The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable John F. Kerry, a Senator from the State of Massachusetts.

**PRAYER**

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

Let us pray:

For there is no power but of God: the powers that be are ordained of God. * * * For rulers are not a terror to good works, but to the evil. * * * For he is the minister of God. * * * for good. * * *

Romans 13:1,3,4.

Eternal God, Creator of Heaven and Earth, Lord of history, Ruler of the nations, we thank Thee for government which Thou hast ordained to restrain evil in the world. Grant to Thy ministers on Capitol Hill a constant reminder that authority comes from Thee, and that they rule by virtue of divine appointment. Grant to the Senators, their administrative assistants, their chiefs of staff, and the directors of committee staffs a daily awareness that their power is from Thee, and that they are accountable to Thee how they exercise that power.

Gracious God, help us all to conduct ourselves, that our lives are well pleasing to Thee. In His name who is Lord of Lords and Servant of Servants. Amen.

**APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE**

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Byrd).

The legislative clerk read the following letter:


To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable John F. Kerry, a Senator from the State of Massachusetts, to perform the duties of the Chair.

ROBERT C. BYRD, President pro tempore.

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

**RECOGNITION OF THE MAJORITY LEADER**

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

**SCHEDULE**

Mr. MITCHELL. Mr. President, under the previous order, there will now be a 2-hour period for morning business, running until 11:30 this morning, with the first hour under the control of the Republican leader or his designee, and the second hour under my control or that of my designee.

Last night, a 90-minute time agreement was entered with respect to the Martinez nomination, and it is my intention that the Senate will proceed to that nomination at or about 11:30 a.m. this morning, with a vote to occur when all time is used or yielded back with respect to that nomination.

Senators should be aware that, barring some factor which causes me to alter this proposed schedule, we will take up the Martinez nomination at 11:30 and vote on it at 1 p.m., or sometime prior to 1 p.m., if time is yielded back prior to the vote.

It still is my hope and my expectation that we will complete action on the appropriations bills conference reports, the two measures which we dealt with earlier this week. And I will have a further statement on that matter later in the day.

**RESERVATION OF LEADER TIME**

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve all of the leader time of the distinguished Republican leader. I assume the Senator from Oklahoma has been designated to control time for the Republican leader, and I accordingly yield to him.

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

**RECOGNITION OF THE ACTING REPUBLICAN LEADER**

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

Mr. NICKLES. Mr. President, I yield 8 minutes to the Senator from Oregon.

**MORNING BUSINESS**

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized for 8 minutes.

**FAST-TRACK TRADE NEGOTIATIONS**

Mr. PACKWOOD. Mr. President, I would like to speak this morning about the President's request to extend what is commonly called fast-track negotiating authority—although that name is a misnomer. It is certainly not fast. It is often not on track.

What the President is asking for is a 2-year extension of his authority to negotiate multilateral and bilateral trade agreements and have those agreements come back to the Congress and be voted on, up or down, without amendment, in a certain time period.

The fast-track authority does not guarantee that you get a good agreement or bad agreement. That will come in the negotiations, and I think the President full well knows, as does Ambassador Carla Hills, our Trade Representative, that if a bad agreement comes back, Congress will turn it down.

The argument is made, though, that we should not give the President an extension of this fast-track authority. That instead we should just let him go ahead and negotiate an agreement and then have it brought back for our review and we can amend it as we want or treat it as a normal piece of legislation.

There are two who have negotiations that are going on now. One is called the Uruguay round, which is multinational, 107 nations of the world involved in an effort to lower tariffs and trade barriers; the other is the North American Free Trade Agreement that the President wants to negotiate with Canada and Mexico. In those two agreements, we are talking about thousands of issues—not hundreds; thousands of issues—and thousands of compromises that we are asking countries on all sides to make.

Let me give an example of the problem if the United States does not have the authority to bring the agreement back to the Congress and ask for a vote on it up or down. Let us say we are negotiating with Germany. Germany has very protective agricultural practices. We regard ourselves as the most efficient agricultural country in the world, and we are. And we would like freer access to the German market. Germany's highly protected farmers to not like that. They are a potent political bloc. It is a political problem for the German Government to give us market access.

Let us say, also, that we would like freer access on telecommunications.

* This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
We are also excellent in the manufacture of telecommunications and the installation of systems.

But in dealing with Germany and many other nations, the country does not like to let another country come in and compete with their state-owned system. If Germany gives on that, they have another bloc of voters who are mad.

So we are saying to Germany, you give on agriculture, you give on telecommunications. Let us say Germany says to us, "we will consider it, but we want you to give on cameras and optics and textiles. You have a quota system and highly protect your textiles, and we think we are good at making textiles. We want into the United States, and we may well exchange that and let you into telecommunications, and we will let you into agriculture, if you let us into cameras and optics and textiles."

The experience in negotiating agreements is as follows. Those industries and sectors whom you help really do not appreciate it. They expect they should have been helped, and they do not give you much credit or much support when you have negotiated an agreement that helps them.

The people who do not like the agreement are very mad. In Germany, it would be the farmers of Germany, if they give on agriculture, and it would be the state telecommunications system if they give on telecommunications. They are livid about this agreement. They will do everything they can to kill it.

What the German Government has to be able to do and(102,338),(866,396) and Mexico, a fair portion of American industry will simply move south of the border where the wages are less, and all the manufacturing will be done there and Americans will lose jobs.

I want to say right now so it's perfectly clear, if we get an agreement with Mexico that is going to lead to that, I am not going to support it. I will not support it and will urge my colleagues to do the same.

But I think in the longrun and in the shortrun, if there is a North American Free-Trade Agreement which recaptures and damages American labor in the aggregate, that agreement ought to be defeated. The points they raise are certainly valid. I hope as we are negotiating these agreements, our Trade Representative Carla Hills will take labor's concerns into account. I know she will, but I think I can assure her that if she does not, I, for one, will not support the agreement.

But without the fast-track authority, Mr. President, we need not even have to worry about it. There will be no agreement; no good agreement; no bad agreement; no agreement. And with it we will have lost our one great chance in the remainder of this century for America to break down barriers overseas to our products. I am afraid we will not stay where we are, but will move backwards into an era of protectionism, higher tariffs, and quotas that will serve the world badly, serve America badly, and will especially serve our farmers and our American consumers. I thank the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?
going on since 1986. They have involved 15 different areas. They have involved 107 different countries. They have been very complicated negotiations extending over a very long period of time. It is the interest of the U.S. in the advice of the U.S. Trade Representative, that if Congress can undo it or unravel the complex negotiations in floor debate, then the negotiations will simply come to an end.

Mr. President, what has happened is that the fast-track authority has effectively expired, and the administration allowed it to expire with respect to the Uruguay round even though we could have agreed to a deal last year. In Brussels last year, the administration was very tough with respect to agriculture, walked away from the table on agriculture, and took the position that we were not going to sign on to just any deal. And now, because of the toughness of the administration, we have the possibility of making real strides in the field of agriculture. It would be an irony, indeed, if Congress were to say that we can enter into these negotiations, if they are in the interest of the United States, walk away from the table on agriculture, and took the position that we were not going to sign on to just any deal.

Mr. President, I yield.

Mr. Gorton. Mr. President, "fast track" is a phrase that stands for authority granted by Congress to the President to enter into trade agreements under a set of rules by which Congress will vote on those trade agreements within a fixed period of time, will vote the agreements up or down without amendment, but will have done so only after extensive nonaction here in Congress and by removing restrictions among our trading partners. That can be done only through bilateral or multilateral negotiations. Those negotiations are possible only when the other parties to those negotiations can act in the belief that when they make a deal with the United States, the United States is likely to keep that agreement. That knowledge will be present only if fast track negotiating authority is extended.

This country will gain by freer trade, which President, and will gain almost certainly by the extension of this fast-track authority. America certainly will lose if we should repudiate it. In this case, as in some others, the best action the Congress of the United States can take is no action at all. We in Congress can and should rely on the President and the Trade Representatives to negotiate treaties. We will have every opportunity to examine and to vote either in favor of those agreements, if they are in the interest of the United States, or against them, if we determine that they are not. The time to do that is after agreements are signed, not at this stage when we do not know what we can reach through negotiations.

Mr. President, I thank my colleague, the Senator from Oklahoma.

Mr. Nickles. Mr. President, I yield to the Acting President pro tempore.

Mr. Durenberger. Mr. President, the suffering of Sudan.

Mr. Durenberger. Mr. President, I rise to express my deep concern for the dire humanitarian situation in the Sudan. The drought and the ongoing civil war have combined to affect up to 9 million Sudanese, fully one-third of the country's population. It appears that the 1990 drought has been worse even than that of 1984 and 1985. The scale of human suffering in Sudan should concern and alarm each of us. The United States, United Nations, other governments, and a number of private organizations have made enormous efforts to deliver food aid and other assistance. And more aid will likely be required as this year progresses.
United States humanitarian efforts in the Sudan are long standing and extensive. I want to commend not only the current United States Embassy and AID teams in Khartoum, but also former Assistant Secretary of State McCormick for his great work in the past in Sudan. He has gone far out of his way to try to bring about help to the Sudanese people.

This year alone, Mr. President, the United States has already committed to delivering some 250,000 tons of grain to Sudan. And we could provide as much as $10 to $12 million in other nonfood emergency aid. We continue to cooperate with the U.N.-sponsored Operations Lifeline Sudan Program, which is designed to help feed and care for over 3 million people displaced by Sudan's ongoing civil war. Depending on other countries' contributions, the United States could provide anywhere from one-fourth to one-third of all food aid to the Sudan.

First, we must suspend aid even with this extensive aid response, the desperate suffering of the Sudanese people cannot be alleviated sufficiently without the active cooperation of the Government of Sudan. Khartoum has repeatedly delayed or canceled relief efforts. The regime in Khartoum has repeatedly delayed or canceled relief efforts.

For example, despite the new agreement, the Government of Sudan continues to suspend many United Nations-sponsored flights. When United Nations Undersecretary General James Jonah traveled to Sudan to meet with President Bashir. For the first time, the Sudanese Government agreed that the drought was an urgent matter. President Bashir also agreed that the United Nations should coordinate famine relief efforts. This should facilitate, and accelerate, relief efforts. However, it is still unclear to what extent these words will be translated into concrete actions.

If the political will exists, a great deal more can be done to alleviate the misery. The Government of Sudan has yet to demonstrate a sustained willingness to address fundamental issues of human suffering.

Let us also recognize, Mr. President, that the hunger and deprivation will persist as long as the civil conflict in Sudan continues. War and peace do not affect the rainfall, but they do affect efforts to overcome natural disasters such as drought. No matter how much aid is provided, no matter how many tons of food are distributed throughout the country, people will continue to suffer more than otherwise as long as the war persists.

Mr. President, drought would exist without war. But famine can be avoided if the Sudanese people can be reached by a persistent thread in famine suffering: Wherever one finds famine, one finds conflict; wars; battles. It is the conflicts that push the drought suffering over the edge to famine.

We must recognize this reality as one of the root causes of famine, particularly in Sudan. We should call on the international community, especially the United Nations, to exert its influence to achieve a peaceful and rapid solution to Sudan's civil war. The drought and crop failures are bad enough, but the war is destroying the country and its people.

For these reasons, Mr. President, I urge my colleagues to remember the suffering of Sudan. To take every opportunity to urge the Government of Sudan to cooperate with international efforts to arrange a peaceful settlement to the civil war. Sudan is a remote and desolate land. But its people are our brothers. They need our efforts. They deserve our compassion.

Mr. President, I yield the floor.

Mr. NICKLES. Mr. President, I yield the Senator from Kansas 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized for 3 minutes.

FAMINE IN SUDAN

Mrs. KASSEBAUM. Mr. President, I rise today to join with my colleague, Senator DURENSBURGER, to express my great concern about the emergency famine situation in Sudan. Senator DURENSBURGER has laid out, I think, very clearly the tragic situation that exists there.

With the dramatic events taking place in the Persian Gulf and the Soviet Union, the issue of famine in Africa has received scant attention in the United States over the past 6 months.

We all remember the 1984-85 African famine, with the pictures of starving women, and children with bloated bellies. Those tragic images shocked the consciousness of the entire world community.

The famine we face this year is one of much greater proportions than that of 1985. Unless urgent and coordinated action is taken, we will soon look at the same shocking pictures, asking: How could this happen again?

In Sudan alone, the reality of the numbers is difficult to comprehend. 9 million Sudanese are at risk of malnutrition and death, of a total population of 26 million; 1.2 million metric tons of food will be needed to avert this crisis; and several experts predict that at least 200,000 Sudanese will die this year due to hunger—even if relief efforts begin to work effectively from this point onward.

The famine in Sudan has been caused by the deadly combination of a severe drought—worse than that of 1984—and continuing civil conflict between the Government of Sudan and the Sudanese People's Liberation Movement.

Despite the tremendous hardship Sudanese caused by this combination, the problem of the famine is not primarily one of the quantity of food. The resources from the international community are available to avert this crisis. For example, the United States alone has committed over 331,000 metric tons of food.

The real problem has been distributing the food to those in need. Over the past 6 months, the Sudanese Government has been extremely uncooperative, refusing to recognize the severity of the problem.

However, the Government of Sudan has made some progress in the past month. In March, United Nations Undersecretary General James Cheek traveled to Sudan to meet with President Bashir. For the first time, the Sudanese Government agreed that the drought was an urgent matter. President Bashir also agreed that the United Nations should coordinate famine relief efforts. These steps should facilitate, and accelerate, relief efforts. However, it is still unclear to what extent these words will be translated into concrete actions.

For example, despite the new agreement, the Government continues to suspend many United Nations-sponsored flights to southern Sudan. These flights are essential for the continuation of relief efforts at this point. All International Committee of the Red Cross flights have been canceled by the Government.

On March 7, United States Ambassador Cheek returned to Khartoum to resume United States diplomatic activity on relief efforts. Because of the gulf crisis, Ambassador Cheek, as well as almost all of the United States Embassy personnel, had been forced to leave Sudan in mid-January. Because of the urgency of this food crisis, Ambassador Cheek was anxious to return and, I believe it was important that he do so.

In the coming months, I fervently believe that the international community must focus on the crisis in Sudan. Several actions are essential:

First, we must strongly support the United States Embassy in Khartoum and the private voluntary organizations working in Sudan. The efforts of Ambassador Cheek to coordinate and mobilize relief efforts in Sudan are crucially important. Assistant Secretary

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Hank Cohen has been very active on this issue. Because of the critical nature of the famine in Sudan—as well as the great threat of sterilized injuries to our citizens in Africa—I urge President Bush and Secretary Baker to become actively involved in this issue.

Second, the United Nations has a key role to play on famine relief, particularly in the Sudan. Fifty colleagues recently joined me in a letter to United Nations Secretary General de Cuellar urging him to personally make famine in Africa an item of the highest priority. The recent, successful visit of President Bush to Sudan, which has just ended his official visit to Sudan, is recognized for 5 minutes.

Next, the United Nations has a key role to play on famine relief, particularly in the Sudan. Fifty colleagues recently joined me in a letter to United Nations Secretary General de Cuellar urging him to personally make famine in Africa an item of the highest priority. The recent, successful visit of President Bush to Sudan, which has just ended his official visit to Sudan, is recognized for 5 minutes. The critical importance U.N. The recent, successful visit of President Bush to Sudan, which has just ended his official visit to Sudan, is recognized for 5 minutes. The critical importance U.N.

Mr. SMITH. Mr. President, on the night of March 21, 1962, 29 years ago today, Booker Hillery killed 15-year-old Marlene Miller. After attempting to rape the young girl, Hillery stabbed her through the throat with the sewing scissors, monogrammed with her name, that she had been using to sew a dress for her 16th birthday party. Then he dumped her body in an irrigation ditch. Hillery, who was out on parole from an earlier rape conviction, was arrested, convicted, and sentenced to death. But this sentence was merely the beginning of a 29-year legal struggle which has still not been resolved.

In 1965, having once upheld Hillery's murder conviction, the California Supreme Court ordered a new trial with respect to the sentencing phase. The reason for the reversal is that the jury that sentenced Hillery to death had been erroneously told that, if it gave a death penalty, it must be by a vote of the jury. Although this was correct at the time of Hillery's trial, a subsequent case created a new rule.

Finally, and perhaps most importantly, we must continue to draw public attention to this crisis. Last November, we held hearings in the Senate African Affairs Subcommittee on the famine in Sudan, and I call upon the committee to hold hearings in the near future on the problems of famine in Africa.

