many of our trading partners.

For decades—continuing to this day—American firms have invested overseas just as foreign firms now do in the United States. And when these foreign firms come here, they bring new capital, expand our own economy, pay taxes, and provide new jobs. Those are a lot of benefits we shouldn't forego.

If we should have an area of concern, it ought to be over foreign ownership of key industries with national security implications, such as computers and defense manufacturing. Congress recognizes the dangers of this and has already passed laws preventing some of these industries from being sold to foreigners.

If we have problems, they're nothing compared to those of the Third World countries. Debt is the Sword of Damocles hanging over the hopes of the underdeveloped nations. The amounts they owe are simply staggering—$1.2 trillion overall, according to the World Bank. The total debt service of the developing countries—that part of their export earnings that is used to pay off their foreign debt—equals about 47 percent of those earnings. By some calculations, they are actually transferring more money to the developed nations than they are receiving in return. This severely restricts their ability to invest in their own infrastructure and industry—in their own futures. In effect, it pushes them further into poverty and raises the spectre of more instability.

It also curtails their ability to buy foreign—including American—goods, harming our own ability to expand trade. Coordinated multilateral initiatives addressing the investment, financing, and economic problems of these nations are needed to help create the conditions for real growth. The first step should be to constructively rearrange and refinance the bank debt of those Third World countries making market reforms. In return, the banks could receive a form of international guarantees on the remaining amounts owed.

Many of these economic challenges are unprecedented. So are the challenges we face in other fields. Among the most important before us in the 1990's are the global proliferation of nuclear, biological, and chemical weapons; the spread of ballistic missiles and the technology to produce them; terrorism; drugs; and environmental degradation.

DANGERS AND OPPORTUNITIES

The end of one era and the onset of a new one always brings with it both dangers and opportunities. The dangers are in acting in a piecemeal manner to change, without an underlying philosophy that marries strategy to goals. The opportunities lie in having a unifying philosophy and then taking advantage of the always-amorphous shape of the future to move events in directions that benefit stability, freedom, and a more peaceful world.

In the new era, as in the old, the most important specific challenge facing us will come from Soviet Union. But in the 1990's the U.S.S.R. probably could well be considerably less threatening to the West than has historically been true. I am sure that our relationship with the U.S.S.R. will remain central to our national security interests—it will still be the only power on Earth with the potential to

destroy us—but I interpret developments in Moscow as pointing to Mikhail Gorbachev's desire to concentrate on the many internal problems he faces as he attempts to restructure and reform his country's failed economic and political systems.

A Soviet Union primarily looking inward over the next decade would indeed be welcome. It will increase the chances for meaningful arms control across a broad spectrum of issues—nuclear arms, conventional forces, and chemical and biological weapons.

But one must not move to conclusions about the Soviet Union too quickly. It is entirely possible that their turmoil could lead to new leadership and a reversion in policy to confrontation and internal repression. It is even arguable that letting down our guard could hasten or contribute to such a result. So our continuing resolve and preparedness—that did so much to bring us to this point—should not be relaxed.

As we move on these fronts we must decide how to continue our prudent defense in a period of apparent relaxation of tensions. How should we respond to the enormous changes in the Soviet Union and Eastern Europe? How do we keep America engaged in the world?

For starters, we must remember how we arrived at this moment. We did not come to such a period of dynamic possibilities by weakness, but rather through strength and strength of purpose.

NATO is 40 years old and is now at middle age. Like many individuals who reach that milestone, it is assessing both its past and its future. As for the past, NATO's success in securing the freedom of the West since its inception in 1949 in the face of a menacing Soviet Union is undeniable. Its performance in the 1980's was spectacular. This group of 16 nations, operating on the basis on unanimity, stood up to formidable Soviet threats and tactics in the early 1980's, voting bravely and prudently to put new intermediate-range missiles on their soil and pursue disarmament negotiations. This decision led to a treaty that entirely banned these missiles on both sides.

With the great changes of the 1990's, however, especially the perception of decreased from the Soviet Union, the alliance will need to find a way to sustain popular support for its continuing mission. I strongly hope—and expect—that we will succeed in negotiating reductions in the level of conventional forces between NATO and the Warsaw Pact, and in placing both alliances in strictly defensive postures. Yet if that is followed—or preceded—by a mindless orgy of defense budget cuts in the West, our very success in creating a new and safer stability in Europe would be undercut. Let's remember that the Soviets are still spending upwards of one-fifth of their gross national product on defense—more than three times as large a portion of their economy as we are. They haven't disarmed and are continuing to modernize their nuclear forces.

The pressures to cut defense spending are always great and could become political imperatives in the years ahead. Some reduction in spending will be possible if NATO and Warsaw Pact forces are cut, but we should hedge our bets about the permanence of changes in Eastern Europe, at least for some time to come. We'll still have to maintain well-armed and highly trained forces prepared to fight on battlefields that will be dominated by high-technology weapons.

A major lesson of the 1980's was that by investing in defense we can bring about real progress in helping to make the world a safer place. The bipartisan commitment by Congress and President Reagan early in the decade to restore our country's defenses was the major reason that the U.S.S.R. eventually returned to the bargaining table and negotiated the treaty banning all intermediate range nuclear missiles. Without that commitment, I truly doubt whether that historic pact would have been achieved and the process of actually reducing our nuclear arsenals could have begun.

There are those who argue that the likelihood of reduced superpower tensions and new arms reduction treaties are reason enough for dramatically reduced defense spending. Without concluded, ratified, and verifiable treaties that would be a very shortsighted view. But clearly, the question of paying for and maintaining militarily required bases should be a central topic of discussion as we explore further additional burden-sharing with our allies and a reassignment of alliance obligations in meeting our joint responsibilities.

Not all of our allies spend as much on our common defense as they should. Many, in fact, spend half or less of the percentage of their gross national product on defense than does the United States—which spends about 6 percent of GNP on defense. While the allies provide many tangible and intangible assets—such as conscripted soldiers, buildings, land for exercises, and air apace for training—I believe that at a time of general economic growth we should insist that GNP levels allocated to defense be about equal, or that contributions to the United States in return for the presence of our forces bring about that equality.

I say this not only because I beleive it is right to do so, but also because it needs to be done if the United States is to be able to sustain the political will to provide for the adequate defense of our allies. The demand for fairer burden-sharing is a political rallying point that spans the political spectrum in our country. It is a demand that will become ever sharper in the 1990's.

The American people have the right to expect this. As we search for dollars to aid the Third and Fourth World countries and the emerging democracies, much of our expenditures abroad are for the common defense of the United States and the developed nations of Europe and the Far East who must bear more of the burden. They are, in addition, our principal economic competitors. No wonder that they can save more and spend more on research and development. We underwrite their defense costs. This simply cannot continue.

HELPING THE SOVIET UNION AND EASTERN EUROPE

Another issue, one already before us, is the extent to which the West should help to finance reform in the Soviet Union and its former satellites. Overall, I believe it is in our national interest to support the reform effort. As new measures are implemented, the demands for more reform will increase. And the more change that is actually made the more difficult it will be to go back.

The U.S. economy will benefit from increased trade with the reforming nations. The Soviet Union, for example, is a vast, almost untouched market for our goods. Opening it up will result in the creation of enormous new opportunities for our businesses and thousands upon thousands of new jobs here at home.

This doesn't meant that we should respond indiscriminately. We will want our visible support for reform to be tied to visible actions—for example, specific evidence that resources are being shifted from the military to the consumer goods and light industrial sectors of their economy, and shifts in Soviet foreign policy in such areas as Central America—something that, despite all their public rhetoric, the Soviets have yet to do. Greatly expanded opportunities for private enterprise and a realistic price system are other actions that would provide real indications that Gorbachev intends to fundamentally recast the Soviet Union, and would provide the firmest foundation for expanded United States involvement. In short, we shouldn't act to prop up the Soviet system but to help it evolve toward pluralism and open markets.

Providing aid to Eastern European nations which adopt major reforms is also a step we should willingly undertake—and one which we've already started to act upon. In conjunction with our allies, we need to devise programs laying out specific markers for these countries, with the explicit understanding that if repression returns

or centralized economic controls are reasserted the aid would stop.

AN ISOLATIONISM FUTURE?

A potentially less threatening Soviet Union raises the possibility that there may be a resurgence of isolationism in the United States. In practical terms, this would come about by large congressional cuts in both the defense and foreign assistance budgets.

Historically, we Americans have been attracted by arguments advocating our withdrawal or aloofness from foreign affairs. There was a time earlier in our history when such arguments had some merit. But that time is long past. Nevertheless, they have had a great impact even in this century.

After World War I, isolationist arguments succeeded in preventing us from joining the League of Nations. In the long-term, this crippled the League and removed us from active participation in efforts to promote global stability. Without an active American presence in world affairs, the long slide toward World War II came about all the more easily.

Today, in the age of intercontinental missiles and economic and political interdependence, we can't afford to dissasociate ourselves from the world around us—doing so can jeopardize our freedom. In the 1980's, the United States reasserted itself as an active player on the world scene. Now, with the international situation more complex than at any time I can remember since 1945, it is imperative that we remain actively engaged and spend the money on international affairs that must be appropriated, despite the political unpopularity of such a stance. To do otherwise means removing our weight from the international scales, inevitably leading once again to increased global unrest.

One way we stay involved in world affairs is by supporting the spread of democratic governments and free economic institutions. Freedom made a roaring comeback during the 1980's. Its triumphs have been truly startling, its attractions universal. During the decade, not one country—not a single one—was lost to dictatorship. The list of new democracies that emerged—other than in Eastern Europe—is remarkable. It includes virtually all of South America—Brazil, Argentina, Peru, Bolivia, Ecuador, Uruguay, Paraguay, and Chile—most of Central America—Nicaragua, Honduras, El Salvador, Guatemala, Belize, Panama, and Grenada—and other significant countries such as Turkey, Korea, Pakistan, Taiwan, and the Philippines. Many of these victories would not have been possible without American support.

The appeal of the free enterprise system has been just as successful. The incredibly vibrant free market economies of the world look more attractive now than ever before. It's no surprise that those countries making the most progress in improving the lives of their people have also allowed the greatest amount of individual initiative and private enterprise and the greatest measure of civil and political liberty.

While American support can not guarantee that efforts to extend freedom's reach will succeed, the absence of our support may very well cause such efforts to fail.