Mr. President, 4 months from now, the pictures of the starving children will appear on our television screens. We will all be upset, calling for ways to move food as quickly as possible. Yet, because of the logistical problems of moving food, at that time it will be too late to avert the suffering and death of hundreds of thousands of innocent Sudanese civilians.

Mr. NICKLES. Mr. President, I compliment the Senator from Kansas, and also Senator DURENBERGER for their attention to a very critical problem. I wish to associate myself with their remarks, and I hope to work toward some positive constructive solutions to the very desperate problems.

Mr. President, 1 yield the Senator from New Hampshire [Mr. SMITH] 5 minutes.

Mr. SMITH. I thank the Senator from Oklahoma for yielding the time.
leaders who will. This Senator intends to work with the American people against them, to put violent criminals where they belong—behind bars and away from the innocent people they prey upon.

The PRESIDING OFFICER (Mr. SYMMS). The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I thank the Senator from New Hampshire. I yield to the Senator from Idaho [Mr. SYMMS].

The PRESIDING OFFICER. The Senator from Idaho [Mr. SYMMS] is recognized for such time as he may use.

Mr. SYMMS. Thank you very much, Mr. President.

FAST TRACK MUST BE LOOKED AT CAREFULLY

Mr. SYMMS. Mr. President, there is a lot to be said for negotiating trade agreements that will foster the prospect of significantly increasing trade between nations. I believe open borders benefit the countries involved and I have always been supportive of efforts to expand trade.

Let me quote from Winston Churchill:

We say that every [citizen] shall have the right to buy whatever he wants, wherever he chooses, at his own good pleasure, without restriction or discouragement from the State.

That is our plan.* * *In pursuit of this simple plan there came last year into [our country], from every land and people under the sun, millions' worth of merchandise, so marvelously varied in its character that a whole volume could scarcely describe it. Why did it come? Was it to crush us, or to conquer us, or to starve us, or was it to nourish and enrich our country? It is a sober fact that many of that vast catalogue of commodities came to our shores because some [citizen] desired it, paid for it, and meant to turn it to his comfort and profit.

What Winston Churchill said so well, I say simply: free trade in a free society provides the maximum benefit to our citizens.

The question is: How do we get there? How do we get free trade and still have fair trade? Mr. President, I am a supporter of fast track, but a cautious supporter of fast track. We will not get anywhere if our trading partners know that an agreement negotiated by our trade team will be bent and twisted by the Senate. They simply will not negotiate with us. They will not deal with us if, in fact, they think that whatever they agree to, the Senate will change it, and modify it, and make arrangements to suit every parochial interest that any one of us might have.

In fact, our trading partners have made it clear that they will not get involved in a negotiation with the United States without fast track. In other words, no fast track, no new agreements, no new opportunities for us, no new opportunities for the engines of production in the United States. It is that simple.

But problems do come up, and we need to look at them squarely at the outset. I want to cite two or three of these problems that I see that we need to be able to handle. I have confidence in the Senate, but I must admit that four years of work and work on these issues. I think it cannot be overlooked.

One of the problems is the recent attempt by the provincial Government of British Columbia to withdraw from the Memorandum of Understanding it was a tie vote, until we were able to extract the agreement, and I happen to be the Senator that did that extracted agreement from former President Reagan, that he personally would set aside the timber issue, so that it would be separately negotiated.

That memorandum of understanding was agreed to, and I think that the Canadians need to understand, and the American trade team needs to understand, that the understanding for time that memorandum has been under attack. Some Canadian firms have failed to pay the full export tax or have misclassified lumber exports as other wood products.

After that agreement was signed in 1986, for example, there was a significant increase in remanufactured wood product exports into the United States. These products are not subject to the 15-percent surtax. I do not think there is much question that much of this increase resulted from misclassification.

There is another good example where we are having problems with the United States-Canada Agreement. The situation that comes to mind is the Saferco fertilizer project in Saskatchewan, which the provincial government is subsidizing by providing significant equity and is guaranteeing the owners' commercial debt.

This is a huge, state-of-the-art nitrogen processing complex. It will cost $435 million to build, and it will increase Canadian production by about 20 percent in a nitrogen market already fully served by existing facilities. The plants now in operation are sufficient to serve the market and Industry. Analysts do not foresee any need for any additional supply in the future. It is difficult for domestic fertilizer producers to gauge their markets and profit margins when a massive increase in subsidized product is on the horizon.

Fortunately, there are dispute settlement procedures in place to remedy these problems. How this matter is resolved will be very important to how this Senator will view any future agreement.

Another concern we have in Idaho, of course, is the prospect of dumping a lot of subsidized product into the United States. I know a lot of industries are concerned about the antidumping provisions in the GATT. The sugar industry, of course, is very concerned that the USTR is not going to be able to stop the sugar producers, from dumping.

Finally, there is the current pork dispute. Currently, there is a Binational Commission to resolve the dispute. However, the Binational Commission will not add to the State. The Trade Commission will not see eye to eye on some things. They do not agree.

There are a lot of pork producers, not only in Idaho but across the country, who believe that the Federal Government of the United States.

I was leery about the binational panels when they were debated in the Senate on the United States-Canadian trade agreement. As I say, we cannot talk with the U.S. Internationals, But it is something we have to look at.

A supranational dispute panel can effectively resolve problems only if everything—hearings, notice, analysis, and so forth—is done exactly right. It seems to me that the system may not be working in this case. What we should do is be cautious that we do not catch producers—in this case pork producers—in an interagency struggle for power, which leaves them mired, as some of my friends from Idaho said, "in a pigpen of indecision." I think it is unfair, and I sincerely hope we can resolve this matter quickly, and that we do not face this in the future.

I have asked Ambassador Carla Hills to look into this and to respond to some questions about the binational panel, and I am looking forward to those answers. I do think, as we move forward to a long-term dream of former President Reagan, that North America will become an open trading zone.

I recall that in 1976 he came to Boise, ID, in his, at that time, unsuccessful bid for the Presidency, and I was working on his behalf in my State at that time, and he unveiled his dream and vision of a North American trade zone.
We have taken a big step by getting a Canadian Free-Trade Agreement. I hope we will have another successful step by getting one with Mexico. We must remember that we must have fair trade, and we have to have fair rules that we go by. We need to move on these free trade agreements, both on the North America Free-Trade Agreement and the Uruguay round. Our economy and the American consumer will benefit tremendously if those agreements can be successfully concluded.

WHY WE SHOULD CUT THE PAY-ROLL TAX AND LEAVE THE WAGE BASE ALONE

Mr. SYMMS. Mr. President, in my opinion, reducing the payroll tax as has been suggested by Senator MYNHAN and Senator KASTEN is good tax policy, it is good economics, and it is good politics. That is why I am an original cosponsor of their bill, S. 11, the Social Security Tax Cut Act of 1991.

When the majority leader, Senator MITCHELL, and the rest of the Democratic leadership in the Senate embraced the idea of a payroll tax cut, I had great hopes that we might actually enact some good economic policy without a bruising political fight. You know, Mr. President, it is hard to be an optimist in this town sometimes. Apparently, my colleagues on the other side of the aisle are going to try to exact a price for supporting good economic policy.

Apparently, they are going to try, once again, to soak the rich by raising the wage cap for Social Security contributions from $53,400 to $125,000 or more. It was just last year that the wage cap for the hospital insurance part of the FICA tax was raised to $125,000. I pointed out at the time that it would not take long before the folks who believe higher taxes produce economic prosperity would be back to raise the rest of the FICA tax base.

Well, it did not take them long. Just 5 months later and my prediction has come true.

Mr. President, there is a lot to be said on this, and I see no need to say it all now. But much of what needs to be said was explained with great clarity by Senator KASTEN in an article published in the Washington Times yesterday. I ask unanimous consent that this article be printed in the Record following my remarks.

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

[From the Washington Times, Mar. 20, 1991] To the Rescue of Payroll Tax Cuts

(Senate Majority Leader George Mitchell's recent decision to support the Moynihan-Kasten payroll tax cut plan is a significant political development. But his suggestion to increase the amount of income subject to the tax to soak the "rich" in order to make up for revenue lost to the current high top marginal tax rates on America's workers and retirees in the lurch.

Raising the tax-free wage cap from the current $53,400 to $125,000—or eliminating the tax cap altogether—is bad policy, bad economics, good for only some constituencies and bad politics. Not only would such an action perpetuate the charade of using the Social Security surplus funds to pay for other government programs, it would reduce economic growth and convert Social Security into the world's largest welfare program.

The current taxable maximum upon which the 7.65 percent payroll tax rate is levied (6.2 percent for Social Security, 1.45 percent for Medicare) is seven times higher than it was in 1976—and it continues to rise rapidly because it's tied to the growth of average wage rates in the economy. Last year's tax-increase budget plan raised the wage cap for the Medicare tax rate to $210,000. It was only a matter of time before this served as an excuse to raise the wage cap for the Social Security tax.

The bill Sen. Daniel Patrick Moynihan, New York Democrat, and I have proposed would cut the Social Security tax from 6.2 percent on any wage above the current cap of $125,000 to 5.3 percent on any wage above the $125,000 cap. This bill prescribes a slight increase in the wage cap compared to current law (Mr. Moynihan argues that the percentage of wages in the U.S. economy covered by the taxable maximum has fallen below the traditional 90 percent to 85 percent today), every taxpayer would receive a tax cut.

In addition to boosting take-home pay and reducing labor costs, the Moynihan-Kasten proposal would return the Social Security program to its traditional pay-as-you-go financing. Taxpayers were told that the payroll-tax surpluses would be placed in a "trust fund" to finance future benefits. But these surpluses aren't really saved at all. Rather, they are immediately spent on other federal programs.

Judging from past comments by his fellow Democrats, Mr. Mitchell may find very little support from his own party for eliminating the wage base. During last fall's floor debate over raising the Social Security wage cap, South Carolina Democrat, referred to use of the surplus to finance other federal spending as "embezzlement." Sen. Brock Adams, a Washington Democrat, put it best when he said, "We are masking the federal deficit with Social Security. And, in the eyes of the American public, whom we represent, this is criminal."

This "criminal" practice would continue under the Mitchell proposal, since there would be little or no net tax cut—and the government would continue generating and spending huge Social Security surpluses.

What's more, the tax cut would also cause serious harm to the economy. We ought to remember that there are two goals that are important—fairness and economic growth. If we strive for a spurious fairness and fail to consider the need to promote real growth as well, we will be striking a fatal blow at our future prosperity.

The Dallas-based Institute for Policy Innovation calculates that while a combined 2 percentage point cut in the payroll tax would create 3.1 million new jobs by the year 2000, even the modest increase in the cap called for in Moynihan-Kasten wipses out half of this job gain. Lifting the cap entirely, or raising it to $210,000, would create 6.3 million new jobs. These are all jobs the economy could, want, and need.
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Mr. President, I will submit all of this background work to substantiate these figures. But again, my colleagues and all American people should know what these subsidies are we are talking about.

Automatically an eligible candidate would be given communications vouchers, communications vouchers that are in the hundreds of thousands of dollars, depending on the size of your State. An eligible candidate could buy broadcast time at one-half the rate of anybody else.

Why should politicians be able to buy time cheaper than other organizations, even profitable organizations? And certainly if we are going to mandate that U.S. Senators get broadcast time at one-half the rate, that has to apply not only to House candidates but I would expect to gubernatorial, maybe county commissioners, city commissioners, as well. Why should we get a rate one-half the rate of other politicians?

Then S. 3 goes so far as to say politicians should be able to mail at one-fourth the cost of regular taxpayers. Most taxpayers are paying 29 cents for a first-class stamp. The politicians would be able to get the same stamp for 7.25 cents. That makes no sense. It is not fair. But that is in S. 3.

Mr. President, yesterday the Rules Committee ordered S. 3 favorably reported. S. 3 is the campaign finance reform bill of the Democratic leadership. I oppose S. 3 for several reasons, mostly because I find its staggering and unacceptable. When I testified on S. 3 last week, I estimated that it would cost $1 billion over a 6-year election cycle. These costs, which are conservatively estimated, will be borne by the private sector and the public sector, which, of course, gets its money from taxpayers in the private sector. The basis for my estimate is a study done by the Republican Policy Committee, a copy of which is before you.

As the study shows, if S. 3 is enacted and all Senate candidates in 1994 avail themselves of the benefits of the bill, costs for Senate candidates will total about $190 million. Over the six-year Senate election cycle, costs for major party Senate candidates will total about $858 million. If similar subsidies are given House candidates, subsidies for major party House candidates will cost about $550 million. (This assumes that the costs for subsidizing House races will bear the same relationship to Senate costs as 1990 receipts for House candidates bore to 1990 receipts for Senate candidates.) The sum of more than $1 billion (which is probably understated because of extremely conservative assumptions for broadcast purchases and independent expenditures) does not include administrative costs. (The Federal Election Commission testified that 2500 auditors would be required to monitor the program. The Commission now employs 25 auditors.)

The Policy Committee assumed 100 percent participation rates. This assumption may be too high; however, 100 percent participation rates appear justified by the nation's experience with the Presidential Election Campaign Fund (only one candidate has turned down Federal money, and his campaign was a costly failure) and by the intentions of S. 3's sponsors (who intend the benefits of S. 3 to be so valuable that no candidate will turn them down). Additionally, it is possible to halve the estimate of the participation rate and not substantially change the $1 billion estimate. If one candidate (rather than two) will be eligible for S. 3's benefits and if the noneligible opponent raises or spends 125 percent of S. 3's spending limit then the eligible candidate is entitled to an additional taxpayer-subsidized payment equal to 100 percent of the general election expenditure limit. This payment, the "excess expenditure amount," is not available when both candidates are eligible for S. 3's benefits. (The threat of a noneligible candidate triggering payment of the excess expenditure amount, by itself, provides another reason for thinking that participation rates under S. 3 will be very high indeed.)

S. 3 provides politicians with a billion dollars of subsidies over six years. It should be opposed for that reason alone—but the sober facts of the Federal budget provide plenty of other reasons. The United States will borrow hundreds of billions of dollars to meet the country's financial obligations. If the Senate of the United States is preparing to vote on a bill that will set up an entitlement program for our own political campaigns and tax money for it. I appreciate the hearings you held on S. 3. Those hearings will help explain the bill to the American people. To that purpose, I ask that this letter and the accompanying study prepared by the Republican Policy Committee be placed in the hearing record together with my testimony of March 13.

Sincerely,

DON NICKLES


THE FIVE MAJOR FINANCIAL BENEFITS OF S. 3

H ow They Work and Who Will Pay

(By Lincoln C. Oliphant, Policy Committee Legislative Counsel)

If S. 3 is enacted, candidates for the United States Senate who agree to limit their campaign spending will be eligible for five financial subsidies. This paper analyzes and explains those subsidies and estimates their costs. Our cost estimates are preliminary and incomplete, but it appears that the subsidies will cost about 10 percent of the spending limit. For example, in a State where the general election expenditure limit would be $1 million, an eligible candidate (running against an ineligible candidate) would be entitled to various subsidies worth about $100,000. These subsidies will be paid for by taxpayers, by broadcasters, and by others who the sponsors of S. 3 have yet to identify. There is a substantial likelihood that the unidentified party also is the American taxpayer. The subsidies will amount to hundreds of millions of dollars. If S. 3 is in force for the 1994 elections, the subsidies will amount to more than $350 million. But in each race participates and to about $131 million if both Senate candidates participate. If the House of Representatives gets involved, there will be another couple of hundred million dollars.

1. INTRODUCTION

S. 3 is the leading campaign finance reform proposal of the 102d Congress because it is sponsored by the Democratic leadership and because it is similar to a bill that passed the Senate last year (S. 137). This month, the Rules Committee is holding three hearings on other campaign reform bills, and a bill can be expected on the Senate floor this spring.

The bill's Democratic sponsors say the key (and nonnegotiable) feature of S. 3 is its spending limits. Under S. 3, candidates for the United States Senate who (1) agree to limit their campaign spending, (2) raise a relatively small amount in contributions of $250 or less, and (3) comply with other requirements of the act would be entitled to five major financial benefits, viz.

Half-price broadcast media rates.

Footnotes at end of article.
March 21, 1991

CONGRESSIONAL RECORD—SENATE

7099

Low cost mailing rates.
Funds to respond to independent expenditures (the "independent expenditure amount").

Funds to match "excessive" spending by an opponent (the "excess expenditure amount"), and

Votes to buy broadcast air time ("voter communication vouchers").

This paper considers each of these benefits to "eligible candidates" in the order that the Senate Majority Leader said:

"The cost of campaign advertising on television has soared in recent years, growing more than 10 fold between 1974 and 1988. In the typical competitive Senate campaign more than 50 percent of the cost is attributed to television advertising. Many candidates spend the last few weeks of the campaign in nonstop fundraising simply to turn the money over to television stations...."

"The proposal in this legislation is modest. It attempts to maintain market factors by relating the cost of election advertising to the cost of commercial time so that candidates still must pay based on the viewership of the programming. I expect this proposal will be resisted by many in the broadcast industry, but advertising is a very minor part of their overall advertising—less than 1 percent of total television advertising revenue."

Even if campaign advertising does constitute less than one percent of total television advertising revenue, political advertising on broadcast television totalled $300 million in 1988. Presumably, the industry will indeed resist this subsidy; an industry that is being ordered to sell its product at one-half the going rate is unlikely to be comforted by a claim that "market factors" are being "maintained." The half-price broadcast rate will constitute less than one percent of the cost of television advertising. Many candidates spend the last few weeks of the campaign in nonstop fundraising simply to turn the money over to television stations."

"The rationale for the broadcast subsidy seems to be that campaigns cost too much and that broadcasters are rich enough to subscribe to this vehicle for this proposed expenditure. The rationale for the broadcast subsidy seems to be that campaigns cost too much and that broadcasters are rich enough to subscribe to this vehicle for this proposed expenditure."

Under current law, certain diplomats, blind persons and others who "cannot use or read conventionally printed material because of a physical impairment," overseas who are posting ballots for elections in the United States, and nonprofit or other groups that receive substantial mail subsidies. These subsidies are paid for out of the general revenues of the United States unless Congress appropriates money for these purposes. In the case of a failure to appropriate, the rate is to be increased to make up for the amount that the Congress was to appropriate. S. 3 will give eligible candidates preferential rates for mail. The preferential rates will be (1) for first-class mail, one-fourth of the regular rate, and (2) for third-class mail, two cents per piece less than the first-class rate. This subsidy comes to an end when the regular amount paid for reduced-rate mail (i.e., the sum of first-class postage and third-class postage at the reduced-rate prices) exceeds five percent of the general election expenditure limit for the candidate. Up to the 5 percent cap, therefore, eligible Senate candidates may purchase a first-class letter for 7.25 cents (i.e., one-fourth of the regular rate which is now 29 cents) and a third-class letter for 5.25 cents (i.e., 2 cents less than S. 3's reduced rate for first-class mail). Postal rate structures are complicated and it is somewhat difficult to compare rates, but we are informed by the Postal Service that, with respect to first-class rates, there is no comparable rate reduction for any other group; with respect to third-class rates for non-profit organizations, the average rate per piece is 9.5 cents. We estimate the value of the mail subsidy at 10 percent of the general election expenditure limit. This subsidy is not to be paid for by taxpayers, but is to be paid for by the private sector, because section 104(b) of the bill provides permanent authorization for an appropriation. The eligible candidate's spending and not the subsidy is capped at 5 percent of the general election limit.

We summarize the value of this subsidy in the following table. (We have included this table for each of the subsidies that follow.)

<table>
<thead>
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<tbody>
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This subsidy is worth at least 50 percent of the spending limit. We emphasize that this estimate is rock solid because it sits on the rock bottom. Our estimate for the value of this subsidy will be too high if and only if an eligible candidate does not spend all of his or her broadcast vouchers. Since the vouchers are free to the eligible candidate and can only be spent on broadcast time to tout the candidate, we hold firmly to the thought that this estimate is cheap.

IV. THE SUBSIDY PROVIDED BY THE PRIVATE SECTOR: LOW COST MAIL

Under current law, certain diplomats, blind persons and others who "cannot use or read conventionally printed material because of a physical impairment," overseas who are posting ballots for elections in the United States, and nonprofit or other groups that receive substantial mail subsidies. These subsidies are paid for out of the general revenues of the United States unless Congress appropriates money for these purposes. In the case of a failure to appropriate, the rate is to be increased to make up for the amount that the Congress was to appropriate. S. 3 will give eligible candidates preferential rates for mail. The preferential rates will be (1) for first-class mail, one-fourth of the regular rate, and (2) for third-class mail, two cents per piece less than the first-class rate. This subsidy comes to an end when the regular amount paid for reduced-rate mail (i.e., the sum of first-class postage and third-class postage at the reduced-rate prices) exceeds five percent of the general election expenditure limit for the candidate. Up to the 5 percent cap, therefore, eligible Senate candidates may purchase a first-class letter for 7.25 cents (i.e., one-fourth of the regular rate which is now 29 cents) and a third-class letter for 5.25 cents (i.e., 2 cents less than S. 3's reduced rate for first-class mail). Postal rate structures are complicated and it is somewhat difficult to compare rates, but we are informed by the Postal Service that, with respect to first-class rates, there is no comparable rate reduction for any other group; with respect to third-class rates for non-profit organizations, the average rate per piece is 9.5 cents. We estimate the value of the mail subsidy at 10 percent of the general election expenditure limit. This subsidy is not to be paid for by taxpayers, but is to be paid for by the private sector, because section 104(b) of the bill provides permanent authorization for an appropriation. The eligible candidate's spending and not the subsidy is capped at 5 percent of the general election limit.

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limit because each letter costs only one-fourth of the regular rate. Therefore, if any of the postage were on first-class mail the subsidy would be $150,000 ($200,000 received minus $50,000 paid). If the $50,000 were spent on third-class mail, the eligible candidate would receive a subsidy of about $50,000 because the third-class subsidy is roughly 100 percent ($100,000 of third-class postage could be purchased for $50,000).

In measuring the cost of this subsidy we assume that an eligible candidate with a $1 million general election limit will divide his or her spending between the three subsidy classes so that $150,000 of postage will be procured with the candidate’s $50,000. Therefore, the subsidy is $100,000 ($150,000 received minus $50,000 paid), or 10 percent of the general election limit.

Estimated value of subsidies to eligible candidates under S. 3 in State where general election spending limit is $1 million

<table>
<thead>
<tr>
<th>General election expenditure limit</th>
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</tr>
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</tr>
<tr>
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<td>100,000</td>
</tr>
<tr>
<td>Independent expenditure amount</td>
<td></td>
</tr>
<tr>
<td>Voter communication vouchers</td>
<td></td>
</tr>
<tr>
<td>Excess expenditure amount</td>
<td>266,667</td>
</tr>
</tbody>
</table>

We estimate that this subsidy is worth 10 percent of the spending limit, although it could shrink to 5 percent or even 2 percent if the spending limit (if only third-class postage is purchased) to 15 percent (if only first-class postage is purchased) to place current spending at the midpoint. By doing so we knowingly discount the incentive to use more first-class mail (and receive additional subsidies worth tens of thousands of dollars).

V. SUBSIDIES TO CANDIDATES THROUGH THE SENATE ELECTION CAMPAIGN FUND

The three subsidies discussed in this section will come out of a Senate Election Campaign Fund. Unfortunately, S. 3 does not say who will put money into the Fund. In part, it is said, that silence is in deference to the House’s constitutional prerogatives on taxation. In part, that silence is intended to obscure the prospect that taxpayers are about to be picked up by the Senate for Senator-campaigns. Some of our reasons for thinking that taxpayers will be handed the bill—over the heads of the Senate—have been given below in subsection E, “Who Will Pay for the Senate Election Campaign Fund?”

There are some things about S. 3 that its sponsors find objectionable (such as the detail of who pays), but there are other things that we do know: We know, for example, that S. 3 establishes “on the books of the Treasury of the United States a special fund to be known as the ‘Senate Election Campaign Fund’,” and we know that S. 3 appropriates to the Fund for each fiscal year an amount equal to “any contributions by persons who are specifically designated as being made to the Fund.” 29 We do not know who will be assigned to make these “specifically designated” contributions, but we do know that S. 3 will offer the following benefits to be paid out of that phantom fund:

B. The Independent expenditure amount

Under S. 3, an eligible candidate will receive a payment from the Senate Election Campaign Fund to counteract independent expenditures that are made or obligated to be made during the general election period (1) on behalf of the eligible candidate or (2) on behalf of the eligible candidate’s opponent. 30 This benefit, the “independent expenditure amount,” is not limited to eligible candidates facing noneligible opponents. If an independent expenditure is made that violates S. 3 and the Senate Election Campaign Fund decides that the independent expenditure is not to be paid for, the person making the independent expenditure would be required to “pay the excess expenditure amount.” 31 Current law does not, of course, require any comparable benefit.

For a major party candidate, 32 the excess expenditure amount is two-thirds of the general election spending limit payable whenever the noneligible opponent spends or raises more than 100 percent of the general election spending limit. Both major party candidates would receive the same amount, roughly $1,335,333 (133.33 percent of the general election spending limit). If the candidate is an independent, however, the excess expenditure amount is two-thirds of the general election spending limit payable whenever the noneligible opponent spends or raises more than 133.33 percent of the general election spending limit. Therefore, in a race for U.S. Senate where the general election spending limit is $1 million, as soon as the noneligible candidate raises, spends, or obligates to spend $1,000,000 plus-one-dollar the eligible candidate is entitled to receive that dollar from the Senate Election Campaign Fund for $999,667. Once the noneligible candidate in our hypo­

C. The excess expenditure amount

Estimated value of subsidies to eligible candidates under S. 3 in State where general election spending limit is $1 million

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<tr>
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<tr>
<td>Excess expenditure amount</td>
<td>666,667</td>
</tr>
<tr>
<td>Voter communication vouchers</td>
<td></td>
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</table>

This value is particularly difficult to assess even though we have only three choices for spending: $50,000, $66.66, and zero. We assume that a noneligible candidate will raise, spend, or obligate to spend at least one dollar over the general election limit. That one dollar decision will, of course, trigger a two-thirds of a million dollars windfall to his or her eligible opponent. Our difficulty with the estimates vanishes, however, when we assume that both candidates are eligible. In that case, neither candidate is entitled to an excess expenditure amount and we can safely say that the subsidy disappears. Estimates for Senate races where both candidates are eligible can be found in the Appendix.

D. Voter communication vouchers

An eligible, major party candidate is entitled to receive voter communication vouchers in the amount of 50 percent of the general election expenditure limit. These vouchers may be used only to purchase broadcast time of thirty seconds on television or radio spots minutes during the general election period. 33 After the Federal Election Commission certifies that a candidate is eligible, the Secretary of the Treasury issues voter communication vouchers. These are in turn used to purchase broadcast time and then turned back to the Secretary by the broadcaster for payment at face value. 

Funds for the payment of are to come from the Senate Election Campaign Fund. 34 Current law does not, of course, provide any comparable benefit.

Estimated value of subsidies to eligible candidates under S. 3 in State where general election spending limit is $1 million

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After defeat of the McConnell amendment, Senator Exon proposed that the bill’s benefits be paid by individual taxpayers who would receive part of their tax refund to the campaign finance fund. Unlike the current checkoff system, the Exon plan would have reduced a taxpayer’s refund. That amendment, favored by Senator Boren’s sense-of-the-Senate amendment to the same effect as the Exon amendment was then defeated. 

37

There will be a shortfall in the [President’s] Fund,” says the Chairman of the F.E.C. “This may occur as early as next year’s Presidential election. It will occur in the 1996 elections absent corrective legislative action.” 37 As costs have risen, participation has dropped off. In 1989, according to the Senate Finance Committee, fewer taxpayers were showing a ”check-off” fell below 20 percent for the first time. 38

Under our assumptions, an eligible candidate in a State with a $1 million general election expenditure limit is entitled to an estimated $1,767,000 in subsidies if his or her opponent is not an eligible candidate. This ratio of 1 to about 1.60, which may be too high or too low, will hold for every State. If both candidates are eligible major party candidates, the combined subsidy for both campaigns will equal about $2,200,000, or 2.24 times the general election expenditure limit for one candidate. (The subsidy for an election when both candidates are eligible candidates is calculated by omitting the excess expenditure amount and then doubling the result.) Estimates for the 1994 Senate elections can be seen in the Appendix. The cost of the five subsidies will be paid for by persons as yet undisclosed. Taxpayers and broadcasters have already been assigned to pay for the other two subsidies.

This paper does not purport to provide a comprehensive estimate of costs. We make no estimate for administrative costs, for example. Our estimate for the independent expenditure amount is probably far too low; nearly everyone expects independent expenditures to balloon if direct campaign spending is capped. Costs for minor party candidates are sure to climb, perhaps steeply. Our estimate of the subsidy for the half-price broadcast rate may be far too low because it accounts only for the eligible candidate’s communication with taxpayers. Our estimate for the cost of the excess expenditure amount is an average guess. How can it be anything else when the value of that benefit is either 100 percent or 97 percent of the general election expenditure limit or zero? And, of course, all aggregate estimates—ours and everyone else’s—are functions of participation rates, which are unknown. Based on the presidential model, however, we believe that participation rates will be very high. (John B. Connally is the only presidential candidate, among dozens during a generation, who has refused money from the Treasury.)

We look forward to a more comprehensive estimate of the costs of S. 3.
The spending limits for the general election are explained in the paper. For a primary election, the limit is 67 percent of the general election limit or $2,750,000, whichever is less. The limit for a special election is 20 percent of the general election expenditure limit. Sec. 101-"502(d)."

For example, the filing requirements of subsections 101-"502(b)-(y)," the recordkeeping and audit requirements of sec. 101-"503," and the limit on the use of personal or family funds of sec. 101-"502(e)."

This is the term to denominate a candidate who has agreed to the requirements of the bill and is therefore limited. Sec. 101-"503(b)-(y)," New Jersey gets its own formula. Sec. 101-"503(b)k.

The contributions must be made by contributors, whose bona fides were questioned. Sec. 101-"504(d)(3)(B)."

The Federal Communications Commission conducted an audit of television and radio stations to measure compliance with the rules requiring that the lowest unit charge be posted. Sixteen television stations and four of eight radio stations were found to be in noncompliance. Broadcasters have complained for years that the F.C.C.'s rules are complex, confusing, and costly. In September, 1990, the Commission issued new guidelines requiring broadcasters to disclose all rates and the availability of package options available to commercial advertisers and prohibiting broadcasters from creating new classes of time that result in higher rates for new advertisers. As of July 1991, the Commission received 15 complaints about noncompliance.

The section-by-section summary of section 315 adds to section 315 two new subsections on preemption of state laws. Sec. 315(a). The section-by-section summary of section 315 adds to section 315 two new subsections on preemption of state laws. Sec. 315(a)

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EXTENSION OF MORNING BUSINESS
Mr. SIMPSON. Mr. President, I ask unanimous consent that we be permitted to proceed for an additional 7 minutes.

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

Mr. SIMPSON. Mr. President, therefore in view of that, I yield to my friend from Montana 4 minutes.

The PRESIDING OFFICER. The Senator from Montana [Mr. BURNS] is recognized.

THE MIDDLE EAST
Mr. BURNS. Mr. President, last weekend about 17 Senators, bipartisan, visited the Middle East. We all came away with different impressions and different thoughts of the Middle East and the activities and the actions that were taken there.

We tend to forget sometimes that Saddam Hussein was the man who made the first move. There was a time when we entered into a decision that had to be made here in the United States, both by the two parties, and we proceeded.

But as I visited Kuwait last weekend, it reminded me of some things we are doing in this Congress I think we ought to be mindful of or be reminded of every now and again.

What Saddam Hussein did to a city in 7 months might be happening to our country and our cities, only spread over a longer time, maybe in 70 years. When you go into a city that you have visited just 4 years ago and see its vitality and its modern conveniences and the amenities that Americans are used to completely trashed and destroyed—it was a ghost city, and we in the West know what ghost cities look like: no people, no life, no trucks, no cars, no water, no power, the ability to handle sewage or waste. None of those amenities or necessities to run a city was evident, and with the fires from those oil wells outside and the rain in cities on the buildings that were once white, that were dingy and streaked from the rains of the spring.

I got to thinking, do we invest in this country, in our infrastructure called transportation, called communications, called water and power, that is so important to our ability to compete with the rest of the world.

Sometimes we move our priorities, and I have moved mine. We respond to reactions and kneejerk reactions of some social programs that do not work.

I am always reminded of a comic strip I saw a couple of weeks ago. I think it was Shoe. This guy says, "I react to my problems. I throw money at them. And the only thing that disappears is my money. The problem remains." So as we start to allocate dollars working in this budget—and the American people have told us that this national debt and deficit spending is the No. 1 priority. But they also have another priority, called the maintenance of infrastructure.