A WORD ABOUT BACK HOME

Dealing with the substantive issues of foreign policy will, of course, be crucially important to our success in the 1990's. But the process by which that policy is made can be just as important. The greatest task facing Congress and the President in this regard is to reestablish the bipartisan consensus that served us so well in the two decades following World War II. This consensus, which led to the creation of NATO and the Marshall Plan, broke down under the strains of Vietnam and Watergate.

Ever since, Republicans and Democrats have been engaged in that contentious bickering and wrangling over foreign policy that has continued, with only a few notable exceptions, to this day. One major result of the breakdown was that Congress became, and remains, as assertive and willing to take the lead in foreign affairs as at any time in our history.

The President and Congress need to establish a new bipartisan compact, one respecting the interests and prerogatives of both branches of Government. The administration should commit itself to talks with Congress early enough in the policymaking process so that the latter's concerns can be taken into account before policy is finalized. Otherwise, legislative action interfering in or refusing to pay for the policy could result.

For its part, Congress should commit itself, in return for close consultations, to significantly reduce the amount of meddling and micromanagement it currently engages in.

President Bush has committed himself to a bipartisan exploration of the issues and he has made substantial efforts to include Congress in the formation of foreign policy. I look forward to continuing—and participating in—this process.

IN CONCLUSION

The 1990's will present us with extraordinary challenges and opportunities in international affairs. Our ingenuity and wisdom will be tested during the decade to an extent not seen since the late 1940's. I am optimistic about our ability to respond in ways that attain our objectives and further peace and stability. Maintaining our commitments to freedom and democracy and building a bipartisan foreign policy will be among the keys to our success. If we stay on this course—and I deeply believe we must—we will be able to meet the future with confidence in ourselves and our ability to reach our goals as a united people.

ADDENDUM

My first job in politics was as Richard Nixon's State chairman in his Presidential campaign of 1968. His opponent was Hubert Humphrey and I have often said that as a relative newcomer to Minnesota, I arrived in October 1963, I was the only person the Republicans could find. In any event, from never having attended a political meeting, I was suddenly catapulted to a State chairmanship.

I freely admit that I stuck with Nixon too long. As I tried to rebuild our party throughout Minnesota in the 1970's I attended scores and scores of meetings thinly attended because of Watergate. It was a hard time that did not endear him to me.

But he was—and remains—a keen and shrewd observer of the world scene, and the attached speech that he gave about Gorbachev is very much worth reading. I ask that it be printed at the conclusion of my remarks.

The speech follows:

[From the Washington Times, Jan. 31, 1990]

BY WHAT HONORIFIC IN THE YEAR 2000?

(By Richard Nixon)

(Comments by former President Richard Nixon at Time Magazine's recent Man of the Year dinner, which this year celebrated the selection of Mikhail Gorbachev as Man of the Decade.)

Since this is Time's Man of the Year dinner, I would like to share with you my evaluation of Time's Man of the Decade—Mikhail Gorbachev.

Because my views differ in several respects from the conventional wisdom reflected in Time's excellent cover story, I would first like to indicate the areas where we agree.

Gorbachev is the most enlightened Russian leader of this century and possibly in Russian history. He is the best-educated Soviet leader since Lenin. He earned a bachelor's degree in law. He was born with a master's degree in public relations.

He is by far the most popular leader in Europe, and among America's elite intellectuals, those with postgraduate training, he is even more popular than George Bush—one of America's most popular presidents.

Let me now turn to areas where I do not share the conventional Beltway wisdom. One highly respected major publication tells us what Gorbachev's goal for the Soviet Union is "an economically and politically liberal regime without any expansionist ambitions." You might reach that conclusion from some of the things he has said and done. But we should always bear in mind three hard facts in appraising his actions.

Gorbachev is a true-believing communist. His goal is not to abandon communism, but to save it.

He is a proud Russian nationalist with the same goals for his country that Russian leaders have had for centuries before Lenin.

He is a brilliant, pragmatic political leader who likes power, knows how to use it and will do what is necessary to keep it.

With these facts in mind, let us examine what he has done. His political reforms, glasnost and democratization, have been an enormous success abroad and have produced a less repressive society for many people in the Soviet Union. While inadequate by Western standards, they are revolutionary when compared with what the Russian people had before.

Where there was no freedom to criticize the government, now there is some.

Where there was no freedom of the press, now there is some.

Where there were no free elections, now there are some. We must keep that in context, however. Two-thirds of the recent elections were rigged. While some communist officials lost their positions, Gorbachev strengthened his. He is now the most powerful Soviet leader since Stalin. He has replaced all of the Politburo members appointed by Brezhnev. He has replaced 80 percent of the members of the Central Committee. He has changed 15 of the 16 heads of the Soviet republics.

In my Kitchen Debate with [Nikita] Khrushchev in 1959, the man standing next to Khrushchev was Leonid Brezhnev. Five years later, Brezhnev led the coup which removed Khrushchev from office. That won't happen to Gorbachev. [British Prime Minister William] Gladstone once said that the first requisite of a prime minister is to be a good butcher. Gorbachev is a good butcher.

While Gorbachev's political reforms would have to be rated as a success, his economic reforms, perestroika, have been an abject failure. The rhetoric has been impressive: support for joint ventures, cooperatives, decentralized controls and even some kind words for a market economy. The results have been dismal. For example, in the 10 years of the economic reforms of Deng Xiaoping, Time's Man of the Year in 1978 and 1985, the per capita income of the Chinese people doubled. In the three years since Gorbachev initiated his perestroika reforms, the per capita income of the Soviet people has gone down and the prospects for the future are no better.

While his economic reforms have been a failure, Gorbachev's foreign policy has been a brilliant success. He withdrew the Red Army from Afghanistan and played a role in getting the Cubans out of Angola and the Vietnamese out of Cambodia. He has announced major cuts in his defense budget and in his Warsaw Pact forces. Most significant, he has renounced the Brezhnev Doctrine and has stood aside while his Soviet clients in Poland, Hungary, Czechoslovakia, East Germany and Bulgaria have been driven from office.

Rather than just applauding what he has done, let us examine why. In 1985 in Beijing, I asked General Secretary Hu Yaobang if he thought Gorbachev would follow Deng's example and reform the Soviet economy. He smiled and said, "I don't think so. But if he doesn't, the Soviet Union will disappear as a great power in the 21st century." He was right, and Gorbachev knows it.

Look at what Gorbachev confronted when he moved into the Kremlin five years ago. Everywhere he looked he saw communism in crisis. His Third World clients were all losers. Cuba, Nicaragua, Angola, Ethiopia and Vietnam cost him billions of dollars in subsidies. Afghanistan was costing lives as well as money.

All over Eastern Europe, sullen, explosive dissent was boiling beneath the surface. Communism had produced stagnation, not progress. And as a result of the communications revolution, the people in Eastern Europe knew how much better life was in Western Europe.

Most ominous, the Soviet economy was a disaster area plagued with corruption, inefficiency, shortage and alcoholism and was falling further behind the West at an alarming rate.

Abroad, Gorbachev found that all of the great industrial powers in Europe and Asia were aligned against him. Most disturbing, he saw that his major potential adversary, the United States, had recovered from the malaise of the late '70s and the recession of the early '80s, had a booming economy, a stronger military, a stronger foreign policy and a new initiative, SDI [the Strategic Defense Initiative], which would cost the Soviet Union billions of dollars it did not have just to keep up. Gorbachev is a true-believing communist, but he is no fool. His pragamatic side took over from his ideological side. He decided that he had no choice but to reform at home and retrench abroad.

We have examined what he has changed. Let us see what he has not changed.

His much-publicized cuts in defense have had a dramatic effect in reducing the Western fear of Soviet aggression. But he is still spending 20 percent of his GNP on defense, compared with 6 percent in the United States. He has modernized all three legs of his nuclear triad with new weapons on land, sea and air. His superiority, after his cuts, in conventional and chemical weapons is still overwhelming. The Soviet military is leaner but stronger today than when Gorbachev came to power five years ago.

In foreign policy, he received great credit for withdrawing the Red Army from Afghanistan. But his puppet communist government in Kabul is still in power and receives $4 billion a year from the Soviet Union to keep it in power. His Soviet clients still rule Angola, Ethiopia and Cambodia. He provides arms to North Korea and Libya, who threaten their neighbors with aggression and who along with Iran are the major exporters of terrorism in the world.

He provides $6 billion in arms and aid to [Cuba's Fidel] Castro, who ships Soviet arms to Nicaragua who in turn supply arms to the communist rebels fighting against an elected non-communists government in El Salvador. For Gorbachev to claim that he does not know this is happening is ludicrous. The Soviet Union has its weaknesses. But it would be stupid to assume that the KGB is as impotent as our CIA in finding out what is going on in communist countries.

The conventional wisdom is that Gorbachev deserves the primary credit for inspiring and encouraging the revolts against communists regimes in Eastern Europe. The truth is that it was Western values, contrasted with the failure of communist ideas Gorbachev still upholds, which brought millions into the streets of the great cities of Eastern Europe.

Gorbachev had a choice. He could implement the Brezhnev Doctrine and try to keep his clients in power by force, as Khrushchev did in Budapest in 1956 and Brezhnev did in Prague in 1968, or he could take credit for developments he might not have liked but could not contain.

Again, the pragmatic politician took over from the Communists Party ideologue. To do what was necessary to keep unpopular puppets in power in Eastern Europe, he would have aborted his brillant diplomatic blitzkrieg to psychologically disarm his potential adversaries in Western Europe. In a nutshell, he had to choose between Eastern Europe and Western Europe, and he chose Western Europe. He decided that developing better relations with Western Europe and the United States whose assistance and cooperation he needed to rebuild his shattered economy, was more important than trying to hold on to the rebellious populations of Eastern Europe.

What we are seeing under Gorbachev is a profound shift in Soviet priorities. For almost 70 years, Soviet domestic policy served Soviet foreign policy. Now Soviet foreign policy must serve Soviet domestic policy. Whether it is defense, arms control, Eastern Europe or the Third World, Gorbachev's first priority is to do what is necessary to rescue the Soviet economy from terminal illness.

By disarming the West psychologically he removed the fear—the glue that holds the Western alliance together and that provides the justification for adquate defense budgets. This enables him to safely reduce his huge defense budget and to apply the proceeds to desperate domestic needs. By projecting a being image abroad, he increases his chance to get the credits, aid and technology he needs to revive a sick economy.