All you have to do, Mr. President, is go and look at Kuwait City. What was done in 7 months, we are doing to ourselves, also, over a period of years. It is happening before our eyes, and we are not realizing it.

That is what I brought back from the Middle East, other than a force that has to be made in this country. There has to be a movement to a different direction and we proceeded.

But we have to proceed for an additional 7 months might be happening to our society—completely destroyed, a city taken to its knees.

We tend to forget sometimes that the negotiations that take place, the trade negotiations, and an operation that went off without a hitch. Those young men and women of our country should be congratulated for a job well done. What we want to do is bring them home.

But I just want to remind my colleagues that we should take a look at our infrastructure.

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

Mr. BURNS. I thank the Chair and I thank my leader, and I yield the floor.

Mr. SIMPSON. I thank the Senator from Montana for his graphic description of his visit to Kuwait.

How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

SUPPORT OF THE EXTENSION OF THE FAST-TRACK AUTHORITY
Mr. SIMPSON. Mr. President, I want to express my strong support of the President's request to extend the fast-track past the May 31, 1991, deadline set by the Congress in the Omnibus Trade and Competitiveness Act.

We really have before us two great opportunities to improve the slowing of the United States economy—specifically, the Uruguay round of GATT and the North America Free-Trade Agreement. Historically, Congress and the executive branch have recognized that the negotiation of and the implementation of free-trade agreements requires a very special kind of cooperation. This relationship has worked very successfully over the years. The proof of this is the inclusion of the fast-track procedures in the trade legislation in 1974, 1979, and the 1988 Omnibus Trade and Competitiveness Act.

Fast-track provides two essential guarantees for us: A vote on the implementing legislation within a fixed time period; and, two, no amendments to the final agreement. These guarantees are absolutely essential to negotiating any agreement. Without them, the final package will be unraveled by every single amendment which every one of us in the United States, every single one that comes down the pike. More importantly, many countries will not commence trade negotiations without an assurance of the fast-track procedure. We must be able to ensure that the final agreement reached can be voted on intact.

The Uruguay round of GATT and the North American Free-Trade Agreement represents good policy—good trade policy, good economic policy, and good foreign policy.

Over the last decade, we have become increasingly aware of the critical role that international competition and trade play in our economy. From 1982 to 1989, imports increased from $254 billion to $430 billion, while exports increased from $232 billion to $364 billion. The $108 billion expansion accounted for 40 percent of the 4-year growth in the U.S. gross national product. The balance of trade during that same time period increased from $32 billion to $129 billion. Despite our international trade efforts, imports continue to greatly exceed exports. We must realize that domestically, we just are not going to be able to consume a great deal more than we currently are. We cannot. Without actively pursuing all avenues to increase exports, the balance of payments will continue to deteriorate.

The so-called Hollings resolution aiming to derail the executive branch's ability to negotiate trade agreements is not appropriate. The language of the disapproval resolution makes it so very clear that fast-track authority would be eliminated for both bilateral and multilateral agreements. If that passes, we will have accomplished more harm in the Uruguay round. Essentially, a vote against fast track is a vote against trade.

We cannot fool ourselves by thinking that any final agreement on the proposed trade agreements will be welcomed globally. Yet, if we were to eliminate the fast-track procedure, we will irreparably damage prospects for a favorable conclusion to trade agreements and the international competitiveness of the United States.

We cannot deceive ourselves by diminishing the importance of the fast-track provision. We have before us a decision which will determine the direction, as well as the strength, of U.S. trade policy in the future.

I urge my colleagues to support the President's request to extend the fast track, and commend Carla Hills for her superb work in this effort.

Mr. President, I support the majority leader for this opportunity of a special order to express some of the views and
of central Europe and disregard the Yalta provisions on free elections.

Compounding the error, the Nation’s defense industry was left to decay—forcing us to take extraordinary measures to stave off the Korean war. This was in fact the lack of military readiness that, 3 months after the beginning of the Korean war, prompted Congress to pass the Defense Production Act. The effects of this act are still in force today.

In an article in the April–June 1953 issue of the Federal Bar Journal, Robert Finley of the Office of Defense Mobilization presented an Army estimate that if tools cupshined out of business and many only for maintenance during each of the 5 years preceding Korea, between $200 and $300 million would have been saved in subsequent rehabilitation costs.

Finley wrote:

The great expense and delay which could have been avoided in the period of buildup since Korea had more of the facilities of World War II lead and maintained, requires no elaboration. In the years following the war *** large numbers of plants were sold or abandoned amen allowed to deteriorate. It is evident that these mistakes must not be repeated.

One widely cited example is the case of machine tools. In his book “Industrial Mobilization: The Relevant History,” Roderick L. Vawter points out that an excess of machine tools after the war caused them to be dumped by the War Assets Administration at 15 cents on the dollar. This drove 34 machine tool companies out of business, leaving the United States in 1951 with one-third the machine tool capacity that had existed at the start of World War II.

My speech here is a warning that something even worse than what happened to the machine tool industry may befall our submarine industry, unless we make wise decisions with respect to the submarine industry.

Let me be more specific. Our principal submarine builder, the Electric Boat Shipyard in Groton, CT, in 1 recent year received construction awards for five new submarines. Now, Congress and the Pentagon face decisions that may result in a few years in Electric Boat having no more than one submarine to build every 2 years, far less than what is necessary to keep this vital national asset in business. If we lose Electric Boat, we will lose a crucial component of our defense industrial base.

When I called Electric Boat our submarine builder I did not mean to slight the other still functioning submarine yard in Newport News, VA. It is also a tremendous asset of our Nation. The fact is, however, that Electric Boat is dedicated exclusively to submarine construction, it has no other business other than the construction of submarines. It is qualified to build every class of submarine we have in our inventory. Of the three classes presently in construction, Electric Boat is building all three at the same time, the other shipyard, Newport News, only one.

The question at hand is the impending decision on the appropriate procurement strategy of the new Seawolf-class attack submarine. Originally, this program was planned to launch a fleet of 29 Seawolfs. After repeated setbacks we are now down to ships planned and even this figure is now immune to further reductions; 29 Seawolfs could have kept 2 shipyards working in healthy competition, just as was done with the previous Los Angeles class of attack submarines. A program of merely nine submarines, however, will probably call for a different procurement strategy.

Electric Boat is now constructing the lead ship of the class. It won the award in genuine competition. Instead of continuing with a competitive strategy, though, the Navy is now prepared to award the second ship to Newport News, presumably to preserve the option for a competitive acquisition strategy.

A little explanation is in order here. Anticipating a directed award to Newport News, last year’s Defense Appropriation Act ordered that the contract for the second Seawolf be awarded competitively. The act also provided that the Secretary of the Navy may consider “all applicable factors” in making his award. This language is, of course, so broad that you could pilot a Trident through it and the Secretary now faces the decision whether to make the award based on price or to direct the award to the higher bidder—and justify the decision on the basis of some other applicable factor.

Mr. President, it is my firm belief that the Secretary of the Navy would be a mistake to direct this award to the higher bidder and justify the decision on the basis of some other applicable factor.
my fear is that we are not giving enough consideration to that policy, and we are shutting down these facilities and consolidating and merging to save dollars because of the budget constraints, but little or no thought is being given to the long-term industrial base needs of this Nation as it applies to its national security.

As I said, Mr. President, this has gone on in every single case. We have paid a dear price in every single instance, and that's why I think we need to pay attention to industrial base policy.

I urge my colleagues to look at the testimony from the hearing conducted by Senator Inouye the other day. It was a very worthwhile and important hearing on this issue.

STATEMENT ON SEAWOLF

Mr. LIEBERMAN. Mr. President, I agree with my distinguished colleague from Connecticut about the importance of a fair and objective competition for the second Seawolf. The upcoming decision is of enormous importance for a number of reasons. First, this decision will have a major impact on southeastern Connecticut. I have recently met with the workers of Electric Boat (EB) and have felt their anxiety. I realize that thousands of jobs may be on the line in the most economically vulnerable part of our State. And these workers are also located in the part of the country that is suffering the most from the current recession, New England. This is not an abstract decision to be made in a vacuum. People's livelihoods are at stake.

But it is also a vital issue for the U.S. taxpayer. Real cost savings are best achieved in a stable production environment and the most cost-effective way to fund the Seawolf Program is to ensure a steady production rate at EB. If the fiscal year 1991 Seawolf is not awarded to EB, there will be a 3-year production gap at the Connecticut shipyard. EB therefore will have to lay off considerable numbers of its skilled work force and halt its production line.

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The Seawolf Program will sacrifice significant production and learning curve improvements.

To be more precise, Electric Boat and the Navy itself have estimated that there would be an immediate loss to the Government of $335 million due to the following negative repercussions:

- The lost learning curve would result in a $140 million loss.
- Overabsorbed overhead would cost the Government $120 million.
- The disruption of vendor supplies would result in a $40 million loss.
- Reloading and training costs would end up costing $35 million.

That's a total, all told, this comes to $335 million.

Nor do these numbers include the price differential between the two competitors' bids for the second Seawolf.

Logic supports the belief that Electric Boat has submitted the lowest bid. No
doubt, this is in large part due to its mastery of the new modular system of construction. The modular system, which EB pioneered when constructing Trident submarines, involves building a submarine that is sectioned rather than from the keel up. Newport News has yet to implement this new and cheaper method.

Some have asserted that the second Seawolf must go to Newport News to preserve an industrial base of two nuclear submarine yards. However such an award will likely have the opposite effect, leading to the elimination of EB.

EB must have at least one submarine a year in the budget to survive because it has a significantly smaller backlog of work than Newport News and only builds submarines. Newport News is currently building 10 submarines and three carriers through 1997. It was recently awarded the multiyear carrier Enterprise nuclear refueling overhaul and expects more such carrier major overhauls later in the decade. It will become the carrier carriers’ carrier. Thus, Newport News will have a stable work force at least through 1997.

In contrast, EB has a workload 40 percent smaller than Newport News and is currently laying off workers. EB will lose half its work force if it only gets one submarine a year. Its future will be even more tenuous if it is awarded only one submarine every other year. This is the expected outcome if Newport News receives the second Seawolf and awards alternate between yards at the Navy’s planned construction rate of one Seawolf a year.

Mr. President, I would like to salute the fine work performed by the Senator from Hawaii, chairman of the Defense Subcommittee of the Appropriations Committee. Last Tuesday, he held an excellent hearing in which Jim Turner, head of Electric Boat, made many of these same arguments.

Senator INOUYE has also directed in last year’s appropriations bill a fair and objective competition based on price and quality. He knows that political pressures and bureaucratic inertia should not drive the decision. I want to compliment the senior Senator from Hawaii for insisting on a fair competition. The taxpayers owe him a vote of thanks.

I do intend to remain vigilant in order to assure that a fair competition takes place. I expect that the taxpayers will insist that all of us in Congress be vigilant as well. At a time of declining defense budgets, this is no time to squander in idle money on poor procurement practices. This is a time to think of the national interest.

ON U.S. SUBMARINE INDUSTRIAL BASE

Mr. DODD. Mr. President, this week your Defense Appropriations Subcommittee took testimony on the acquisition strategy of the new Seawolf-class submarine. Through this hearing, was the chairman of the subcommittee apprised of the status of the industrial mobilization base for submarine construction and does he have any conclusions in this regard?

Mr. DODD. Following up on that, Mr. President, did the Senator receive testimony on the proposed acquisition strategy of the Seawolf Attack Submarine Program?

Mr. INOUYE. The Secretary of the Navy is presently reviewing proposals in response to a competitive solicitation for the fiscal year 1991 ship. There is a serious question, however, whether the proposed acquisition level will be sufficient to maintain a long-term competitive acquisition strategy for the program. The Electric Boat shipyard builds only submarines and has stated that it requires one submarine per year to stay in business. The Newport News shipyard builds both attack submarines as well as carriers and has stated that it would need a half ship per year to maintain its attack submarine construction activity. If one result of competition is potentially losing one of the nuclear capable submarine construction yards entirely and reducing the capability of the other, then, significantly, this is not the time to take that path.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent I be able to proceed for 10 minutes as if in morning business.

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

THE CRIMINAL JUSTICE SYSTEM

Mr. BIDEN. Mr. President, I rise for two purposes today.

One is to discuss very briefly the issue that has riveted the attention of the Nation, and that is the subject of police brutality.

I have spent the entirety of my professional career as a practicing attorney and as a Member of the U.S. Senate over the last 24 years dealing with the criminal justice system. And it falls to me the responsibility as chairman of the Judiciary Committee, and having worked on that committee for years and years, to deal with the issue relating to the criminal justice system, including the issue of police brutality.

Mr. President, I have turned on the television every morning, and on every morning show I watched, since the dreadul incident in Los Angeles, a home videotape machine replayed 1,000 times, as it should be, in Los Angeles.

I have now listened and heard with equal anger and horror about the prospect of a similar circumstance having occurred in the city of New York—without video—but the allegation that a young man, a car thief, may have been suffocated. We are going to hear more, as we should, about incidents and alleged incidents of outrage that have occurred at the hands of some police.

I am starting to hear now disturbing me almost as much. Every time I turn on the television, there is a psychologist on talking about the pressures on police, the implication being that all police engage in this kind of activity, that this is somehow a widespread phenomenon throughout the Nation.

Mr. President, I am labeled one of those people on civil rights and civil liberties issues as being on the left. I am labeled as one of those people, and often criticized for being too concerned about civil liberties and too outspoken about civil rights issues.

So I do not come at this from the perspective of someone who is automatically expected to be supportive of the police whenever anything happens. But it does disturb me, and therefore I feel compelled to speak this morning. I have had the opportunity, as I said, for the last two days, to learn more about the criminal justice system than I ever wanted to know, quite frankly. And the fact of the matter is the overwhelming—overwhelming—majority of police officers in this Nation do not engage in such activity.

Let me put it in perspective for just a moment, and I am not going to take much of the Senate’s time this morning. According to the Justice Department’s most recent accounts there are about a half million police officers in America, about 500,000 law enforcement officers in this country. And according to Attorney General Thornburgh, there were about 2,500 incidents of reported police brutality in 1990.

That is horrible and we should ferret it out; we should go after those who engage in that brutality, and they should be given the strictest measure of the law applied to them. But this is equal to about one reported incident of police brutality for every 200 police officers there are in the Nation, and every poli-
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Ported incident does not necessarily mean it occurred. But let us assume it did; that every reported incident, I say to the Presiding Officer, who was attorney general of his State, and had probably—each State attorney general has a slightly different jurisdiction and authority, but I expect he had jurisdiction over such matters. And I would also note that there were about 14,500,000 arrests in the year 1989 by these half million police officers. So let us put this in perspective. A half million police officers, over 14 million arrests made by those police officers, and 2,500 reported cases of police brutality. That means that in 99.98 percent of all the arrests made in this country—99.98 percent of all the arrests made in this country—there was no allegation of brutality. I am not a fan of the man who heads the Los Angeles Police Department. I have said publicly that although that is a local responsibility to determine whether or not he stays, were I the mayor, were I one of the commissioners, I would be pleased to see him out. And I contend that were I there, that would be my position.

We have no authority, the Presiding Officer and I, to determine who is going to be the presiding chief of police in any city or municipality, nor should we. But the fact remains, notwithstanding what we saw on that video—and it was horrible, inexcusable—it is hard to believe that not only the people who were engaged in, but those who were watching, in authority, are not culpable for that activity. Again, that is for juries to decide, not for me to decide, as a trier. I am no trier of fact, and/or the jury in this case. But they should be prosecuted, and people should be made to pay for what happened.

I can assure you and assure my colleagues that for every citizen who watched videotape and felt a sense of anger and rage, there were 10 times as many police officers who watched the video and felt a genuine sense of rage, because they knew what would come next; that notwithstanding the fact they put themselves in a circumstance more dangerous than they have ever been placed as a group in the history of this Nation, with 23,000 murders in this country.

But today, we are releasing the findings of the majority staff report, which reveals that the extent of the rape epidemic that has spread across this country is real. And here are some of the conclusions. In 1989, more women were raped than in any year in U.S. history. In 1989, the number of rapes in this country reported to authorities exceeded 100,000 for the first time. There was over a 6-percent increase in the number of rapes from last year, an increase of 5,929 attacks, the largest increase over a decade; 1990 continued a 3-year trend of increases in the number of rapes, and, further, the 1990 increases grew nearly three times greater than 1989. Last year, half of the States, 29, set all-time records in the number and rate of rapes.