This brings us to the crucial question: Should we help him? The answer is yes, but only if it serves our interests as well as his. Gorbachev has changed since the days when he routinely supported Brezhnev's policies. But it is a change of the head, not the heart. At a time he is using his head, we should not lose ours. As long as his ultimate goal is to make life better for the Soviet people, we should help him, provided his reforms go far enough to work. But if ultimately as a result of successful reforms we will face an economically stronger Soviet Union pursuing the same traditionally aggressive Soviet foreign policy, we should not help him. We would, in effect, be subsidizing our own destruction.

Let's look at some specific examples.

Gorbachev's current reforms will not work unless they are radically expanded. Trying to bail out a fatally flawed policy does Gorbachev no favor just as a banker does a borrower no favor by making him a bad loan. If you doubt that, ask Mr. Campeau. As Andrei Sakharov put it, "In the absence of radical reforms, credit and technological aid will only prop up an ailing system and delay the advent of democracy."

Even if the reforms go far enough to work, the success of perestroika is not in our interest unless Soviet foreign policy becomes less aggressive. For example, continued Soviet support for anti-American regimes in Cuba and Nicaragua and for communist rebels in El Salvador is not acceptable. Gorbachev must be made to understand that Central America, for us, is a neuralgic issue. Our policy should be absolutely uncompromising. Any sale of arms to an anti-American regime in the Western Hemisphere will not be tolerated.

Unsubsidized trade in non-military goods serves both our interest. Subsidized trade does not. Providing credits for the purchase of consumer goods would, in effect, help finance perestroika. It is in our interests and in Gorbachev's interest that he have no choice but to finance perestroika by cutting his swollen defense budget and the costs of his foreign adventures.

Arms control that contributes to stability serves both our interests. Our first priority should be the mutual reduction in conventional arms for two reasons. First, the Soviet superiority in conventional arms is

the major reason we need nuclear arms. Second, reductions in conventional arms will save far more money than reductions in nuclear arms. Under no circumstances should we make unilateral cuts in our defense forces. Gorbachev can afford to do so because he still has superiority. We should seek to negotiate mutual agreements which will eliminate that superiority.

Will Gorbachev last? In view of the failure of his economic reforms and his current problems in the Baltics and Azerbaijan, speculation is increasing that he cannot survive in power. I disagree. Gorbachev may not be an ordinary communist or an ordinary Russian nationalist, but he most certainty is an extraordinary politician. I believe that as a pragmatic politician, he will do what is necessary to survive. Ironically, this could mean that he will last not because his reforms succeed but because he will back away from them if carrying them out threatens his power.

Let us put the momentous events of 1989 in historical perspective. We are entering the most exciting decade of the 20th century—more exciting even than the two decades in which the bloodiest wars in history, World War I and World War II, were fought. We can be thankful that we will be waging peace, not war. But we must recognize that the challenge of winning the peace will be even greater than the challenge of winning a war. On all sides, we hear the Cold War is over. It would be more accurate to say that the Soviets have lost the Cold War but the West has not yet won it.

1989 was a heady year of victory without war for the forces of freedom without war. 1990 will be a much tougher year because, as history tells us, waging a successful revolution, while difficult, is not nearly as difficult as governing after winning a revolution. Revolutionary leaders are seldom good nation builders. Revolutionary leaders must destroy. Those who govern must build.

Our historic challenge is to join with our allies in the Free World in doing what is necessary to make sure that the high hopes of the millions in Eastern Europe who cast their lot with freedom in 1989 are not dashed when they encounter the hard realities of building free democratic societies in 1990.

In his book "Great Contemporaries," Winston Churchill observed that Lord Roseberry, a 19th century British prime minister, had the misfortune to live in a time of great men and small events. World leaders today have the good fortune to live in a time of great events. They have a historic opportunity to rise to the level of those events.

This brings us back to Gorbachev. He faces superhuman challenges. But if he has the courage, the wisdom and the will to lead his people away from aggression abroad and enables them to enjoy the blessings of freedom at home, TIme's cover story in the year 2000 will hail him not just as the Man of the Year or the Man of the Decade. He could be the Man of the Century.●

NATIONAL VOLUNTEER WEEK

● Mr. GRASSLEY. Mr. President, I rise today in recognition of extraordinary men, women, and children across this Nation who decide to give something back to their communities. Volunteers who devote their time and energy toward the simple ideal of making a difference where they live deserve our recognition and gratitude. National Volunteer Week, which is April 22 to 28, 1990, is an excellent opportunity for Americans who live in a far too often "me-oriented" society to say thanks to those who instead think of "we."

"Volunteers Shine On" is this year's theme to National Volunteer Week. With pride, 80 million civic-minded Americans can look to their collective efforts and say unequivocally that they have made this a better country. Their work rarely captures headlines, but quietly and effectively volunteers are continuing the American tradition of caring for others. They are fighting crippling diseases, spending important time with our youth, joining in the war on drugs, keeping neighborhoods safe, and helping needy veterans, homeless, disabled, and elderly. These are but a few of the many diverse ways that volunteers serve their fellow man in this country.

Without profit or recognition, volunteers give of themselves. It would be easier for them to do as others do and look to the Government to solve every problem. But, volunteers know that is impractical and uncaring. Government alone cannot solve all of our society's problems because of their magnitude and nature. We need volunteers to help where Government cannot, to be there after Government agencies have closed for the day, and to provide the love and caring that Government can never provide. America needs volunteers and, thankfully, many have answered the call to service. Hopefully, many more will see that they, too, are needed and will volunteer in the future.

Heroes do exist in America in 1990. While we are too often bombarded by tales of greed, volunteers are shining on across America and making this a better place to live. People helping people is what America is really about. I am pleased that 80 million Americans have not forgotten that. I am proud to add my support to National Volunteer Week. Volunteers shine on.●

EXCLUSION OF ISRAEL FROM NAMIBIAN INDEPENDENCE CEREMONY

● Mr. INOUYE. Mr. President, on March 21, 1990 the new nation of Namibia gained its independence after over 70 years of rule and administration by South Africa. The United States played a substantial role both diplomatically and financially in obtaining independence for Namibia. We provided the lion's share of funding for U.N. peacekeeping forces which administered the election process under U.N. Resolution 435. We spent years focusing on the independence of Namibia as a priority in our foreign policy in Africa.

We are very pleased to know that the election process went smoothly and was certified free and fair by the United Nations. The Namibian people have enacted a constitution which is perhaps the most democratic in all of Africa and their economic and political future looks bright.

However, many of us in the Congress were surprised and saddened to see Yasir Arafat promoted as a head of state in the independence ceremonies. Even more disturbing is the fact that the only country in the world which was not invited to the independence ceremony was Israel.

As Namibia is seeking substantial foreign assistance funds from the United States, many of us in the Congress will be watching and assessing how Namibia treats our allies and other democracies. Our priorities will need to be focused on assisting countries which espouse democratic ideals and policies in their foreign policy as well as at home.●

THE 20TH ANNIVERSARY OF EARTH DAY

● Mr. DODD. Mr. President, I rise today to express both my concerns about the state of our environment and my optimism about Earth Day 1990.

First, I extend my compliments to those persons—numbering in the thousands—who have donated their talents and time to the various Earth Day events taking place across the Nation this weekend. The anticipation here in Washington on the eve of Earth Day is palpable, and with good reason. The original Earth Day precipitated landmark legislation and yielded positive long-term results. If scale is any indication of success, the benefits reaped from this year's celebration should be unprecedented.

But let us not rest on laurels which have yet to be earned. The environmental situation facing us today is critical. We have, in the past two decades, been confronted with a global warming trend known as the greenhouse effect. We have witnessed an alarming number of oilspills, including the tragedy which continues to unfold in Prince William Sound, AK. Automobiles, and the toxins which they emit, have proliferated over the past 20 years. And we have watched significant portions of rain forests decrease and, with them, our overall supply of oxygen.

It is fitting, then, that the scope of Earth Day is as vast as the problems which we have left to solve. While we can point to substantial new legislation to further cleanse the air and provide compensation in the event of oilspills, we must redouble our efforts to write the laws—and enforce the laws—that will safeguard our environment.

Yet congressional measures are not enough. We must heighten public awareness on these issues and the actions each individual must take to preserve our planet. All citizens should be mindful of the importance of recycling glass, paper, and aluminum; the need to conserve precious resources such as trees, water, and fossil fuels; and the pressing need to make corporations accountable for environmental abuses.

Finally, we must accept the reality of our environmental interdependence within the world community. Unless we persuade our international neighbors to tackle their own environmental issues, phenomena such as the greenhouse effect, acid rain, and a shrinking supply of oxygen will continue to worsen. Thus, I advocate the development of international organizations to foster greater environmental cooperation, including technology transfers, among nations.

Mr. President, I am optimistic that we can reverse the environmental degradation of the 20th century, so that our descendants might survive the 21st century. As has been previously said: "We do not inherit the land from our parents, we borrow it from our children." Let that be the motto of Earth Day 1990.●

ST. BARNABAS MEDICAL CENTER

● Mr. BRADLEY. Mr. President, St. Barnabas Medical Center, in Livingston, NJ, is celebrating the 125th year of its founding. I ask my colleagues to join me in congratulating St. Barnabas for its many years of service to the people of New Jersey.

St. Barnabas has long been at the forefront of medical science. The first kidney transplant in New Jersey was performed at St. Barnabas, and the medical center is nationally recognized as a leader in the treatment of end-stage renal disease and transplantation. St. Barnabas Medical Center has become one of the five leading gynecologic oncology centers in the Northeast, and its radiation oncology department is recognized throughout the region for its treatment, training, and research programs. St. Barnabas Burn Center is New Jersey's certified burn unit, and has provided care, comfort, and cure to burned residents from throughout the State.

Since 1880, St. Barnabas had educated young physicians. Generations of physicians have benefited from the state-of-the-art technology and expertise that is available at St. Barnabas Medical Center.

But most importantly, St. Barnabas provides thousands of New Jerseyans each year with the highest quality of medical care. All New Jerseyans can take great pride in the many achievements of St. Barnabas, and great comfort in the knowledge that one of our Nation's premier medical centers is available to all of our citizens.●

AILTON KRENAK AND UNION OF INDIAN NATIONS OF BRAZIL RECEIVE ONASSIS INTERNATIONAL PRIZE FOR MAN AND SOCIETY

● Mr. WIRTH. Mr. President, as we are now celebrating Earth Week, I think it appropriate that I draw to the attention of my colleagues the award last week, in Athens, Greece, of a major international prize to a remarkable champion of the environment, Ailton Krenak of Brazil, and the Union of Indian Nations.

I should explain, Mr. President, that every year the Onassis International Prizes Committee awards four prizes, of $100,000 each, for achievement in several fields.

This year the Onassis Prizes, made possible through the generosity of the Alexander S. Onassis Public Benefit Foundation, were given to four worthy recipients: United Nations Secretary General Javier Perez de Cuellar, the Goulandris Museum of Natural History in Greece, the city of Warsaw, and the Brazilian Indian leader, Ailton Krenak, and the Union of Indian Nations.

The city of Warsaw, Poland, was honored for its brick-by-brick reconstruction of the city center, devastated in World War II; United Nations Secretary General Javier Perez de Cuellar, for his leadership in reinvigorating the United Nations; and the Goulandris Museum of Natural History, Athens, for helping preserve the natural environment of Greece.

Mr. President, I draw particular attention to the award of the Aristotelis Prize for Man and Society to Ailton Krenak, a 36-year-old Brazilian Indian, and the Union of Indian Nations, which he helped found, and now leads, for their extraordinary work to protect both the indigenous Indian peoples of the Amazon region of Brazil and the rain forests in which they live.

I note also, Mr. President, that the Aristotelis Prize was awarded on this occasion, April 5, 1990, in the Old Parliament Building in Athens, by our distinguished former colleague in the House of Representatives and now president of New York University, Dr. John Brademas.

Mr. President, I ask that the text of Dr. Brademas' statement followed by the text of Mr. Krenak's statement be printed in the RECORD.

The statements follow:

LAUDATION OF AILTON KRENAK AND THE UNION OF INDIAN NATIONS—ONASSIS PRIZE FOR MAN AND SOCIETY—ARISTOTELIS 1990

(By Dr. John Brademas, Athens, Greece, Apr. 5, 1990)

LIFE OF AILTON KRENAK

You have been a resourceful, courageous leader in the effort to protect both the indigenous peoples of the Amazon region of Brazil and the rainforests that are their homes.

The story of your tribe—the name of which you have taken as your own—is one of struggle for survival. Late nineteenth century wars against native peoples decimated your tribe until only 600 were left. In the 1960s, German colonists cut down the forests, built sawmills and began to pasture cattle, driving your parents from their traditional home on the border between the States of Espirito Santo and Minas Gerais.

Undaunted, you then went to Sao Paulo to get an education, learn the language of white Brazil—Portuguese—and to study graphics.

Understanding that the tragedy of your people was common to other Indian tribes, in 1981 you became a founder, and then leader, of a movement to empower the 180 indigenous tribes of your vast country. These tribes occupy a region nearly as large as the United States. Separated by culture, language and social organization from the larger Brazilian society, they have lived a history of oppression at the mercy of explosive demands for economic growth and development. Many native peoples continue to be threatened with loss of their lands, resources and their basic rights; many others, with annihilation.

ACHIEVEMENTS OF AILTON KRENAK

Under such circumstances, and despite lack of support from government, business and mining interests, you have become the first indigenous leader in Brazilian history to unite Indian nations and gain them their political rights.

With eloquence and vision, you have brought to international attention the plight of indigenous peoples and the fragile ecosystem in which they live. You have thereby earned respect for your cause both within Brazil and around the world.

You were the only Indian leader invited to address the constitutional convention that in 1988 drafted the new, democratic Constitution of Brazil. With great skill, you were able to persuade the drafters to include language demarcating land and resource rights for native peoples. Knowing that in order to be effective, constitutional provisions require enabling legislation, you founded the Nucleus for Indigenous Peoples—a consortium of jurists, educators and scholars—to draft and promote the legislation to ensure these rights.

THE UNION OF INDIAN NATIONS

Your accomplishments, and those of the union you lead, are inseparable.

An articulate spokesman for the aspirations of the Indian peoples, translator of their hopes into an effective political force, you insist that rights and protection for indigenous tribes can come only from an independent national effort. Although others have spoken on behalf of native tribes, the organization you now head is the first in Brazilian history to be led by indigenous people themselves.

With the recently assassinated leader Francisco "Chico" Mendes Filho and his group of rubber tappers—inhabitants of the rainforest who have had a bloody, adversarial relationship with the Indians—you and your union have formed an Alliance to work on issues affecting the use of the land and resources of the Amazon. The Alliance of the Peoples of the Forest, established in 1985, has become a significant political advocate for protection of the region.

Arguing that your people have been deprived of access to the science and technology necessary to preserve the Amazonian area, you and your organization have set up a Special Program to teach Law and Biology and a Center for Indian Research and Training on Resource Management.

You have attracted technical assistance from both government and universities for a project to reclaim degraded lands through production and marketing of fruit, ranching of wildlife and farming of fish. The project will join native resource management with scientific and technical expertise both to enhance the Indian community and preserve the fragile environment.

Training Indians to develop and protect their culture, lands and other natural resources is essential to the survival of the native peoples and of the forests they inhabit.

AWARDING OF THE ARISTOTELIS PRIZE TO KRENAK

The Aristotelis Prize of the Onassis Foundation is awarded annually to "individuals or institutions who have made a notable contribution to the solution of crucial problems of contemporary society."

It is now widely understood that the degradation of unprotected land in countries like Brazil has an impact far beyond national borders—disrupting normal patterns of weather, ocean levels and the biological genetic pool. Saving the Amazon rainforest from mass destruction has become a critical issue to persons all over the world.

You once said:

"We have lived in this place for a long time, a very long time, since the time when the world did not yet have this shape. We learned with the ancients that we are a tiny part of this immense universe, fellow travellers with all the animals, the whole, we cannot neglect or destroy our home. And now we want to talk to those who cannot yet manage to see the world in this way, to say to them that together we have to take care of the boat in which we all are sailing."

It is for your many personal accomplishments as well as those of your organization in protecting both the indigenous peoples and the rainforests of Brazil that the Aristotelis Prize for 1990 is awarded to Ailton Krenak and the Union of Indian Nations.

ACCEPTANCE SPEECH OF AILTON KRENAK

Prime Minister, Ladies and Gentlemen, the Onassis Foundation award is timely in the sense that it helps to project a work being developed in the past decade involving thousands of people from all the regions of Brazil. I thank you for understanding and recognizing the work of the Union of Indian Nations and of Ailton Krenak. I believe that it is crucial to bring to public knowledge the fact that we were able to build an alliance to confront the aggressive and predatory type of development oriented to our regions, and more particularly to the Amazon rainforest, where most Indians in Brazil live. Ten years ago, a group of us went to all Indian regions to talk to the chiefs and shamans about our preoccupation with the violence our people were having to confront. From these conversations the Union of Indian Nations was born, uniting the struggle of a population of about 300,000 Indians spread throughout the large Brazilian territory. These groups have diverse stages of contact with the Brazilian society, ranging from 500 years to 2 years or no contact at all.

PROBLEMS FACING INDIGENOUS PEOPLE IN BRAZIL

For a long time, neither the environmental question, nor the human rights issues known today were problems that concerned our people. Both questions began to gain significance as we were faced with increasing violence and an occupation that was foreign to the traditional peoples' ways. The so called progress that we have seen has meant constant aggressions to nature and the habitat of thousands of small communities that had nothing to do with the national market or the global economy. They had their own economy sustained by a practice of taking from nature and giving back to it—essential elements for a balanced relationship.

SAVING THE AMAZON

Until the 60s, the Amazon was a region occupied by traditional people: Indians, riverine communities, rubbertappers and other groups who lived exclusively from the forest. In the last 30 years the concepts of development and progress were transformed into a national campaign to integrate this region of the world, the Amazon, to the international market and the modern economy. It is clear that to integrate the Amazon into the international market, one had to think about the people who lived there. And this was forgotten. It didn't occur to the Brazilian government, to the planning institutions, to the World Bank, to the European Economic Community, to the private banks and corporations that there were people living in the Amazon for thousands of years. Disregarding that, they planned and carried out policies along 20 years that resulted in a huge social tragedy.

It is very difficult to find anyone in the Amazon today who knows exactly where he is. You find farmers burning ecological reserves, gold miners extracting gold from Indian areas, Indians kicked out into the cities, rubbertappers living in the slum peripheries, and governments implementing dams, roads, and railroads in the middle of the forest. What you do not see at all is a problem directed to the population, a program which admits that human beings exist, that a great cultural diversity exists, that there is a tremendous wealth in the habitats of rivers, forests, and mountains that cannot receive a homogenous treatment. And there are no programs that comprehend this diversity.

UNION OF INDIAN NATIONS ACTIVITIES IN AMAZON

What the traditional populations of the Amazon are doing today is seeking to express their own projects. They are counterposing these projects with the global strategy of development—the one that includes hydroelectric dams, mining companies, railroads and highway construction companies, but that always excludes the local population, in the name of whom these things are being done.

Up until now, the access to technological knowledge has been denied to our people. The techno-scientific practices imposed by the western society have been one-sided, excluding cultural exchange and dialogue. As a consequence, Indian people and the other forest people have watched the destruction and abuse of their homelands, unable to attend to the urgency with the same intensity. Only by having access to this new technology, combined with our traditional knowledge of our territories, we can hope to build a strong front to stop the devastation and reverse the process.

UNI's priority today is to provide this opportunity to Indian people, so that they can better control the resources of their territories and become economically independent, while maintaining the forest resources intact. UNI has founded, in 1989, the Special Program for training Indian people in Law and Biology. It has also implemented the Center for Indian Research and Training on Resource Management, the Nucleus of Indian Rights in Brasilia and continues to develop the Nucleus of Indian Cultures and the Indian Radio Program functioning at the recently inaugurated Embassy of the Forest Peoples in Sao Paulo.

NEED FOR CONCERTED ACTION TO SAVE THE AMAZONIAN FORESTS AND PEOPLES

The efforts to find answers must not exclude the population of the large urban centers. It is their demands that determine the speed of consumption of the remaining natural resources of the planet, frequently only found in areas far removed from their immediate reality. If the population of the world's metropolises became involved in the search for alternatives to the destruction of natural resources, we would have a much better chance to reverse this process that has been destroying the sources of life.

All of us have the memory of one day when the world could support all of its population. To feed us, to care for us, to put us to sleep with the songs of the birds, the rivers, the waterfalls, the forests and the seasons. When each season taught us the right time for each activity. Were we an underdeveloped world then? Was it for this that the international institutions were created, to silence the birds, to cut down the forests and to destroy the rivers? Is that the perspective that we have for future? Can it be that the day we are able to transform the planet into a large desert we will be developed?