What do all these things tell us? Well, the simple but horrible fact is American women are in greater peril now from attacks than they have ever been in the history of this Nation. Unfortunately, it has taken these findings to again prove that our society and the laws must change to address the problem.

Mr. President, it is in the spirit of trying to deal with this problem that I have introduced once again this year the Violence Against Women Act in this Congress. I hope my colleagues, in considering the details of that legislation, which I will be speaking at to the length at a future date, will consider the report on rape as well as other factual data which will point out that American women are more at risk today than they have been at any time in our history, and we must do something about it.

I thank the Chair and I thank my colleagues.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I might proceed as in morning business for 6 minutes.

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

Mr. CHAFEE. First, Mr. President, I wish to thank the distinguished senior Senator from South Carolina for permitting this. I know that he was prepared to go ahead with another matter.

THE AWARDING OF THE SEAWOLF SUBMARINE CONTRACT

Mr. CHAFEE. Mr. President, I would like to address a matter which is of great importance to the Nation and to my home State. Sometimes we have a juxtaposition where a parochial concern also coincides with a national concern, and that is the situation we have before us today; namely, the awarding of the contract for the second SSN-21 class submarine. This contract to be awarded would be for the second one; namely, SSN-32, the Seawolf attack submarine.

The Secretary of the Navy is currently considering competing bids for the second Seawolf submarine. The bids have come in from General Dynamics' Electric Boat Division, which has its principal facility in New London, CT, and the other facility in Quonset Point, RI, and Newport News Shipbuilding of Virginia.

Originally, it was expected that a significant number of Seawolf-class submarines would be built and that the two yards could compete effectively for the business and, through the competition, there would be savings for the U.S. Government.

The Navy awarded Electric Boat the contract for the first Seawolf. It was a competed contract. Electric Boat won it, and it was anticipated that the second one might go to Newport News. The two yards would then compete thereafter for the subsequent submarines.

There are several factors why this strategy might result in significant losses to the American taxpayer and our national security interests. The first factor relates to the possible loss of a critical industrial base. The second relates to the actual cost of the program. Both of these factors argue in favor of a decision to award the second Seawolf to Electric Boat.

Recent cutbacks in defense spending has reduced the number of Seawolfs to be built to as few as five or six vessels over the next 5 years. In other words,
at a rate of one per year. This number is insufficient to allow two yards to produce the ships.

I think we also should be aware of the fact that Newport News produces surface ships—principally aircraft carriers, the only builder of aircraft carriers in our country, and also the only builder of nuclear-powered surface ships. Also, Newport News produces submarines. And that yard has a significant backlog. Newport News is thriving with its present submarine and surface ship contracts, but without the Seawolf contract, Electric Boat most likely would not build its submarines. And that yard has a significant backlog. Newport News is thriving with its present submarine and surface ship contracts, but without the Seawolf contract, Electric Boat most likely would shut its doors in the mid to late 1990's. If the United States is going to retain two nuclear-capable shipyards, the construction of two submarines is insufficient to allow two yards to produce the ships.

Mr. President, each year, with each successive submarine, there is a decline in the number of man-hours spent in the construction of that submarine. The beneficiary was the taxpayers of the United States. So, Mr. President, I believe it is in the Nation's best interest that that yard be awarded with the Seawolf to be awarded to Electric Boat. I thank the Chair and I thank the distinguished junior Senator from Delaware, the chairman of the Judiciary Committee, and the manager of the bill coming up, for permitting me to proceed.

V-22 WINNER OF THE COLLIER TROPHY

Mr. GLENN. Mr. President, I rise to bring to the attention of the Senate a very significant event involving the Bell Boeing V-22 Osprey tiltrotor development team. As you know, Mr. President, every year the National Aeronautical Association (NAA) presents an award, the Collier Trophy, for what it views as "the greatest achievement in aeronautics or astronautics in America." The NAA makes its determination based on "demonstrated actual use in the previous year." I am delighted to report the selection of the V-22 Osprey tiltrotor team as the recipient of this year's Collier Trophy. As I said, Mr. President, this marks a very significant event for the V-22 team as the Collier Trophy is widely considered the most prestigious award of its kind in the United States. Without objection, Mr. President, I ask that the citation accompanying the award be placed in the RECORD.

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

BELL BOEING V-22 OSPREY TILTROTOR TEAM WINS COLLIER TROPHY

The National Aeronautical Association (NAA) has named the Bell Boeing V-22 Osprey Tiltrotor Team winner of the coveted 1990 Collier Trophy.

The V-22 Osprey is a tiltrotor aircraft that can takeoff, hover and land like a conventional helicopter. However, by tilting its engine nacelles forward, the V-22 can fly like a turbo prop aircraft—swiftly, comfortably and efficiently. The V-22 can fly at speeds in excess of 300 knots; or it can hover or it can also fly with its rotors at any angle, from zero degrees through 90 degrees.

The Collier Trophy is awarded by NAA "for the greatest achievement in aeronautics or astronautics in America demonstrated by actual use in the previous year."

The selection committee of more than forty aviation leaders selected the V-22 from among ten nominations submitted by the aviation community. The Collier Trophy is widely considered the most prestigious aviation award made in the United States. It was first awarded in 1911 to Glenn Curtis for his achievements in dirigibles.
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CONGRESSIONAL RECORD—SENATE

Mr. SYMMES. Mr. President, in today's Wall Street Journal is an article I felt you should all my colleagues to read. The article by Margaret Calhoun, titled "Namibia's First Democratic Government May Be Its Last," provides an excellent overview of Namibia's first year of independence under the SWAPO government.

Ms. Calhoun has had great experience working in this area. I know her personally. I highly recommend this for my colleagues to read.

We all remember the extensive negotiations and work done by this Government and others to secure Namibia's independence. A number of Senators, including myself, have paid particularly close attention to this region of the world for several years. We have recognized the importance Namibia, in particular, plays in securing peace and freedom in southern Africa.

As Ms. Calhoun states:

If Namibia's fragile democratic construction could be undermined by the return of the South West African People's Organization (SWAPO), which has an estimated 20,000 conflict-related refugees in Namibia, it could have a negative impact on the delicate negotiations toward more democratic government under way in neighboring Angola and South Africa.

Ms. Calhoun also points out the need for the United States to take a more active interest in Namibia's push for democracy. She notes, "After spending $100 million to supervise Namibia's $100 million to supervise Namibia's elections, it is surely worth while for the United States Government to invest a little more time and resources to give Namibia's neighbors a needed example of what unhappily is a rarity in Africa—a functioning and prosperous democracy."

Again, I commend this article to my colleagues for their education and I ask unanimous consent that the article be printed in the RECORD.

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

[From the Wall Street Journal, Mar. 21, 1991]

NAMIBIA'S FIRST DEMOCRATIC GOVERNMENT MAY BE ITS LAST

(By Margaret Calhoun)

Namibia, once a hot item on the world agenda, seems to have been forgotten. Today, Namibia celebrates the first anniversary of the adoption of its remarkably democratic constitution, the culmination of its independence from South Africa.

Namibia elected the assembly that wrote its constitution in November 1989, under the supervision of election monitors from the United Nations. The outcome was a government dominated by the Soviet-backed guerrilla movement, SWAPO (the South West Africa People's Organization). At the end of two years, the government's first parliament elected as president, political experts are beginning to question whether democracy will in fact take root in Namibia, or whether SWAPO is merely using the new government to its Marxist ends.

Mr. President, I congratulate the Bell Boeing V-22 Osprey Tiltrotor Team for its great achievement in winning the Collier Trophy.

Thank you, Mr. President, I yield the floor.
more democratic government under way in neighboring Angola and South Africa.

The appointment of Swapo's former chief of staff, Mr. Daniel Owambo, to an important position in Namibia's new government, has been a matter of great controversy. Mr. Owambo, who had previously served as Namibia's ambassador to South Africa, is a key figure in the country's political scene. His appointment has raised questions about the future of Namibia's political landscape and the role of opposition parties in the new government.

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CONGRESSIONAL RECORD—SENATE

March 21, 1991

So, I put it to you, Mr. President, that it would be foolhardy to say that private property rights are just “not as important” as the many other issues pressing in Congress today.

Reason No. 2: We do not need the Private Property Rights Act because no one’s property rights are really being threatened.

Considering that in 1990 alone the Federal Government issued 63,000 pages of fine print regulation on the use of private property, it is not hard to imagine how this regulation is creating severe limitations on property use. If property owners feel that a regulation has “gone too far,” that their property rights have been taken without compensation, they may sue the Government under the fifth amendment.

The U.S. Government is currently facing well over a billion dollars in such outstanding takings claims. Just in 1990, several of the largest takings judgments in United States history were handed down by the U.S. Claims Court, with the single largest judgment of all time, the Whitney Benefits case, totaling near $120 million, being affirmed by the Federal circuit as recently as February 1991.

In California, property owners who can afford legal costs are winning about 50 percent of their takings claims before the intermediate appeals courts. And according to a recently released report by the Congressional Research Service, property owners won regulatory taking cases before the Federal courts in 1990 more often than not—astonishing when you consider that the Federal Government wins 5 out of 10 times in other areas of law.

As you can see, Mr. President, it is simply not accurate to say that “no one’s private property is being taken.” At least the Federal courts disagree with that statement.

That leads us to:

Reason No. 3: We do not need the Private Property Rights Act, because we already have the fifth amendment.

The CRS report I just mentioned made this finding:

Plaintiff property owners were vindicated—that is, a taking was found—in just under one-half of the cases. Looking solely at the regulatory taking decisions, however, taking were found in more than 90 percent of the cases. It has always been the case that, when Americans feel the Government has failed to respect a basic constitutional right, they may sue, demanding that their rights be honored. As a matter of equity, however, we have never held that rights should only be extended to those who can afford to sue the Government for them. The cost of legal action is not small, $40,000 to $50,000 up front. The disturbing fact brought out by the CRS report is this: These property owners who can afford the cost, win more often than not.

Those who cannot afford to sue, currently have no protection.

That is why the Private Property Rights Act is so important. By building property rights considerations into the regulatory process in the first place, the rights of all property owners, not just the wealthy, are protected.

No, Mr. President, it is not enough to say, “but we have the fifth amendment, isn’t that enough.” The duty of protecting and preserving the constitutional rights of all Americans must not fall on the shoulders of the individual, it is a duty of the government.

Reason No. 4: If private property rights are respected, vital protections for public health and the environment will be undermined.

Actually, those who propose this argument do not really understand property rights. No one’s property right allows them to jeopardize someone else’s life, liberty, or property.

As Justice William Henry Moody, a Franklin Roosevelt appointee to the Supreme Court, noted, “Our social system rests largely upon the sanctity of private property.” And that state or community which seeks to invade it will soon discover the error in the disaster which follows.”

That disaster may well include the destruction of our environment, for, as surprising as it may sound, private property is the world’s most powerful force for environmental protection. The current EPA Administrator, Bill Reilly, recently noted upon returning from a trip assessing environmental damage in Eastern Europe, “Many environmental principles are undefendable in the absence of private property.”

Administrator Reilly’s observation can be easily explained by the proverbial saying:

Give a man the secure possession of a bleak rock, and he will turn it into a garden; give him a nine years lease of a garden, and he will convert it to a bleak rock.

The principle is true. It is private property ownership that makes an owner care about the quality of his environment, that creates a true sense of stewardship for the land and its resources. The American environmental community, at its grassroots level, is nothing more than a coalition of private property owners who want to defend their private property rights from the pollution and degradation of their neighborhoods and their Government. Underscoring private property rights through excessive regulation will not foster greater environmental protection.

Reason No. 5: Last, Mr. President, there are those who argue that the Private Property Rights Act is just too much hassle for our Federal agencies. That it will force them to spend too much time considering the impact of their regulations on private property, and not enough time on regulating.

First, let me say that the administration has reviewed the text of S. 50, and argues strongly against that statement.

But for me, Mr. President, this just brings us full circle back to the question of whether private property rights are “not as important,” or in other words, “is the hassle worth it.”

I would like to call my colleagues’ attention to a poll recently conducted by the Soviet Academy of Sciences, asking young Russians what it is they really want, what rights and freedoms they are most eagerly seeking. Here is what resulted:

WHAT THE NEW GENERATION OF RUSSIANS REALLY WANT?

The Institute of Sociology at the Soviet Academy of Sciences recently conducted a poll of 1050 Russians between the ages of 18 and 25. The poll covered six regions of the Russian Republic, constituting a majority of the population and three-quarters of the territory. The respondents were selected from all basic social and professional categories. Here is what that survey revealed:

Do you want complete freedom of press, radio and TV? yes, 56 percent; no, 36 percent; undecided, 8 percent.

Do you want Russia to be able to govern itself, and secede from the U.S.S.R.? Yes, 70 percent; no, 19 percent; remainder, undecided.

Do you want a form of government other than socialism? Yes, 74 percent; no, 17 percent; remainder, undecided.

Do you want private ownership of land? Yes, 85 percent; no, 10 percent; remainder, undecided.

As you can tell, Mr. President, the millions of citizens in the Russian Republic want, above all else, to simply own their property, their farm, their car, their apartment, they want something that is theirs, to care for, to prosper, to build.

Even if the administration did not believe that the Private Property Rights Act does not impose too much burden on regulatory agencies, I would say, “So What?” We are sworn to defend the constitutional rights of Americans, not the convenience of the regulatory agencies. If it takes a little more hassle to get respect for constitutional rights, then that hassle is certainly well deserved.

So I hope you can see, Mr. President, why a bipartisan group of Senators and Congressmen, supported by small businesses, farm and civil rights groups have proposed the Private Property Rights Act. The act requires that Federal agencies adopt administrative procedures to “assess the potential for taking private property in the course of regulatory activity, with the goal of minimizing such where possible.” These procedures may be similar to those required by current Executive orders, but must reflect the court’s current interpretation of what constitutes a “taking of private property.” This assessment enables agencies to draft regulations that impose on property rights as little as possible, while still
achieving their goals. As a result, the public interest is served, individual property rights are protected without costly court battles, and taxpayers need not pay compensation for takings that might otherwise be avoided.

I ask unanimous consent that a letter from the Vice President of the United States encouraging this bipartisan group to move this legislation be printed in the Record.

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


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

DEAR SENATOR SYMMS: I am writing to assure you that we welcome your important efforts to protect private property rights. The Administration supports your legislative initiative in the Senate to protect private property owners from unnecessary government intervention, and to encourage the Federal agencies to avoid unnecessary expenditures.

Proper management of Federal regulatory programs and effective program implementation require thoughtful analysis before action is taken. Executive Order No. 12580 requires a Federal agency to ask itself, before it acts, whether a proposed government regulatory policy or action would "take" individual rights in property and trigger the Constitution's obligation to pay just compensation. The legislation which you, Senator, Boren, and others are sponsoring would strengthen the management of Federal programs to prevent inadvertent Federal encroachment on private property.

Recent judicial decisions finding that the government has taken property have resulted in financial judgment obligations in excess of $120 million for "regulatory takings." As the courts focus increasingly on the consequences of Federal regulation on private property rights, these constitutional and regulatory obligations are likely to increase. Financial responsibility argues for evaluating the risks of these costs before, rather than after, the obligation occurs.

Your bill, S. 50, is vitally important both to improve Federal management, and to reduce government liability. The Administration looks forward to working with you to secure prompt passage of this critical legislation.

Sincerely,

Dan Quayle.

HONORING JOHN DEGEORGE

Mr. KASTEN. Mr. President, I rise today to recognize a true hero—the late John R. DeGeorge of Milwaukee, WI.

John DeGeorge was a naval chief petty officer. He was a man of noble spirit—a man willing to risk his life to ensure the safety of others.

In 1989, during a canoe training exercise, one of John's shipmates was swept overboard and toward dangerous rapids. With no thought of his own safety, John rescued his fallen friend—but was himself swept to his death.

Last week, the Navy honored John's heroism with the Navy Marine Corps Medal. I can think of no more appropriate tribute to a man who embodies the highest virtues of our country. I ask unanimous consent to join me in expressing gratitude for his example—and sincere condolences to his family.

CONCLUSION OF MORNING BUSINESS

THE PRESIDING OFFICER. Morning business is now closed.

The Chair recognizes the Senator from Delaware [Mr. BIDEN].