This is the concern that I bring, not as my personal preccupation, but as the feeling of my people, of the communities that are dreaming and struggling to live in a better world. We don't want to survive. To survive is not enough. Either you live or you don't live. A surviver is someone who is between the dead and the living. We want life. We want to fight for life, we want to work for life. When a people experiences life and holds the memory of life it will not accept to survive.●

UTAH STATE UNIVERSITY WILDERNESS SYMPOSIUM

● Mr. HATCH. Mr. President, while there are countless positive efforts being taken across the Nation to celebrate the 20 anniversary of Earth Day, one in my State is particularly noteworthy.

Utah State University, in Logan, is the official sponsor of a 2-day symposium. The topic is "Wilderness Areas: Their Impacts." The dual sponsors for this event are the USU College of Natural Resources and the Cooperative Extension Service.

The effort to address this controversial issue is important. Wilderness affects the lifestyle of Americans today and those who will live in our country in the future.

The two sponsoring entities have made major efforts to bring together

nationally recognized wilderness researchers, administrators, and interest groups with a variety of perspectives on April 19 and 20.

There are and will continue to be polarized views about wilderness, but the Utah State University Natural Resources Week symposium provides an important opportunity for the airing of carefully gathered and interpreted information and a setting where legitimate questions can be raised and answered. Out of this worthy effort, perhaps those affected, both positively and negatively, can come to understand the views of others regarding wild lands of western America.

I commend Utah State University for undertaking this important Earth Day symposium and other activities during the Utah Natural Resources Week designated by Utah's Gov. Norm Bangerter.●

TRIBUTE TO REV. RALPH DAVID ABERNATHY

● Mr. WIRTH. Mr. President, I would like to take a moment to pay tribute to the Reverend Ralph Abernathy, the renowned civil rights leader who, along with the Reverend Martin Luther King, Jr., led the crusade for integration in America. A pioneering spirit in the fight against discrimination, Abernathy became a major force in advancing the cause of racial equality. His devotion to the dream of integration of all mankind guided his life efforts.

Few people can equal the courage and conviction of Reverend Abernathy, himself the grandson of a slave. Despite adversity, harrassment, personal attacks and numerous arrest, Reverend Abernathy continued to lead the struggle against ignorance and hatred. Ours is a better world because of his tenacious efforts. I mourn the passing of this inspirational leader and the legacy he leaves behind. Let us not forget his significant contributions but continue to work to see them fulfilled.●

THE FOUNDATION OF WESLEY HOMES HONORS DEAN RUSK

● Mr. FOWLER. Mr. President, I want to commend the Foundation of Wesley Homes, now celebrating its 25th anniversary, for its extraordinary service and commitment to the elderly citizens of Georgia.

Wesley Homes is a not-for-profit organization that runs 10 residential facilities thoughout Georgia offering services to seniors. The foundation also operates the only free standing geriatric hospital in the country, conducting research on Alzheimer's and Parkinson's diseases, and making other important contributions to the quality of long life.

The foundation will soon hold a "heroes, saints, and legends" dinner at the Atlanta Botanical Gardens to honor older Georgians whose vigorous and productive lives have enhanced our community. Among the honorees are Eleanor Richardson, now retiring from a valuable career in public service in the Georgia House of Representatives; painter, Constantine Chatov, who came from the Soviet Republic of Georgia to become one of the leading artists of the southern State of Georgia; and Judge Elbert Tuttle, retired from the 11th Circuit Court of Appeals.

All of these Georgians deserve our thanks and praise. However, I was asked to speak at the dinner about the remaining honoree, Dean Rusk. As we all know, Dean Rusk has done Georgia proud. He has returned to Georgia and now holds a chair at the University of Georgia Law School. He has also provided many years of faithful service, with the greatest of humility, to our Nation. That is why I wanted to share my thoughts on one of our most valuable citizens with my colleagues.

I ask to include my remarks in the RECORD.

The remarks are as follows:

TRIBUTE TO DEAN RUSK

In an age in which selfishness and greed have actually been promoted as positive values, Dean Rusk stands out as a paragon of the classic values of loyalty and dedication to a larger cause.

His service to his country in some of the most dangerous and difficult times, from the Cuban Missile Crisis to the Vietnam War, is well known to all Americans. During his tenure as Secretary of State, guiding this nation's foreign policy under two presidents, he revealed himself a man of rare character—who put public service first, even above himself, and who believed that the nation must be guided by a sound and steady moral compass.

In keeping to these principles at all costs, Dean Rusk demonstrated extraordinary endurance and unmatched personal integrity. All of us who have followed Dean Rusk in the path of public service owe a debt—in fact, all citizens of a self-sustaining republic owe a debt to his example. I know I do.

Dean Rusk is fond of saying that this is a wonderful country that would allow a freckle-faced boy from Cherokee County to be its Secretary of State. All I can say is that we are fortunate to have him back in Georgia, and I want to thank all of you at the Foundation of Wesley Homes for giving me this opportunity to extend my regards to one of my personal heroes.●

JUDGE CLARKSON S. FISHER

● Mr. BRADLEY. Mr. President, Judge Clarkson S. Fisher is one of New Jersey's great jurists. This year marks Judge Fisher's 20th year on the Federal bench. I ask my colleagues to join me in commending Clarkson S. Fisher for his contributions to the people of New Jersey and to the Federal judiciary.

Judge Fisher is entering his fifth decade of service to New Jersey's legal system. Admitted to the bar in 1951, he began his career in private practice. In 1964, he was appointed to the Monmouth County Court, and in 1970, Judge Fisher was appointed to the Federal bench. Judge Fisher has heard and decided almost every kind of case—civil and criminal. In 1979 Judge Fisher became the chief judge of the U.S. District Court for the District of New Jersey, and has served longer in this position than any other judge in the recent history of the court.

But Judge Fisher's contributions to New Jersey extend beyond the law. He has a long history of involvement in community and religious affairs.

Judge Fisher has answered the question "What do I owe another human being?" with the most generous response. I join his family, and friends and colleagues in congratulating him for his years of service to the people of New Jersey, and in wishing him continued success in the future.●

LEXINGTON HERALD-LEADER ENDORSES TERM LIMITATION

● Mr. HUMPHREY. Mr. President, I would like to share with my colleagues an editorial that recently appeared in the Lexington Herald-Leader, that endorses the concept of term limitation.

The editorial mentions the fact that Americans to Limit Congressional terms encourages a State-called constitutional convention, in the absence of congressional action, to ratify a constitutional amendment to limit congressional terms. Mr. President, we have never witnessed a State-called constitutional convention. Neither the Lexington Herald-Leader, nor I, nor anyone hopes for such a convention.

That is why Congress must act, and adopt a term limitation amendment. A recent Gallup poll found that 70 percent of the American public favors term limitations. It is a fact that State legislators are close to their constituencies. If we, inside the beltway, continue to ignore our constituents' desires, we may be faced with a constitutional convention, believed by many to be the least favorable route to constitutional change.

Yet there is no need for such an occurrence. The bill that proposes such an amendment, Senate Joint Resolution 235 has been introduced by Senator DECONCINI and me. Ten others from both sides of the aisle have cosponsored. All that remains is for the Senate and House to adopt it. Then, we would begin to see greatly needed political courage, intellectual honesty, and we would go a long way toward restoring public confidence in Congress.

I ask that the editorial be printed in the RECORD.

The editorial follows:

[From the Lexington Herald-Leader, Feb. 19, 1990]

LIMIT CONGRESSIONAL TERMS? IT'S AN IDEA WORTH PONDERING

A group called Americans to Limit Congressional Terms has an idea to improve Congress: Tell senators and representatives that they can serve no more than 12 years in each chamber.

The group's co-chairman, former Rep. James K. Coyne of Pennsylvania, says it would prompt "a reinvigoration of our Congress by restoring the citizen legislature envisioned by our founders."

The idea is simple enough, even if putting it into action isn't. The U.S. Constitution places no limit on the number of terms that members of the House and Senate can serve. Coyne's group thus must change the Constitution to limit service. And they propose an unacceptable way of doing that: a constitutional convention.

As we've said before, a constitutional convention in the service of any cause is a terrible idea. It is not at all clear that such a convention's work can be limited in scope. Any such convention surely would become a battleground for competing, single-issue groups pushing their own narrow agendas. The result could be disastrous.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Oklahoma [Mr. BOREN] and the distinguished Republican leader, Senator DOLE, be recognized to address the Senate and that upon conclusion of their remarks the Senate stand in recess until 2 p.m. on Monday, April 23.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOREN. 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. BOREN. Mr. President, is it in order to speak as in morning business?

The PRESIDING OFFICER. It is, and the Senator may proceed as he wishes.

SOUTH AFRICA

Mr. BOREN. Mr. President, I rise today to discuss recent developments in South Africa. All of us have watched with deep and abiding interest events in South Africa since early February. President de Klerk's opening speech to the current session of parliament, followed by the release of Nelson Mandela were heralded around the world as positive steps, and have highlighted the possibility of a peaceful process to end apartheid and bring nonracial democracy to South Africa. Speeches and interviews by Mr. Mandela and Mr. de Klerk showed a rare degree of reasonableness and leadership. We in the United States appreciated these developments, and the president responded by extending invitations to each of these leaders to come to the United States to pay a visit. Members of the Senate introduced Senate Concurrent Resolution Resolution 94. A bipartisan group of 13 Senators and I sponsored this resolution which remarked on these important events and encouraged a continued peaceful process.

However, recent events are of concern. Specifically, in two speeches this week before the parliament, President de Klerk struck themes that appear to many to be backsliding on his commitment to change. With the current high level of expectations held by a cross-section of South Africans, and with press reports earlier this week that President de Klerk would commit himself to repealing the pillars of apartheid this year, these most recent comments and press reports have been very troubling to me and I am sure to many others. In the process of negotiations that has already begun, time is of the essence.

With each passing week of delay, each week which passes without some constructive movement forward, the hands of extremists on both sides are strengthened and the opportunities for these two reasonable leaders to negotiate a peaceful compromise become diminished. We must seize the opportunity. The negotiations must go forward and progress must not be delayed.

The international community is watching closely. Especially in light of developments from Central America to Eastern Europe over the last year, anything less than universal suffrage in a united nonracial democratic South Africa would be unacceptable.