EXECUTIVE SESSION

NOMINATION OF BOB MARTINEZ, OF FLORIDA, TO BE DIRECTOR OF NATIONAL DRUG CONTROL POLICY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate to executive session to consider the nomination of Bob Martinez, of Florida, to be Director of National Drug Control Policy.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will move to the nomination. The clerk will report.

The legislative clerk read the nomination of Bob Martinez, of Florida, to be Director of National Drug Control Policy.

Mr. BIDEN. Mr. President, parliamentary inquiry, how much time is available on this nomination?

The PRESIDING OFFICER. The previous order there is nothing to prevent other Members from taking the floor to make comments.

Mr. BIDEN. Mr. President, at the outset of the hearing on the nomination of the Governor Martinez, I asked him if he had met with the Governor from Delaware, Mr. Biden, and if he believed there was an outright hostility toward the nomination of Governor Martinez flatly denied any wrongdoings related to these issues.

In my view, sufficient to disqualify the nominee from holding this drug director's post. He is an honest and ethical man and on that basis he should not be confirmed to the post.

Second, regarding the nominee's background and experience, particularly his record as the Governor of the State of Florida and mayor of one of its largest cities prior to that, I believe that his answers and responses were somewhat less reassuring. His antidrug record in Florida in the early days of his administration demonstrated, in my view and in the view of many of the witnesses who appeared before us, a poor understanding about the effectiveness of drug education and treatment efforts in the fight against drug abuse and the drug plague.

As a matter of fact, it was alleged there was an outright hostility toward the notion of education and treatment. However, a thorough review of the Governor's record—which was reinforced by the testimony of outside witnesses, including the Director of the White House Office of Drug Control Policy—painted a picture of an evolution of the Governor's philosophy on these points, in my view. By the time he completed his tenure as Governor, he had begun to conclude that education and treatment were absolutely necessary elements in fighting the drug problem in this country. And, by the end of his tenure, the nominee supported efforts to expand drug abuse education and treatment efforts in the State of Florida.

More important still, he testified that he currently believes—and I personally asked him this question—that education and treatment do work in reducing drug use.

You might say why did you have to ask him the question? It was not merely his background, but the former Drug Director at the outset of his tenure indicated he did not think education and treatment worked. This Drug Director is on the record, and his record as Governor indicates that he believes that is the
case. Though I do not believe that Governor Martinez currently places a sufficiently high priority on drug education and treatment, it is clear that he thinks prevention efforts should play a critical role in the national drug strategy. And I am hopeful, quite frankly, that the proposed nomination in his place will help while Governor will continue during his tenure as Drug Director.

Third, on the question of the nominee's views about the duties and powers of the Drug Director, again here his attitude is significant in his feasibility. I believe he failed at the outset, at least, to appreciate the extensive powers that Congress has given to the national Drug Director. Still, on balance, the nominee seemed to understand the responsibility of the Drug Director to develop a national drug control strategy and a budget. And I believe he has been further educated to the powers that he has and the desire of the Congress for him to the demands of the leaders, particularly through the budget process and the mechanisms that he has available at his disposal to, very bluntly, make other Federal agencies from the Treatment and Rehabilitation Office, the Commissioner, and so on understand that national drug policy is our highest domestic priority.

This brings me to the fourth and most important issue confronting the committee in giving our advice and consent to this nomination. What is Governor Martinez's vision for the national drug strategy? What is his vision for the nation's struggle against the drug epidemic?

As I stated at the outset of these hearings, I was particularly interested in three critical areas where I believed the administration's strategy is deficient: Hard core cocaine addiction, which fuels the demand side of the drug equation and, I might add, also fuels the brutality and the crime side of the equation where they create more victims, not only of consumption, but of abuse. Second, I think the drug war is still, and remains, about stealing your car, your television, your wallet, and anything else that may be in sight.

Second, preventing the cultivation of coca in the Andean nations, the supply route of our drug problem. I believe the administration has been somewhat deficient there as well.

The third deficiency is in providing comprehensive drug education in more than one State in this country. There is a program in just one State in this country—and I might say it is the State of the President, the Senator from Connecticut—where there is comprehensive drug education. Absent that comprehensive drug education, I believe this leaves the door open for this generation of children to become the next generation of addicts.

In each of these areas, the area of drug education, the area of cultivation of the coca leaf in the Andean nations, and in dealing with hard core cocaine addiction Governor Martinez agreed that we need to do more to make a significant dent in the drug epidemic.

To the extent there were differences between the nominee's testimony and my views on how forcefully we must move in these three areas, our disagreements may stem more from the nominee's need to support the policies of the President than from a fundamental dispute between Governor Martinez and myself on these issues. And, quite frankly, even if there is a root dispute, it is not sufficient reason at this point for me to vote against the Governor, because I am convinced he wishes to attempt to work out, as I sincerely do, a cooperative effort to arrive at a consensus national drug strategy.

I still have some questions about Governor Martinez's understanding of the power of the office he is about to assume and about his ability and willingness to confront powerful Cabinet members and the Office of Management and Budget over policy and funding issues.

This is one of the reasons why I still lament the fact the President has not, as was intended by the Congress, although we cannot demand it, made the national Drug Director a Cabinet member.

But, frankly, the President made the Drug Director's job a great deal harder back in 1989 when he decided to exclude the Director from the Cabinet. That sends a signal to other Cabinet members that the Director's clout with the President and his clout generally, and it is hard to influence Cabinet decisions when you are not at the Cabinet table.

However, Governor Martinez's most important qualification may in fact be his personal relationship with the President of the United States. I hope that he is willing to use this relationship and the authority he has to make a forceful case in what is obviously a number of turf wars that occur within this giant bureaucracy that every administration is compelled to attempt to deal with.

Despite the concerns I have raised, I have pledged that I would work with the President and with Governor Martinez to draft a truly bipartisan national strategy. And I have the clear and distinct impression that Governor Martinez truly, personally feels committed to this war and, further, that he is truly willing and able to understand the need to have cooperative relationships with the Congress in order to come along with a consensus so that we can all rally behind the national drug strategy and fund it.

The fact that he was Governor of a State with such a large problem also, I believe, gives him some additional insight into the need for this cooperation.

So, Mr. President, I am going to urge and I do urge my colleagues to support the nomination of Governor Bob Martinez to assume this important post.

Now I yield the floor, and yield to my colleague, Senator Thurmond.

Mr. THURMOND. Mr. President, I rise today to voice my strong support for President Bush's nominee, Governor Bob Martinez, to be the Director of the National Drug Control Policy Board.

President Bush nominated governor Martinez on January 22, 1991. The Judiciary Committee held 2 days of confirmation hearings on February 26 and 27. Governor Martinez testified before the committee, as well as several other witnesses, who appeared to express their views regarding his nomination.

In my view, if 7, the Congress favorably reported his nomination to the full Senate by a vote of 11 years and 3 days.

Mr. President, upon careful review of Governor Martinez's background and experience, I find that he is well prepared to lead our Nation's antidrug effort. He is a 1957 graduate of the University of Tampa where he earned a bachelor's degree in social science, Governor Martinez continued his education and obtained a master's degree in labor and industrial relations from the University of Illinois in 1964. Following his studies, he was a school teacher, labor relations consultant, and businessman before entering a life of public service.

Governor Martinez has an impressive record of public service in the State of Florida where he was Governor from 1987 to 1991, and mayor of the city of Tampa from 1979 until 1986. During his terms as mayor and Governor, he gained valuable hands-on experience in dealing with the scourge of drugs at the local and State level.

Governor Martinez record consistently illustrates his commitment and desire to work toward eliminating the problem of illicit drugs in our society. In 1987, President Reagan recognized Governor Martinez interest in this area and appointed him to the White House Conference on a Drug-Free America. In 1988, Governor Martinez earned the distinction of being the first Governor in our Nation to appoint a State "drug czar" to coordinate State drug fighting activities. Governor Martinez also created a Governor's Drug Policy Task Force in Florida to study drug fighting activities in his State. He unified the efforts of the National Governors Association to combat drug abuse more effectively by creating a special task force to fight drugs at the national level.

Governor Martinez also proposed and implemented several innovative methods to combat drugs in his home State.
Mr. President, several distinguished individuals and organizations have voiced their strong support of Governor Martinez for the position of Director of the National Drug Control Policy Board. It is important to note that he has the bipartisan endorsement of his home State Senators: Senator MACK and Senator GRAHAM. As well, Gov. Lawton Chiles of Florida, formerly a distinguished member of this body, wrote in support stating:

As Director of the Office of National Drug Control Policy, Governor Martinez can bring a unique perspective. His service as teacher, Mayor and Governor afford him an experience level that will assist in developing a national strategy for dealing with drug policy issues: a policy that recognizes the value of a state-federal partnership and emphasizes education, prevention, treatment and law enforcement strategies. For these reasons, I support Governor Martinez. ** * * *

Others who recommend his confirmation include, Congressman LAWRENCE COUGHLIN, Congressman CLAY SHAW; Gov. Michael Castle of Delaware and Gov. John Ashcroft, of Missouri; and the Honorable Robert Butterworth, attorney general of the State of Florida.

A number of law enforcement groups including the National Troopers Coalition, Fraternal Order of Police, and the Florida Department of Law Enforcement have endorsed his nomination. As well, numerous individuals and organizations who work to treat and prevent substance abuse support Governor Martinez's confirmation. Father Sean O'Sullivan, who has been involved in the treatment and prevention of substance abuse for the past 22 years, testified at Governor Martinez's confirmation hearing and stated:

In my estimation, if Governor Martinez did not personally what he accomplished in Florida, it is my opinion that this Nation would be in his debt. I believe *** that Governor Martinez has a very balanced approach to understanding the tensions between the demand and the supply side. *** I believe he has come a long way in understanding the value of prevention.

Ms. Shirley Coletti, founder of Operation PAR, an acronym for Parental Awareness and Responsibility, the largest most comprehensive substance abuse program in the southeast specializing in education, prevention, research, treatment and rehabilitation, also testified in strong support of Governor Martinez.

Mr. President, in closing, I believe that Governor Martinez has a proven record that demonstrates he is highly qualified, and that he possesses the hands-on experience and knowledge to serve in an exemplary manner as Director of the National Drug Control Policy Board. He has a reputation as one who is tough, but fair, when it comes to addressing drug problems. I believe that, once confirmed, he will diligently work to insure that our Nation's battle against illicit drugs is effectively waged to rid our society of the scourge of drugs and the harm that they cause.

For these reasons, I strongly support his confirmation and urge my colleagues to vote in favor of this nominee.

Mr. BIDEN. Mr. President, I yield 3 minutes to my friend from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I do not question that Governor Martinez is a fine, decent person. Almost everything that my colleague, Senator THURMOND, just said, I agree with completely.

When the governor came into my office to visit with me, I said the one thing that I think is essential is an agreement by the drug czar to restrict himself and not participate in partisan politics. We do not permit that for the FBI or the CIA or the Defense Department or the CIA: Mr. President, I do not*

The PRESIDING OFFICER. Senator SIMON, your time has expired.

Mr. SIMON. (Closing.) * Everyone who wants treatment that is there for the purpose of freeing himself and herself from addiction or staying on a program ought to have treatment.** According to the nominee, that will be part of his policy recommendation. (Transcript, February 26, at 66.-87.)

In addition to recognizing the need to treat drug abusers, Governor Martinez spoke to the issue of education, and especially education of our youth. When asked about the effectiveness of drug education, Martinez said:

I have a tremendous amount of faith that education will work, it is working, and the problem is the youth in the age group when the teenagers reach those middle school years. (Transcript, February 26, at 245.)

And when queried about drug education programs in the classroom, Governor Martinez again indicated his support, saying, "The earlier, the better." (Transcript, February 26, at 141.) These and other statements on the treatment, education and prevention aspects of the drug war have assisted me in reaching my decision. But I also had concerns in two additional areas.

Prior to hearing testimony on the issue of political campaigning while Director of the Director of the Drug Policy Office, I had concerns that the office would be used as a pulpit for partisan politics. Chairman BIDEN and Senator SIMON shared my concerns. But upon specific inquiries on this matter, Governor Martinez assured the committee that he would refrain from political activity, and that he would not partake in partisan activities involving congres-
Mr. MITCHELL. Mr. President, I ask unanimous consent we add all Republicans as cosponsors.

Mr. MITCHELL. I ask unanimous consent that all Members of the Senate be added as cosponsors.

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

Mr. MITCHELL. Mr. President, We are honored to welcome to the Senate His Excellency Lech Walesa, President of Poland. President Walesa has visited us previously in his private capacity. Today he represents the people of Poland as their democratically elected leader.

Through his inspirational leadership and tireless dedication to the causes of freedom and democracy, President Walesa has been a pioneer in the effort to transform the former Communist dictatorships in Central Europe into parliamentary democracies. His willingness to undertake the burdens of the Presidency of Poland during this difficult time of transition and reform is testimony to his recognition that the effort to create democracy does not end with the elimination of one-party rule. Rather, the difficult struggle to build a free and open society, with economic and political opportunities for all, must be pursued with increased energy during the difficult transition period.

In passing this resolution, the Senate expresses its welcome to President Walesa and the strong support of the Senate and of the American people for the courageous and difficult steps being taken in Poland. The Polish example should serve as a model for other countries in Central Europe as they pursue economic reform. The Polish example must show the world that America is ready and willing to provide assistance and support for their efforts.

Mr. DOLE. Mr. President, I am pleased to join with the distinguished majority leader, Senator MITCHELL, with our colleagues, Senators MIKULSKI and MUKROWSKI, the two Polish-American Members of the Senate, and with many other Senators in cosponsoring this resolution.

We are very honored to have President Walesa with us today in the Senate.

When the history of the past 2 years is written—2 years of momentous change around the world—the first chapters will be about Lech Walesa.

I had the very exciting experience of visiting Poland on the very day that the Polish Parliament elected the first non-Communist government in more than a half century. A couple of days later, I went to the city of Gdansk, where Poland's democratic revolution was spawned. I met there with Lech
heroes—Lech Walesa was the real leader of the democratic revolution in Poland, and found out for myself experts fabricate most of our so-called nations, to whom the Poles owed a great deal of money, and we, the United States and other nations, concluded that we were not going to make the same mistake we made at the end of World War I, when we had helped to create an environment where we seemed to demonstrate to people in Germany that democracy was synonymous with economic failure.

We concluded that it was critical to forgive the German debt, even though we had just been in a bitter war. We did it for our own safety's sake.

I am delighted to see that the President has moved to convince the other nations to whom the Poles owe a great deal of money to forgive a significant portion of that debt. And now we, the United States, are engaged in a similar operation, the second action we hoped the President would take. Without that taking place, I see little possibility of the bold economic plans that the Poles are making now coming to fruition.

As I have said on many occasions, I do not want my sons, who are so soon to graduate from college, to have their sons studying in college what they studied about the period of European governments between the end of the World War I and the beginning of World War II. I do not want my grandchildren learning about a period where there was an opportunity for democracy to survive—and it can only survive where there is economic prosperity—and democracy having failed because there was no economic prosperity.

There can be no prosperity, in my view, in Poland, absent debt forgiveness. That is underway now, and it gives Poland a serious chance for success. If Poland makes it, I believe the rest of Eastern Europe also has a real chance.

Mr. KASTEN. Mr. President, I rise today to welcome the freely elected President of Poland, Lech Walesa. This is his first visit to the United States as President of Poland.

It is a historic event that should be marked with an equally historic gesture on our part. That is why I support the resolution introduced by Mr. Lieberman forgiving a major share of Poland's debt.

By reducing Poland's debt, the American people would be helping that country move from communism to a free-market economy. We must encourage this positive movement toward democracy.

The Polish people must be commended for leading the revolution of economic and political change in Central Europe over the last 2 years. The people and the Government of Poland have committed themselves to a dramatic transformation of their economy from a command economy to one based on free market principles. But unfortunately, this change has come at a very high price.

The process of change in Poland has been difficult, causing the Polish people great hardship. The burden of foreign debt has made the process of economic transformation more difficult for the people and the Government of Poland.

Mr. President, it is my belief that the people and the Government of Poland should not have to bear the burden of debt accumulated by the former Communist regime. A reduction in Polish foreign debt would be an important way to help the people and the Government of Poland.

I urge my colleagues to support this resolution. The Polish people have had to cope with 45 years of Communist oppression. Let us make this historic transformation from tyranny to freedom any harder.

Let us relieve the Polish people of this economic burden and reward them for their courageous fight for liberty.

Mr. BRADLEY. Mr. President, I rise today to join my colleagues in welcoming Lech Walesa, the President of Poland, to the United States. On his last visit here, he was just an electrician, albeit an electrician who had changed his country and, if I may say, today he is the President of his country.

I would also like to commend the multilateral efforts to reduce Poland's debt. Poland's transition to democracy and free markets is one of the most important historical processes of our era, and debt reduction will play an important role in encouraging that process.

I do not need to remind my colleagues that the process of transition under way in Poland and Central Europe is far from complete. Poland, Czechoslovakia, and Hungary have made the fundamental commitment to change, and are now struggling with the practical realities of the transition. The ultimate success of that transition depends on the degree to which the governments and people of this region manage to rebuild the economy of their countries.

The boldest and most sweeping reforms undertaken in Poland. It includes banking, currency, and tax reform, strict wage controls, the reduction of subsidies, privatization of state enterprises, and dissolution of ineffective ones. The other nations in Central Europe—and perhaps the Soviet Union as well—are watching Poland's progress very closely, and gauging their own reform efforts according to the results there. Therefore, helping Poland means helping all Eastern and Central Europe make the changes necessary to bring democracy and free markets to the region.

One of Poland's most urgent problems is its debt burden. Poland currently owes about $35 billion to foreign governments and about $11 billion to commercial banks. Without a significant reduction, Poland will probably not be able to complete her bold and realistic program. The steps taken so far by the Polish Government have shown positive results. The currency is stable, Government spending is restricted, and hyperinflation has been stopped. But as a result of the drastic economic meas-
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ures which were necessary to transform an economy ruined by 40 years of communism, new problems have emerged. Recession is severe, unemployment has risen, and a standard of living has fallen.

Negotiators from the major industrial countries recently completed their talks on Polish debt relief. The United States, pursuant to a resolution I introduced in October 1990 calling for greater efforts to provide debt relief, took the lead in calling for meaningful cuts, not just token measures and further rescheduling. The creditor countries should cut Poland's debt burden in half. This is good news and will go far in helping Poland. Individual countries can and should go further than the general agreement. Poland deserves it. Furthermore, I hope that the commercial banks will follow the lead of their governments and take similar measures to reduce Poland's debt.

Poland will not become a free market democracy as long as the debt built up by the Communist government slow its growth. The best investment this country can make is an investment in democracy. Poland has made the commitment to democracy, and I am glad that we are following through with our commitment to help Poland.

Mr. MITCHELL. Mr. President, I believe there is no further debate.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order the Senate now returns to executive session to resume consideration of the Martinez nomination.

Mr. MITCHELL. Mr. President, may I inquire of the Chair how much time remains for debate on that nomination?

The PRESIDING OFFICER. There remains 1 hour and 10 minutes.

ORDER OF PROCEEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that upon the completion of the debate, either through the use of the full 1 hour and 7 minutes or the yielding back of time, that there then be a period for morning business until 2 p.m., and that the vote on the Martinez nomination occur at 2 p.m.

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

Mr. MITCHELL. Mr. President, Senators should be aware that we are going to complete the debate on the Martinez nomination. Then there will be a period for morning business. Then I move to proceed to a vote on the Martinez nomination at 2 p.m. Senators should be aware of that. There will be a roll-call vote on the Martinez nomination at 2 p.m.

I thank the distinguished managers and other Senators for their cooperation enabling us to act on this matter.

Mr. HATCH. Mr. President, I rise in support of the nomination of Robert Martinez to be the National Drug Control Policy Director. After a review of this nominee's background, I believe that the President has made an excellent selection in Governor Martinez. I thought that he handled himself very well at his confirmation hearing. He answered all our questions in a straight-forward, forthright manner, and I am convinced that he demonstrated a real commitment to the fight against the war on drugs.

As a Senator from a predominantly rural State—a State with a lot of little airstrips, a kind of crossroads of the West—I have a particular concern about what the Federal Government can do to assist in the interdiction of drugs in these areas. I believe that this nominee shares those concerns.

During the Judiciary Committee hearings, we learned that Governor Martinez brings a wealth of experience to this important position. As the Governor of the State of Florida, he has firsthand experience in dealing with drug trafficking and abuse. Drug pushers have used Florida, because of its location, as a main point of entry into the United States for illegal drugs.

Throughout his tenure, Governor Martinez continually fought this scourge through innovative as well as time-tested interdiction techniques. Let me touch on some of the highlights of his drug fighting efforts. During his tenure, Florida was named by Federal agencies as a role model State in the drug battle. It is listed among the top 10 States for per capita spending on drug treatment. Between 1987 and 1988, Florida increased its spending in support of drug treatment by 33 percent, an increase in spending greater than the increase experienced by many of the other States during the same time period.

Governor Martinez served as the National Governors Association lead Governor on substance abuse and drug trafficking issues. He implemented the Nation's first comprehensive statewide Drug-Free Workplace Program. He has been a leader in developing comprehensive plans and promoting interagency coordination of prevention services at the State and local level. He was also instrumental in persuading employers to employ the services of the National Guard in the interdiction efforts of his State.

And let us not forget that Governor Martinez is a Spanish-speaking public official who has direct experience in dealing with the leaders of Central and South American countries. He has met with many such leaders while promoting Florida business and trade. This experience and familiarity will serve him well in his new role.

I am particularly impressed with his commitment to fight drug trafficking on the demand side of the equation. As a prior school teacher, he knows firsthand the need for strong antidrug education programs. Indeed, while Governor, once or twice a month he would travel around his State to a student's home, accompany the student to school, sometimes on the schoolbus, and teach the student's class. One of the subjects was drug education. I believe that he will truly be a leader in this area of our efforts.

Governor Martinez comes highly recommended by such groups as the National Federation of Parents for Drug-Free Youth and Informed Families of Dade County. They are particularly impressed with his efforts in the area of drug prevention, focusing on the home and the individual.

Mr. President, it is clear that Governor Martinez' experience has prepared him for the challenges of this important national office. I believe that he will fulfill his role in an honorable and highly successful manner. This is an office that should not remain vacant for any length of time. I urge all of my colleagues to vote in favor of this nomination.

Last, I want to pay tribute to the distinguished chairman of this committee, the Judiciary Committee, Senator Biden, the Senator from Delaware, and the distinguished ranking minority leader on the committee, Senator Thurmond, from South Carolina. Both of them have been foremost leaders in the fight against drug abuse in this country, not only on the supply side of the equation but on the demand side.

I have to say Senator Biden in particular has spent as much time on this issue as any Member in Congress. He has done a terrific job. He has been concerned about all aspects of drug pushing, drug abuse, and drug rehabilitation, all other aspects of the issues involved in the whole panoply of drug issues. I want to say he has been a foremost leader in the Congress in helping us to try to resolve some of these problems.

Naturally the administration, naturally other Members of Congress, naturally myself, want to listen to him and want to work with him in trying to help in any way we possibly can.

Senator Thurmond has himself been an effective and wonderful leader on the Judiciary Committee. Senators and/or their staffs have worked hand in hand together in so many good efforts in the best interests of country. I want to pay special tribute to both of them as one who works rather closely with both of
them and who thinks very highly of both of them.

I would feel bad if I did not at least say a few words about the great efforts both of them have made in this particular battle.

I wish Bob Martinez well. I hope everybody will vote for him. I think a strong, substantial vote will help him in the work he is going to do. I think we are all going to be very proud of him as the ensuing months occur.

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

Mr. LEAHY. Mr. President, I want to emphasize my reservations about Governor Martinez' nomination to be Director of the Office of National Drug Control Policy.

Congress passed legislation to create a Cabinet-level drug czar because we need the best available talent to lead us in our war against drugs. The drug czar coordinates all of the Federal, State, and local agencies with antidrug responsibilities, he oversees international initiatives to decrease drug production at the source, and he makes sure that our criminal justice system keeps pace with the Nation's quickly changing needs.

The drug czar is our voice when it comes to defining goals and leading the concerted, effective, multidisciplinary drug control effort. I understand that a "war on drugs" means more than rhetorical tough talk and glitzy political slogans. Ending this Nation's drug crisis will take time and it will take money.

We need a leader who can look the President or his fellow Cabinet members in the eye and say "no," or "that is not good enough," or "we need more funding." We need a creative, open-minded coordinator—someone who can balance punishment for drug pushers with programs to prevent young people from turning to drugs and programs to help those who have already been taken in by the scourge. And we need someone who can state that this battle is fought on a bipartisan front, without politicizing his important office.

The President has the prerogative to nominate competent officials to carry out his policies. Thus far, the administration's drug control policy has been a lot of tough talk without the muscle to back it up. The nominee's record as Governor of Florida reflects the same concern. Governor Martinez, in fact, is known as "Mr. Hatchet;" a person who is willing to cut expenditures on programs to prevent young people from becoming drug users. He is also known as a man who is willing to cut expenditures on programs to help those who have already been taken in by the scourge. Of course, our studies show—"there is no need for us to change our strategy." I say, "You are not going to." I said, "I do not understand." They said, "There is no need for us to change our strategy." I said, "I am somewhat bewildered. I thought the strategy for attacking the drug problem in America bore some relation to your assessment of the extent of the problem. I suspect we would all say, if we thought there were only 100 cocaine addicts in the United States, we wouldn't put out 1 billion dollars worth of resources to deal with 100, as bad as it is. We might decide to put that $1 billion into health care or other things.

But, if we think there are 300,000 then it is a problem requiring a different input."

Well, I said I am confused now. At the outset, you said, here is my strategy and my strategy is at least in part premised on the fact there are 660,000 hardcore cocaine addicts. Now you say 1.7 million hardcore cocaine addicts, and you do not change your strategy.

Mr. President, we are, by everyone's admission, in a very, very difficult area. We are attempting to deal with a second epidemic—I say second because the first one was at the turn of the cen-
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CONGRESSIONAL RECORD—SENATE

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The Honorable Bob Martinez, nominee as Director of the National Drug Control Policy Office.

Mr. MACK. Thank you, Mr. President.

Mr. MACK. Mr. President, I make this request:

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Florida is recognized.

Mr. MACK. Thank you, Mr. President. I thank the Senator for yielding the time.

Mr. MACK. Mr. President, I rise in strong support of the Honorable Bob Martinez, nominee as Director of the National Drug Control Policy Office.

As a fellow Floridian and friend of Governor Martinez, I am well aware of his eminent qualifications for this position. As I indicated to the Senate Judiciary Committee, I am pleased President Bush has chosen an outstanding candidate to serve as this country's next drug czar.

Bob Martinez is a seasoned veteran of the drug war. With Bob's combined background as educator, mayor, businessman, and Governor of the State of Florida, he has initiated and implemented innovative strategies to respond to Florida's drug crisis. Bob's strong record is reflected through his commitment to clean up Florida's cities and streets.

As Governor, Bob appointed this Nation's first State "drug czar" to coordinate antidrug efforts in Florida. He created the first Drug-Free Workplace Program in the U.S., imposed mandatory minimum sentences for individuals convicted of drug activity near public parks and playgrounds, public housing facilities, colleges and universities, in an effort to protect our youth. Furthermore, Bob Martinez kept Florida's streets free from career criminals by successfully seeking passage of a tough repeat-offender law.

During Bob's tenure as Governor, Florida was among the top 10 States for per capita spending on drug treatment. In fact, between 1987 and 1989, spending on drug treatment in Florida rose nearly 50 percent faster than the average of all other States.

As a direct result of Bob's strong stand against drugs, Florida was "evaluated by Federal agencies as one of the Nation's role models in the drug battle" in November 1990.

In addition to Bob's accomplishments within our State, he was involved in the National Governors Association, where he served as lead Governor on substance abuse and drug-trafficking issues. In this capacity, he presented President Bush with a plan for antidrug efforts on behalf of the National Governors Association.

Governor Martinez also coordinated drug information exchanges with other State Governors and traveled extensively abroad to promote and secure cooperation of the international community in the war on drugs.

Prior to introducing Bob Martinez to the Senate Judiciary Committee, I asked myself the question what type of person would make an ideal Director of the National Drug Control Policy Office. It seems to me this person should have experience with the drug war at the local and State level, experience working with children in our schools to teach them the evils of drugs and an overall proven record in the area of drug control. With these points in mind, I am confident the ideal person for this job is Gov. Bob Martinez. With Bob's unique experiences, he will be effective in unifying Federal, State, and local governments in shaping an effective and well-balanced antidrug strategy.

I urge my colleagues to follow the lead of the Senate Judiciary Committee and to act favorably on Gov. Bob Martinez's nomination.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged.

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

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I oppose the nomination of Robert Martinez to be Director of National Drug Control Policy.

A President is entitled to considerable discretion in appointing his top officials. On occasion, however, an execution of drug policy that is identified with a policy so contrary to the public interest that the nominee should be rejected.

Governor Martinez favors a fundamentally flawed approach to the Nation's efforts to combat substance abuse. Unless we modify that approach, we will never be able to deal effectively with this worsening national problem.

Surveys indicate that casual drug use has dropped over the past 5 years. But hard core use—the kind that causes...
crime and violence—remains a national epidemic. Two years after President Bush held up a bag of crack on national television, our streets are no safer.

The administration continues to believe that if they just increase sentences, build more prisons, and jail more addicts, drug crime will decline. Police, prosecutors, and prisons are indispensable, but we must reinforce efforts with treatment and prevention.

We must treat addicts before they commit crimes, and educate children about drug abuse before they turn to addiction and criminal activity.

Under Governor Martinez, however, Florida became a case study of the imbalance in our Nation’s war on drugs.

The State had the highest crime rate in the Nation. It also ranked first in the Nation in its rate of incarceration. But it ranked 21st in the funding of substance abuse treatment programs, and 53rd in the funding of prevention programs.

Only one out of every four citizens of Florida who needed treatment received it during the Martinez years. Nothing in his record or his testimony before the Judiciary Committee convinces me that the nominee possesses a genuine commitment to reducing the demand for drugs through treatment and education.

The situation in Florida was especially bleak for women. The State’s 10,000 pregnant substance abusers stood a 15-percent chance of finding treatment. If they found treatment, it was after an average wait of 61 days.

Otherwise, they were likely to join the list of tens of thousands of Floridians arrested every year for possession of drugs. Once arrested, they joined the army of addicts marching through the revolving doors of the State criminal justice system, only to be put back on the streets as addicts with criminal records.

The State’s drug strategy was a public safety failure in another major respect. Because the courts and prisons were flooded with nonviolent addicts, thousands of violent offenders had to be released before their sentences had expired.

During the Martinez years, the average murder sentence actually served in Florida decreased by 40 percent. The average robbery sentence served decreased by 42 percent. Overall, the average sentence served decreased by 38 percent.

At the end of the Martinez administration, Florida inmates served, on average, only a third of their sentences. The Martinez administration contributed to a worsening cycle of addiction, arrest, and the return of violent criminals to the streets. That cycle might have been broken if the State had made more treatment available to more substance abusers in the first place.

The nominee’s law enforcement credentials are also called into question by his views on gun control. Drug-related violence in our cities is escalating. The 102d Congress must take reasonable steps to halt the proliferation of guns in our society. Yet at this confirmation hearing, Governor Martinez expressed his opposition to Federal legislation to deal with this critical aspect of the drug problem.

It is time for the Nation to develop a new and more effective strategy to combat drug abuse and drug crime.

The best way for us to begin is to vote against this nomination, and I urge the Senate to do so. I hope my colleagues, prior to the vote, will take a look at a chart report on the nomination prepared by the Judiciary Committee. At the back of the report are various charts which reflect the points that I made earlier in my comments about the number of treatment expenditures in Florida. The number that need treatment and the number that are actually receiving it. The other chart is the treatment opportunities for women in Florida; for all women and then for pregnant women.

Of 10,000 pregnant women who are substance abusers, 1,500 are actually receiving treatment. The State of Florida actually prosecuted a woman in Florida for distributing drugs to her unborn child—in other words for being a pregnant addict. We found that she had actually asked for treatment during her pregnancy, was unable to get treatment, then was subsequently arrested after she gave birth.

Included in the report is a chart showing the spending priorities in Florida. It gives a clear reflection of the explosion of spending on prisons and jails; from approximately $500 million in 1987, up to $850 million by the year 1991.

For substance abuse treatment, the chart is virtually flat. I think it went from $35 to $42 million. The point has been made during the debate about the significant increase in Florida’s treatment budget. When you go from $37 to $42 million, that might reflect some percentage increase, but in terms of real dollars and purchasing power, it is woefully inadequate.

Then the final chart shows the revolving door in Florida, which I think is enormously interesting. You had 50 percent of a Florida sentence being served in 1987, but in 1988, it’s 41 percent.