While there is a role for legitimate protection for individuals rights, such as those protected in our Bill of Rights, such protections must not allow the majority to be thwarted from making major policy decisions. That must not undermine the actual underlying content of majority rule on a nonracial basis. I believe recent events have proved that our policy of not prematurely lifting sanctions was justified.

We will all be watching very carefully the pace of progress as our position about the future release of sanctions is determined.

I would also like to comment on an idea that has been discussed a great deal lately. A large number of people, from policymakers in Washington to major newspapers, such as the New York Times, have endorsed a quick lifting of the sanctions against landing rights for South African Airways in this country.

It has been urged that this action be taken as a symbolic gesture of support for actions that Mr. de Klerk has indicated he will undertake. I believe we must keep in mind the perceptions which many South Africans might have of this gesture. South African Airways is a parastable company, a company with a relationship to the Government, with a very poor employment record. Jobs in the airline are prized by South Africans, yet a fraction of 1 percent of the airline's employees in the areas of stewards, stewardesses, pilots, and agents are nonwhite. While South African Airways is scheduled for privatization as part of the South African Transport Association, I believe that the Government should make a good-faith effort by announcing a commitment to end discrimination by the airline in employment practices. Progressive implementation of an affirmative action plan that would see more nonwhites actually placed in positions of responsibility in the airlines, especially in the flight groups, would be accepted here as a strong indication that the South African Government is prepared to back up its past words with actions. So I think that we should insist that the Government should make a good-faith effort to take actions to end this discrimination before the United States decides to lift the landing rights prohibition.

Mr. President, the world's eyes are on South Africa, and all of us look forward to the upcoming discussions beginning on May 2 as another milestone. I hope that the high expectations which we have will be justified by new positive gestures by the South African Government.

So again, Mr. President, let me simply summarize by saying expectations are high that success will be achieved. It will be severely disappointing if progress is not made on May 2. We can only hope that some of the recent remarks by President de Klerk are aimed at positioning the Government for negotiations, but will not stand ultimately, as these negotiations begin, as any roadblock toward moving ahead rapidly with the process of actually dismantling apartheid and toward moving the country toward universal suffrage on a nonracial basis and true majority rule, albeit with the legitimate protection of individual rights that should be protected just as we protect them under our own constitutional system. We must not delay. This is no time for backsliding. I would repeat, Mr. President, that our policy of not rushing into a premature lifting of sanctions has been proven correct especially until the remarks made by President de Klerk this week have been clarified in the course of negotiations and until concrete actions have been undertaken.

SENATOR SPARK MATSUNAGA

Mr. BOREN. Mr. President, I add my voice to that of many of our colleagues who have come to this floor to pay tribute to Senator Spark Matsunaga, of Hawaii. Spark Matsunaga was a person who was beloved by every single person who served in the Senate and in the House of Representatives with him. It is often said that those who serve in public office under the pressure of time, the pressure of events, the need sometimes to take positions on highly controversial matters, find it difficult to continue a relationship of mutual trust and respect with those with whom they work in the legislative process and the political process, especially with whom they might have a difference of opinion on the issues of the day.

Spark Matsunaga's life and career prove that it is absolutely possible to maintain that kind of relationship, of friendship, civility, courtesy, and trust with all with whom one comes in contact, even with those with whom one has the most serious differences of opinion on matters of public policy.

Of all the Members with whom I have served in the Senate, none has been more beloved than Spark Matsunaga. He was the kind of person who took the time to render that gesture of friendship and kindness to those around him when they needed it most.

I remember when I first became a Member of the Senate and we came to Washington with our two children, who were very small at that time. We came out to the Senate dining room on many occasions when we were in evening sessions. Spark Matsunaga was one of those people who always took the time to come over and visit with the children, to share a story with them, tell them some story about his home State of Hawaii, that both entertained and educated them. I remember when my son was getting ready to celebrate his sixth or seventh birthday and we were asking him which ones of his friends he would like to invite to his birthday party. He not only listed several of his own contemporaries, but he said, "Do you think Sparky could also come to my birthday party, because he is my real friend." He was the kind of man who in the midst of all his responsibilities took the time to be kind to a 7-year-old boy. He took time to be kind to members of the staff in the Senate dining room or the Capitol policemen on the beat or anyone else who needed his help or his advice.

Mr. President, we will all miss Spark Matsunaga, not only because he was a fine public servant, not only because he fought for justice for all of the people of this country, not only because he fought for the cause of peace in the world and supported efforts to research concepts to bring about peaceful resolution of settlements, not only because he was an effective fighter in many areas of public policy in the legislative process; we will miss him most of all because he was an example of human possibility, of kindness, of courage, of love and compassion for others, that really stands as an example of moral courage and kindness for all of us. He was a great Senator but, above all, he was a great human being. The lives of each and every one of us who were privileged to know him and to work with him have been made forever better because our lives were touched by the personality, kindness, the spirit, and the good humor of our friend, Senator Spark Matsunaga.

I thank the Chair. I yield the floor.

Mr. D'AMATO. Mr. President, notwithstanding the previous order, I ask unanimous consent that I might be permitted to proceed as if in morning business.

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

SOVIET AGGRESSION IN LITHUANIA

Mr. D'AMATO. Mr. President, the Soviet Union today has embarked upon a course of aggression. Some may say it is not military aggression. Some may say that this is not a matter with which the United States should be concerned. But I believe that as we embark on historic negotiations with the Soviets, if we are to keep ourselves true to the principle of freedom, then we cannot keep our eyes closed to what is taking place in Lithuania.

The aggression today may be economic, but it is aggression just as surely as if Soviet tanks had closed off the supplies of food, the supplies of clothing, the supplies of essentials causing starvation of the people. It is aggression when the Soviets deny them fuel and energy necessary to keep their people employed, to meet their sustenance, and to make it possible for them to live their lives. So what we see is aggression. It may be economic, but nonetheless it is a war being waged against the Lithuanian people.

I find it difficult to believe that the United States and our free world allies have been so quiet, so deafeningly quiet, while this aggression is taking place. Freedom is under siege in Lithuania, and the question is where does the United States stand? The question is, have we closed our eyes to Lithuania? What happens if there is a cry for freedom in another part of the world, or, yes, Mr. President, in another part of the Soviet Union?

We give Mr. Gorbachev reason to believe that somehow we link his success and, indeed, his survival, with his ability to deal with the problem of people who seek freedom and independence from Soviet domination. I say it is a problem for him, because there are people who seek freedom. I would think that is a linkage that certainly the United States should not adopt. We must stand for freedom, not for the personal success of any foreign leader.

I think we have an obligation to stand with the Lithuanian people and against the Soviet's maintenance by force of its illegal annexation of this Nation of 3.9 million people.

Mr. President, what can we do? I think we can do a number of things. That is to say to the Soviets quite clearly that you will not get the economic benefits that you are looking for, you are not going to get the flow of American technology, nor the flow of American credits you seek to help restore your battered economy if you engage in economic aggression against people who seek freedom, peace, and democratic self-determination.

I think the United States and the Western allies should come to the aid of Lithuania in a tangible way, not only by saying to the Soviets that the aid they are looking for will be denied, but also by saying we will make available the credit necessary for the people of Lithuania to purchase the energy supplies they are now being denied by the Soviets. Yes, Mr. President. This is a tangible way of showing our dedication to the cause of freedom. We will not use military force in this situation, but certainly we have the moral obligation to help the Republic of Lithuania with more than mere words.

Norway has already announced that it will sell fuel to Lithuania. That alone is not the answer to the problem. The question is, how does Lithuania pay? Where should we be? I think we should line up on the side of people who yearn for freedom and, yes, give them that opportunity by extending credit to them. Hopefully others who have freedom—and who may take it for granted—will join in this effort.

We should stand with Lithuania, and against the Soviet maintenance by force of its illegal annexation of the Baltic States.

Mr. President, this is an issue that is not going to go away. This is an issue that is going to draw more and more support. Although we hope we will not have to take a position—we can pass all the resolutions we want here in this body—eventually it is going to come down to the leadership of this Nation and the leadership of the free world saying to the Soviets you cannot have it two ways. You cannot have the benefits of democracy and freedom—and Western economic aid—and yet deny it, deny it by force to Lithuania. That is what is taking place.

Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

THE MIDDLE EAST

Mr. DOLE. Mr. President, I want to say just a few words about the trip to the Middle East which I recently completed. I will be making a fuller report to the Senate in the near future, hopefully sometime early next week.

My remarks will also compliment those of Senators METZENBAUM and MURKOWSKI who gave some of their own views on our trip earlier today. In an addition to those two Senators, Senators SIMPSON and MCCLURE were also part of the delegation, and they will certainly offer their comment later.

It was a fascinating trip, during which we had the opportunity to touch base with the leaders of the five countries whose involvement—or noninvolvement—in the peace process is critical: Syria, Egypt, Jordan, Iraq, and Israel.

We had a full agenda. Certainly at the top of that agenda, as far as we were concerned, was the peace process—where it is, and the prospects for moving it along.

We went with the conviction that we are at an important juncture in the evolution of the peace process—several of us, and in fact several of the leaders we met, used the same term: That we now have a "window of opportunity" to make progress toward peace.

Speaking for myself, I came back even more convinced that there is a great opportunity to make progress now—but there are also formidable barriers to moving ahead.

I certainly agree with the general proposition put forth by Senator METZENBAUM: In its basic commitment to peace, and to negotiations leading to peace—Israel need take a back seat to no country. Over the years, Israel has demonstrated that commitment, while—all too often—extremists in the Palestinian community, and various combinations of Arab States, have turned their backs on negotiations and peace.

Israel has a right to be proud of that record, and to have its statements of desire for a fair peace taken at face value.

And every one of the Israeli national leaders we met—Shamir, Peres, Arens, and Rabin—reaffirmed their commitment to the idea of a negotiated settlement, which would meet Israel's basic security needs, and simultaneously respond to the legitimate concerns of the Palestinian people and Israel's Arab neighbors.

So in that sense Israel and its leaders deserve commendation and understanding.

On the other hand, I do not think anyone—including Israel's own leaders—would deny that one big, immediate obstacle to moving forward with the peace process is the fact that Israel has no effective government.

We all urged every Israeli leader to make every possible effort to "get their act together" before this "window of opportunity" for peace closes. As friends of Israel—and very member of our delegation has a strong record of support for Israel, over many years—as friends, we also told Israel's leaders frankly that it would not help Israel if the preception grew that somehow Israel was letting this opportunity slip away.

I think it is fair to say that Egypt's President Mubarak is anxious to move ahead, as soon as an effective Israeli Government is in place.

In candor, at the same time, I cannot say we found much new in the attitudes toward the peace process of Syria's President Assad, who basically repeated his longstanding position of interest only in the so-called comprehensive settlement under the umbrella of an international conference. He repeated that a number of times during our 2 hour and 45 minute visit.

Iraq's President Hussein's anti-Israel rhetoric was distasteful to all of us. But here again, I would stress that we told President Saddam Hussein, as the President told us the night before, and as we set forth in a letter we delivered to President Hussein, so that nobody would distort what had been said, that we want to improve our relations with Iraq.

We asked Hussein a number of very difficult questions. I think we came away with the feeling that here is an intelligent man; here is a man whose country has just ended a 7-year war with its neighbor Iran; it has its own problems, including a $50 billion debt; but at the same time it is a country that cannot be ignored. It produces the second largest quantity of oil in the region. It is the second biggest country, population wise, in the area.

So it is important to the peace process, even though it is not a frontline state. It does not border on Israel. It is important if we are going to have, hopefully, sometime soon, not only a basic settlement among the frontline states but also settlement which includes all those states that now indicate they are at war with Israel.

So from the standpoint of improving relations with the United States, we indicated to President Hussein that the American people needed answers; needed answers, whether or not there were any plans for germ warfare, as reported on one of the networks about 10 days ago. He denied the network report that he was about to engage in germ warfare or that he could engage in germ warfare. We needed to know about what some are calling the long gun, big cannon, this pipe that Hussein said was for oilfield use.

He did indicate he had chemical weapons. His country had chemical weapons. He indicated those would only be used—and he stressed this, and we asked him again, I remember asking him myself—only if there is a first strike, and if it were a nuclear strike from Israel.

He asked us rhetorically, what would you do in the United States if you were attacked by the Soviet Union? Would you do nothing? What do you expect me to do, nothing?

So the point was made that, notwithstanding what he said in his April speech, there would only be an action on his part if there was a first strike—if that strike was nuclear, then he would respond with chemical weapons in an effort to preserve his country, as he said.

I think it was a very significant visit. We had a seasoned delegation of Senators.

We traveled to Baghdad thinking we would see President Hussein there. We were then flown in the Iraqi plane, his plane, to Mosul, which is up in the Kurdistan area.

We had a 2½-hour visit; I think all of us left believing the visit was worthwhile. We said, as we started, "We want to improve relations between our two countries, but before that is possible, certain actions and statements have to be laid to rest and certain reports have to be laid to rest." Now I guess it is fair to say that we will have to wait and see what happens.

During our visit with President Assad of Syria—another very important country, which is going to be important to the peace process, another country you cannot eliminate, a country very important to the future of Lebanon—we raised two very important issues, and some are in the news today. We talked about the great importance of hostages, American hostages, and all the others being held in Lebanon and the broader political and military issue of Lebanon itself.

I pointed out that our majority leader was Lebanese, and Lebanon was a matter of great importance to many of us in the United States Senate. We are sickened by stories from Lebanon almost daily—yesterday, for example, I think 11 children were killed in Beirut. Every day you watch a newscast, or pick up a newspaper, there are some other senseless killings in that poor war torn and ravaged country.

Without going into the details, I can certainly say that each one of us pressed Assad very hard on the question of hostages. We made it clear that nothing could do more to set the stage for improved United States-Syrian relations than forward movement on the hostages.

Assad said he personally abhored hostage taking, had worked to win the release of hostages, and would renew

those efforts in response to our request. There is no way to know what factors have led to the moderately hopeful news on hostages we have had in the past couple of days.

It does behoove all of us who have the opportunity to communicate with Assad, or anyone else in the position to be helpful, to tell them how important this issue is to the United States, and to other countries whose citizens are being held hostage. I do believe that we got that message through to Assad.

I should say that I personally asked President Assad to do everything he could to provide us a definitive accounting for Col. William Higgins, the Marine officer who was kidnaped and reportedly later executed in Lebanon. Again, Assad promised to do all he could.

On Lebanon, Assad did not move past his standard position, which is that Syria supports and will abide by the so-called Taif accord. I pressed him on unconfirmed reports that Syria might have covertly aided Christian General Aoun—Syria's long time enemy—in a Machiavellian attempt to keep the Christian-against-Christian fighting going. Assad denied these reports.

As I noted in earlier remarks on the Senate floor, one issue that came up repeatedly in our discussion was the so-called Jerusalem resolution—S. Con. Res. 106—passed by the Senate several weeks ago. I have already had my say on that, but I wanted to note it again for this brief summary record of our trip.

It may not have been very important here; I did not read anything about it in the paper the next day in Washington, but it was in all the papers in the Arab countries. Whether they really took it seriously is a matter left to one's own conjecture. But, it provided a diversion in each one of those countries, an excuse not to talk about the peace process and sitting down with representatives from Israel and others.

Another issue of deep concern in the Arab States, and for different reasons to Israel, is that of the immigration of large numbers of Soviet Jews to Israel. Most of the Arab leaders accepted or did not dispute the right of Soviet Jews to emigrate to Israel. In various degrees of intensity, though, they did express concern over the possibility that large numbers of the immigrants might settle in the occupied territories, which they said would severely complicate already complex questions surrounding those territories.

In Israel, of course, the issue looks very different. We toured an absorption center where newly arriving Soviet and Ethiopian Falasha Jews are assisted in the processing of adjusting to life in Israel. This is an impressive program made more impressive by an appropriate tilt toward allowing the private sector and private individuals, rather than the state, provide needed help to the new arrivals.

It is clear that this process, which will involve hundreds of thousands of new arrivals over the next couple of years will cost a lot of money. Undoubtedly, the United States is going to provide some assistance. That is a matter we will debate and decide in the Senate, probably next week.

Mr. President, we had other visits which I will comment on later, including with moderate Palestinians who met with us at the Consul General's home in Jerusalem, had about a 2-hour meeting. There was some discussion early on in that meeting that was not particularly helpful or enlightening. But after we felt each other out and understood where we were coming from, we had a good discussion.

The thing what struck me was a statement by one member of the group that there are extremists, extremists on their side, who do not want to see anything happen. I guess there are extremists on every side. There always are. The Palestinians we met indicated they might represent 60 to 70 percent of the Palestinians, and they felt they had a window of opportunity, but it would not be open long.

In other words, the extremists were putting on the pressure, saying, we told you we could not negotiate with Israel.

Again, it seemed to us that there are moderates nearly every place we visited, with one or two exceptions, who really want to see the process start. We asked the question, if peace is breaking out everywhere else in the world, why not the Mideast? I think Senator METZENBAUM said if we go to these countries and talk about yesterday, we are never going to settle anything. We cannot do much about yesterday, or last year, but we can do something about tomorrow.

I conclude by saying that is the point we made. The United States has an interest in peace in the Mideast. We have a commitment in the Mideast. We are going to stick by that commitment in the Mideast.

In the final analysis, it is in our interest and their interest, and in the interests of people throughout the Mideast and the world, to have some peaceful solution of their differences. So I am hopeful, as I believe my colleagues are, that we may have contributed something. We did our best to make a difference, and we can only wait and see what the future will hold.

ORDER FOR RECESS UNTIL 2 P.M., MONDAY, APRIL 23, 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent when the Senate completes its business today it stand in recess until 2 p.m. on Monday, April 23, and that following the time for the two leaders there be a period for morning business not to extend beyond 2:30 p.m., with Senators permitted to speak therein for up to 5 minutes each.

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

ORDERS FOR MONDAY, APRIL 23, 1990, AND TUESDAY, APRIL 24, 1990

RESUME CONSIDERATION OF H.R. 1594

Mr. MITCHELL. Mr. President, on Monday at 2:30 the Senate will resume consideration of H.R. 1594, the miscellaneous tariff bill. As I previously announced, there will be no rollcall votes on Monday; any rollcall votes which may be ordered on Monday will be stacked to occur during Tuesday's session.

RECESS UNTIL 9:30 A.M. TUESDAY

Mr. President, I further ask unanimous consent that when the Senate recesses on Monday, it stand in recess until 9:30 a.m. on Tuesday, April 24; that following the time for the two leaders there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

RECESS FROM 1 UNTIL 3 P.M. TUESDAY

I further ask unanimous consent that on Tuesday, the Senate stand in recess from 1 to 3 p.m., in order to accommodate the respective party conferences.

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

SCHEDULE FOR TUESDAY

Mr. MITCHELL. Mr. President, on Tuesday the Senate will resume consideration of the tariff bill at 10 a.m., with the Packwood amendment, No. 1492, to be considered under a 1-hour time limitation as provided for in the unanimous-consent agreement previously entered into today.

As I mentioned just a few moments ago, Tuesday's session will be a long one and we expect to complete action on this legislation.

RECESS UNTIL MONDAY, APRIL 23, 1990, AT 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2 p.m., Monday, April 23, 1990.

There being no objection, the Senate, at 3:58 p.m., recessed until Monday, April 23, 1990, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate April 20, 1990:

DEPARTMENT OF STATE

JAMES KEOUGH BISHOP, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EX-

TRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOMALI DEMOCRATIC REPUBLIC.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

DANIEL H. CARTER, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1994. (REAPPOINTMENT)

FEDERAL HOUSING FINANCE BOARD

THE FOLLOWING-NAMED PERSONS TO BE DIRECTORS OF THE FEDERAL HOUSING FINANCE BOARD FOR THE TERMS INDICATED:

FOR A TERM OF 3 YEARS:

LAWRENCE U. COSTIGLIO, OF NEW YORK (NEW POSITION).

FOR A TERM OF 7 YEARS:

DANIEL F. EVANS, JR., OF INDIANA (NEW POSITION).

IN THE COAST GUARD

REAR ADM. MARTIN H. DANIELL, JR. AS VICE COMMANDANT, U.S. COAST GUARD WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

REAR ADM. A. BRUCE BERAN AS COMMANDER, PACIFIC AREA, U.S. COAST GUARD WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be admiral

ADM. LEON A. EDNEY, U.S. NAVY, xxx-xx-xxxx

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR TRANSFER INTO THE REGULAR MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTION 531:

To be captain

MATTHEW J. BAKER, xxx-xx-xxxx
STEVEN L. BEAUVAIS, xxx-xx-xxxx
PAUL R. BOUGHMAN, xxx-xx-xxxx
MATTHEW P. BRAGG, xxx-xx-xxxx
JAMES D. BRENNER, xxx-xx-xxxx
STEVEN D. CAHN, xxx-xx-xxxx
JOHN D. CARNIVAL, xxx-xx-xxxx
TROY S. CAUDILL, xxx-xx-xxxx
WILLIAM T. COLLINS, xxx-xx-xxxx
GEORGE D. COPELAND, xxx-xx-xxxx
JEFFREY B. CROCKETT, xxx-xx-xxxx
DANIEL C. DEAMON, xxx-xx-xxxx
GARY D. DEAN, xxx-xx-xxxx
JULIAN V. DEES, xxx-xx-xxxx
ANTHONY P. DEVITA II, xxx-xx-xxxx
AMY V. DUNNING, xxx-xx-xxxx
ALEX J. DURR, JR., xxx-xx-xxxx
EDWARD J. FINN, xxx-xx-xxxx
JEFFREY T. FYLE, xxx-xx-xxxx
STEVEN C. GABERT, xxx-xx-xxxx
CHRISTOPHER V. GADDIS, xxx-xx-xxxx
EDWARD O. GRIFFITHS, xxx-xx-xxxx
STEPHEN J. GUILFOYLE, xxx-xx-xxxx
STEVEN C. GULOTTA, xxx-xx-xxxx
WAYNE J. HALLEM, xxx-xx-xxxx
DETLEF HOFFMANN, xxx-xx-xxxx
JOHN J. HOLBROOK, xxx-xx-xxxx
JOSEPH G. HOULIHAN, xxx-xx-xxxx
MATTHEW D. JONES, xxx-xx-xxxx
CHARLES W. KAUSE, xxx-xx-xxxx
WALTER J. KIMBERLY, xxx-xx-xxxx
STEFAN E. KRISTEN, xxx-xx-xxxx
JEFFREY S. KVAMME, xxx-xx-xxxx
MICHAEL K. LAMBERT, xxx-xx-xxxx
KATHI J. LAUDA, xxx-xx-xxxx
ROBERT E. LEE, xxx-xx-xxxx
ANDREW C. MACLACHLAN, xxx-xx-xxxx
MICHAEL J. MASON, xxx-xx-xxxx
ROGER D. MATHENY, xxx-xx-xxxx
MARK S. MCCLUSKEY, xxx-xx-xxxx
BRIAN E. MCGANN, xxx-xx-xxxx
CALVIN E. MCGOWAN, xxx-xx-xxxx
DONALD F. MEISNER, xxx-xx-xxxx
GLEN E. MELIN, xxx-xx-xxxx
ROGER D. MILLER, xxx-xx-xxxx
HOWARD R. MORRIS, xxx-xx-xxxx
CHRISTOPHER J. MULLIN, xxx-xx-xxxx
JOHN G. MURPHY, JR, xxx-xx-xxxx
MYRON E. NOVAK, xxx-xx-xxxx
EDWARD G. OBRIEN, xxx-xx-xxxx
THOMAS R. OCONNELL, xxx-xx-xxxx
JAMES W. ORR, xxx-xx-xxxx
EUGENE P. PHILLIPS, xxx-xx-xxxx
MARK S. PROVENZO, xxx-xx-xxxx
ROBERT C. RAWDON, JR, xxx-xx-xxxx
KEVIN J. REGAN, xxx-xx-xxxx
WILLIAM F. REYES, xxx-xx-xxxx
LAWRENCE R. ROBERTS, xxx-xx-xxxx
STEVE B. RODRIQUES, xxx-xx-xxxx
JOHN W. ROELSE, xxx-xx-xxxx
JOHN K. ROLLOW, xxx-xx-xxxx
HENRY T. ROYE, JR, xxx-xx-xxxx
DANIEL J. SANDERS, xxx-xx-xxxx
BENNY L. SHORT, xxx-xx-xxxx
ANNETTE R. SIERACKI, xxx-xx-xxxx
DAVID A. SOBYRA, xxx-xx-xxxx
JOHN E. SPEARS, xxx-xx-xxxx
ROBERT L. STEPHENSON, JR, xxx-xx-xxxx
CHRISTOPHER H. SULLIVAN, xxx-xx-xxxx
DWIGHT H. SULLIVAN, xxx-xx-xxxx
FRANK B. SUPER, xxx-xx-xxxx
PAUL J. SWEENEY, xxx-xx-xxxx
JEFFREY T. SWITZER, xxx-xx-xxxx
MICHAEL J. TAYLOR, xxx-xx-xxxx
SCOTT R. TAYLOR, xxx-xx-xxxx
PATRICK J. UETZ, JR, xxx-xx-xxxx
ROBERT B. VAUGHN, xxx-xx-xxxx
SUSAN L. WARDEN, xxx-xx-xxxx
DENNIS M. WHITE, xxx-xx-xxxx
JEFFREY R. WHITE, xxx-xx-xxxx
HOWARD A. WILLIAMS, xxx-xx-xxxx

To be lieutenant

MICHAEL L. ARTBAUER, xxx-xx-xxxx
GREGGORY R. BEMBENEK, xxx-xx-xxxx
MARY A. BLAIR, xxx-xx-xxxx
MICHAEL J. BROWNE, xxx-xx-xxxx
MICHAEL P. BRUEN, xxx-xx-xxxx
KEITH D. BUCHANAN, xxx-xx-xxxx
MICHAEL H. BURT, xxx-xx-xxxx
JEFFREY J. BUTLER, xxx-xx-xxxx
JOHN M. BUTTERWORTH, xxx-xx-xxxx
DAVID BYRNES, xxx-xx-xxxx
MICHAEL D. CAMBER, xxx-xx-xxxx
KENNETH W. CLARK, xxx-xx-xxxx
CARMEN K. CLEMANS, xxx-xx-xxxx
HARRY G. CONSTANT, JR, xxx-xx-xxxx
MADISON H. CRUM, JR, xxx-xx-xxxx
EUGENE J. DAFOE, xxx-xx-xxxx
NEWELL B. DAY, II, xxx-xx-xxxx
THOMAS D. DICKEN, III, xxx-xx-xxxx
THOMAS E. DOLAN, JR, xxx-xx-xxxx
CHRIS A. EDWARDS, xxx-xx-xxxx
MICHAEL J. ELMES, xxx-xx-xxxx
HENRI A. ERKELENS, xxx-xx-xxxx
DOUGLAS M. FETSKO, xxx-xx-xxxx
DAVID M. FINN, xxx-xx-xxxx
DAVID W. FRENCH, xxx-xx-xxxx
DANNY G. FRESHWATER, JR, xxx-xx-xxxx
GREGORY W. GAFF, xxx-xx-xxxx
JEFFREY M. GALIARDI, xxx-xx-xxxx
DAVID P. GARNISH, xxx-xx-xxxx
CARLENE S. GRIFFITH, xxx-xx-xxxx
DOUGLAS C. GRIFFITH, xxx-xx-xxxx
JOSEPH GUADAGNO, xxx-xx-xxxx
ANDREW D. HALL, xxx-xx-xxxx
CLIFTON C. HAMNER, xxx-xx-xxxx
RICHARD M. HANCOCK, xxx-xx-xxxx
THOMAS J. HARTSHORNE, xxx-xx-xxxx
ROBERT M. HEIDENREICH, xxx-xx-xxxx
DANIEL C. HERBERT, xxx-xx-xxxx
JOSEPH M. HINES, xxx-xx-xxxx
JONATHAN B. HOLMBERG, xxx-xx-xxxx
JOHN T. HORNEY, xxx-xx-xxxx
PHILIP J. HUBEN, xxx-xx-xxxx
JOSEPH A. ISAAC, JR, xxx-xx-xxxx
PETER J. KEATING, xxx-xx-xxxx
SCOTT T. KELLER, xxx-xx-xxxx
MICHAEL E. KELLERMAN, xxx-xx-xxxx
WILLIAM KENNEKE, xxx-xx-xxxx
JAMES C. KING, II, xxx-xx-xxxx
JOSEPH H. KNAPP, xxx-xx-xxxx
GERALD L. LARGHE, xxx-xx-xxxx
PAUL K. LEBIDINE, xxx-xx-xxxx
WILLIAM M. LEVISON, xxx-xx-xxxx
JON K. LOWREY, xxx-xx-xxxx
PERRY A. MAAS, xxx-xx-xxxx
JOHN R. MAHONEY, xxx-xx-xxxx
JEFFERY L. MATTHEWS, xxx-xx-xxxx
RUSSELL O. MCGEE, xxx-xx-xxxx
DANNY S. MCQUAY, xxx-xx-xxxx
BRUCE D. MERCER, xxx-xx-xxxx
HOUSTON MILLS, JR, xxx-xx-xxxx
JEFFREY A. MUNSHAUR, xxx-xx-xxxx
MICHAEL L. MURPHY, xxx-xx-xxxx
MICHAEL J. OUZTS, xxx-xx-xxxx
RANDY PARKER, xxx-xx-xxxx
WILLIAM R. PAYNE, JR, xxx-xx-xxxx
ROGER L. PEARSON, JR, xxx-xx-xxxx
WALTER D. PITTS, xxx-xx-xxxx
STEPHEN C. PUCKETT, xxx-xx-xxxx
DAVID R. PUTZE, xxx-xx-xxxx
MARK R. REILLY, xxx-xx-xxxx
ERIC A. ROBBINS, xxx-xx-xxxx
CHARLES B. SAGEBIEL, xxx-xx-xxxx
CALLISTUS T. SCHWEIGER, xxx-xx-xxxx
JOHN R. SHAFER, xxx-xx-xxxx
HUGH C. SMITH, xxx-xx-xxxx
TIMOTHY H. SPRADLEY, xxx-xx-xxxx
ROBERT S. STARBUCK, xxx-xx-xxxx
DAVID R. STORR, xxx-xx-xxxx
SHERRY A. TOMLEY, xxx-xx-xxxx
NORBERT J. TORRES, xxx-xx-xxxx
PETER L. VENOIT, xxx-xx-xxxx
ARTHUR E. VERNON, JR, xxx-xx-xxxx
JAMES W. WARD, JR, xxx-xx-xxxx
TERRY V. WILLIAMS, xxx-xx-xxxx

To be warrant officer

BRIAN J. GRANIERO, xxx-xx-xxxx