What is interesting here is the relationship between percent of sentence served and the failure rate, which reflects recidivism. This chart demonstrates the percent of time actually being served is constantly going down during the Martinez years. It goes from 53 percent of the sentence in 1987 to 41 percent in 1988, to 34 percent in 1989, to 33 percent in 1990. The total amount of time that is spent in jail is gradually going down. Then if you look at the other part of the chart, you see that the recidivism rate for those released from jail goes from 30 percent in 1987 to 43 percent in 1990. That is because they are flooding the system with nonviolent addicts and letting out murderers, burglars, rapists, and those that are committing other crimes of violence.

No one is suggesting that this problem is not complex and difficult. There are no easy solutions. But it is clear that we must deal with the demand side as well as the supply side. Going back to 1988, the Congress gave a very clear indication, after a long, very considerable debate and discussion in a bipartisan way, that we ought to have approximately 50-50 expenditures in terms of the demand side and the supply side.

We know we have interdiction, we have prosecution, we have education, we have rehabilitation, and we know that there has to be a balance. The Congress made that clear. But the Reagan administration and the Bush administration have put about 71 in supply side programs, and the demand side gets the 29 percent that remains. And that demand-side percent would have been a lot less if the Congress did not include the Byrd amendment in 1989 which added $300 million to the demand side. This money was added with the reluctance of the administration, quite frankly, and Senator Byrd overcame that reluctance to win support in this body and in the Senate-House conference. So some adjustment was made.

Mr. President, it seems to me that looking back on the Martinez record, there is very, very little in terms of his service as Governor that would indicate a real comprehension of the importance of both education and treatment. When we see what the bottom line is of the nominee’s push for mandatory sentences and his lack of support for treatment, it seems to me that he has displayed an insufficient understanding of the drug issue.

So for those reasons, and the reasons I have outlined here and in the report, I will vote against the nomination.

The PRESIDING OFFICER. The Senator from Florida is recognized. Who yields time?

Mr. GRAHAM. Mr. President, I ask unanimous consent that my time be equally charged to both sides.

The PRESIDING OFFICER. Without objection.

Mr. GRAHAM. Mr. President, I rise to speak in favor of the nomination of Gov. Bob Martinez to the position of Director of the National Drug Control Policy. Mr. President, I know Bob Martinez. I have worked with him as a teacher, as a leader of teachers, as a
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Mr. MOYNIHAN. Mr. President, I will vote for Governor Martinez to be the Director of National Drug Control Policy, but with no enthusiasm; indeed, with a sense of what a failed opportunity, and perhaps what a mistake the judgment we made when we created the position in the first instance. And, in any event, the potential of the position, if it did exist, has certainly not been realized.

It has been a failure and at some levels a disgrace. We have politicized a public health problem, a problem of law enforcement, of societal standards. We have done everything the 1988 legislation intended not be done. Nothing more painfully illustrates this than the decision of this office to be the leader of the teachers of that community. As a teacher, Bob Martinez understands the power of education. Those are the dimensions of the job of the national drug coordinator. I believe that Bob Martinez is well-prepared to carry out this responsibility and I urge the Congress to confirm the nomination of President Bush.

The directorship is one of the most important positions in the Federal Government dealing with an issue that has been identified for over a decade as one of the key concerns of America. It is one of the key challenges to the realization of America's future. We cannot afford to lose the war on drugs. The director will be a key general in assuring that we score a victory.

Bob Martinez is a former teacher, leader of teachers, mayor and Governor of the fourth largest State. Some of my colleagues have reviewed this nomination and have asked what kind of person should we have as our national drug coordinator? Some have suggested that we need a person who would add to our arsenal of tactics in the war on drugs. My position is that we have spent the better part of 10 years developing those programs. What we need now is not a person who will work; one who will have the hands-on commitment to make the existing programs work.

Some have suggested that what we need is a cheerleader, a promoter, someone who can raise the national consciousness as it relates to our war on drugs. We have had that kind of person for the last 2 years. Mr. President, I do not believe this Nation needs to be convinced that drugs are a serious problem. I do not believe this Nation needs to be convinced it is going to take a multiple set of tactics in order to achieve our strategic goal.

No, I believe that we need a person who can make the existing programs work; one who will have the hands-on background and hands-on commitment to that definition of the job of director.

I have been told that Bob Martinez is to be discounted because he has a close relationship with the White House. Many of us would have preferred the office of director of our Nation's war on drugs to have been more like the shorthand characterization of czar that is so frequently used. The fact is we did not pass a czar. We passed a director and a deputy who has a responsibility to lead our programs by this Congress in order to lead America's efforts against drugs.

Responsibility to lead our children and our future. We cannot afford to lose the decade as one of the key concerns of America. It is one of the key challenges to the realization of America's future. We cannot afford to lose the war on drugs. Those are the dimensions of the job of the national drug coordinator. I believe that Bob Martinez is well-prepared to carry out this responsibility and I urge the Congress to confirm the nomination of President Bush.

Bob Martinez taught school at Hillsborough County, FL, and was selected to be the leader of the teachers of that community. As a teacher, Bob Martinez understands the power of education. Those are the dimensions of the job of the national drug coordinator. I believe that Bob Martinez is well-prepared to carry out this responsibility and I urge the Congress to confirm the nomination of President Bush.

As Governor of the fourth largest State in the Nation, Bob Martinez understands the vulnerability of our Nation's coastlines. He knows the need for effective local, State, and Federal partnership in cooperation in law enforcement, education, prevention, and treatment.

Bob Martinez is prepared. He is ready to serve our country. He is equipped to do the job. I ask my colleagues to join me in supporting President Bush's nomination of Bob Martinez for Director of the office of national drug control.

The PRESIDING OFFICER. (Mr. AKAKA.) Who yields time?

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum, and ask the time for the quorum call be equally charged to the two sides.

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. Without objection, it is so ordered.

All time on the majority side has expired.

Mr. MOYNIHAN. Then I ask there be an additional 5 minutes permitted the majority.
tried to conceptualize between the terms supply and demand.

Supply is what comes into the country; supply is what is available. Demand is when one purchases it for a price. We thought they would be given equal status, rank and funding, with law enforcement. We need a congressional initiative of Gail Wilensky, the director of National Drug Control Policy. Neither have we heard anything. Dr. Vincent Dole, a distinguished professor at Rockefeller University in New York, and Marie Nyswander produced a blocking agent for heroin and precious little credit, if that. Mr. President. A Lasker Award was finally given to Dr. Dole, after Dr. Nyswander passed on.

There is a problem here. The medical profession probably does not understand because they do not investigate things like this and others who do have not bothered. The truth is that very little attention was paid to our insistence in legislation that said treatment had to be given equal priority. It was not. Even, to be very blunt, having found that there was a good epidemiologist, a doctor at Yale who was working in the field who happened to be a Republican, and having got the job, he said, in effect, what am I supposed to do?

So we went on to our ritual incantation of frying the kingpins, and such like avoidance of a problem which is, in the first case, a public health problem as well as a law enforcement problem. Behavior problem, yes, but behavioral in the context of a new environment, existence of an addictive euphoriant that did not exist before; a mutant, a new strain to which the species was suddenly exposed.

There was very little comment on this. There was no attempt to teach, not much effort to learn. It was baffling. Perhaps we will not, in fact, ever do much about this subject; it will run its own course. Epidemics run their own course. Epidemics crash. They do not go on forever. They sometimes end when everybody susceptible has died, and sometimes not. We know the epidemic curve.

In the meantime, the only event that has happened about treatment in the period since the creation of this job that I am aware of is the very energetic initiative of Gail Wilensky, the head of the Health Care Financing Administration, to make treatment for cocaine addiction eligible for Medicaid reimbursement. It was not under the bureaucratic structure that said, let us see, heroin addiction, we have a treatment named methadone; yes, come in, we will charge you according to the rule book here. But there will be no treatment for cocaine addiction. You could not charge it anything because, therefore, you were not eligible for reimbursement. Therefore, no research went on, the kind of clinical research we hope to see happening in the urban hospital around the country.

We brought that to the attention of Dr. Wilensky and she responded very well. We now have Medicaid reimbursement for crack cocaine. Pregnant women ferociously addicted to crack cocaine were appearing in New York hospitals and being told there is nothing we can do for you. Even as we know that this particular euphoric, as most will, becomes average after a while and you would like to get off it.

In the meantime, Mr. President, having heard almost nothing from the deputy director, much less the director of National Drug Control Policy. Neither have we heard anything. Mr. President, from the director of the National Institute of Drug Abuse that will spend almost $446 million in the coming fiscal year, $116 million this year; nearly half a billion dollars. What do they do with it? I dare not imagine. They do not teach. They do not teach us.

If it were in order, I would stand here and propose the abolition of the National Institute of Drug Abuse as an example to others; but we are in executive session. They have a real problem on their hands, and what they do with their money or their time no one can say.

They do not try to reach out to those of us who live with this problem, as a New York Senator has to do. Not at all.

Why are we spending this money? Can they offer any explanation? Can they show you anything they have achieved, anything they expect to achieve, anything that will in any way respond to our initiative in creating a Director of National Drug Control Policy?

That word “control” is a suspicious word. It speaks of law enforcement. You are dealing with a health epidemic. That child in utero with a mother using crack cocaine has not broken any laws but will very likely lead a broken life.

We hear nothing from them. What do they do? Where do they go? Where are they?

It is a form of avoidance. It is a reflection of the problem on this subject in medicine. The medical profession has never been easy with this issue. I have never understood fully why. Partly because all these drugs begin as medicinal agents. Morphine began in the 1840's as a distillate of opium, and it was a painkiller, and God bless. Anyone with Irish teeth such as mine would rue the day that he lived in an age before morphine was available. The hypodermic needle was invented in the same era. It was massively used in the Civil War. Morphine addiction became known as "soldier's disease." It had an aura that you had been at Antietam.

Heroin came along, a further intensification, as a treatment for morphine addiction. Heroin is a trade name. You can see it advertised at the turn of the century. People who made Bayer aspirin tried this out on their employees. A German firm, of course. It made them feel heroic. Thus, heroin.

Cocaine was a distillate of coca leaves and was used in the 1880's. Sigmund Freud first wrote on the use of cocaine to treat morphine addiction, as I recall.

But somehow the problems of addiction have never held the attention of the medical profession in any way proportionate to the problem.

If this was a very rare disease, well, perhaps few people would deal with it. The disease model would be undeveloped. This is a disease of children in utero.

In the city of New York we are beginning to get the first-class first-grade class of children who could have been born to mothers who were using or had used crack cocaine, and the journalistic accounts are very disturbing, indeed.

If there are any accounts of the National Institute of Drug Abuse, Mr. President I do not know about them.

I have heard the idea of trying to come to grips with this $116 million. What are they doing? I hope they are watching. I hope they are listening because this Congress consensually sought to give drug treatment equal status, rank and funding, with law enforcement. We need a blocking agent of some kind for the brain, which is one organ we still do not seem to really understand. We got with it heroin in the form of methadone.

Silence since we passed the bill; indifference on the part of the Director.

I do not know whether anybody asked Governor Martinez about his views. I do not hold any brief against Governor Martinez. I wish him well. I do hope, however, during the debates of these remarks. In the meantime, I do ask the National Institute of Drug Abuse, what is their justification for continuing their existence?

The Congress made a very important decision in creating the position of Director of National Drug Control Policy,
known as a drug czar. I have never associated the term "czar" with good government particularly. I associated "czar" with Siberia and punishments and revolutions and God knows what. But, in any event, I do think it was a disappointment this position was politicized early.

I trust Governor Martinez will know better than to continue that practice. I hope he will attend to the statute that says treatment is to have equal rank and prestige with law enforcement; not neglecting treatment but attending to it. That is what the statute says. That is what Congress expected. That expectation has not been fulfilled at all at this time.

Mr. President, I ask unanimous consent that the earlier mentioned article by Mr. Allen be printed in the RECORD. There being no objection, the article was ordered to be printed in the RECORD, as follows:

**Epidemic Free-Base Cocaine Abuse**

(Case Study from the Bahamas)

James F. Jekiel, Henry Podlewski, Sandra Dean-Patterson, David F. Allen, Nelson Clarke, Paul Carwright, Department of Epidemiology and Public Health, Yale University, School of Medicine, New Haven, Connecticut, USA; Community Psychiatry Clinic, Nassau, Bahamas; National Drug Council, Nassau; and Sandilands Rehabilitation Hospital and Sandilands Hospital Drug Clinic, Nassau.

**SUMMARY**

Beginning in 1983, a sharp increase was noted in the number of new admissions for cocaine abuse to the only psychiatric hospital and to the primary outpatient psychiatric clinic in the Bahamas. For the two facilities combined, new admissions for cocaine abuse increased from none in 1983 to 69 in 1983 and to 252 in 1984. Although there was some evidence for a rise in cocaine use during this time, as the drug became cheaper and more available, a primary cause of this medical problem was the growing demand for cocaine by pushers from selling cocaine hydrochloride, which has a low addictive potential, to almost exclusive selling of cocaine free base, which has a very high addictive potential and causes medical and psychological problems. Although the use of free cocaine base is rising around the world, this is the first report of a nationwide medical epidemic due almost exclusively to this form of the drug, although similar problems are reported with smoking cocaine paste in South America.

**INTRODUCTION**

The past decade has seen an increase in the use of cocaine in the United States and UK. This drug is not generally perceived as being as harmful as heroin and nicotine that lead to a compulsive-additive pattern in most users. Cocaine may lie at either of these extremes, depending on the methods of use. Examples are nasal inhalation of cocaine ("snorting") or chewing coca leaves is unlikely to lead to addiction while smoking ("Freebase") or injecting cocaine ("Shooting") may produce a more significant risk of addiction. This "switch in the pattern of cocaine use from snorting to freebase" could thus produce a big increase in the number of addicts without a change in the prevalence of cocaine use.

Some are talking now of a cocaine "epidemic" because use of the drug seems to be rising steadily. It would be more accurate to talk of a "long-term secular trend" because "epidemic" suggests a sudden imbalance between the forces that promote and retard a disease. However, a change in cocaine use in the Bahamas does not meet the criteria for an epidemic of cocaine abuse.

Our study was initiated by physicians in the Bahamas who were concerned about an apparent rapid increase in cocaine abuse in clinical settings. Several sources were examined retrospectively to see if this clinical impression of a sudden rise in cocaine-related admissions to psychiatric facilities was accurate.

**METHODS**

The only psychiatric hospital in the Bahamas is the government-run Sandilands Rehabilitation Hospital (SRH) on New Providence. Patients are referred there from the three main islands. However, none of the admissions to the Bahamian population lived on New Providence, most of them in Nassau. The other three hospitals in the Bahamas (two on New Providence and one on Paradise Island) seldom accept drug abuse patients and have few psychiatric patients.

The main community mental health clinic in the Bahamas is the Community Psychiatry Clinic (CPC) in Nassau. Most patients who do not go to private psychiatrists or other private physicians use the SRH outpatient services or the CPC. The two small government clinics in Freeport and Eight Mile Rock saw 47 cocaine addicts in 1984, only 14% of the total seen by Bahamian mental health clinicians and only 9% of those seen at all government facilities. Drug abuse patients seen in emergency rooms are referred to the SRH for treatment. Data from the CPC and the SRH on psychiatric cases provide a more complete picture than could be obtained in most areas of the Bahamas because of the higher age and sex specific population data from the 1980 census were not yet available so we could not calculate incidence rates. However, because the population was stable over the period of this study, data on trends of new cases are almost as interpretable as rates. An incident case of cocaine abuse was defined as the first admission to the CPC or the SRH for cocaine abuse, even if other diseases were present. If the predominant drug in a polydrug user was cocaine, the case was considered a cocaine abuse admission. Advertising possibilities are alcohol and marijuana.

Data sources

The CPC publishes a monthly summary of cases. We focused on new patients. Alcoholism, non-cocaine-related drug abuse, and coexisting depressive disorders were studied from the beginning of adequate records in 1982 up to June 30, 1985. Monthly admissions to the SRH were studied from 1983 to 1984, and these data indicated the number admitted for alcoholism and/or drug dependence (and whether or not cocaine was the primary drug) and percentage of cocaine-related admissions. Admissions to CPC and SRH for alcoholism showed a slow, steady increase and will not be discussed further.

Drug abuse patients among the wealthy minority on the Bahamas will usually seek care outside the CPC or SRH (including the United States) and some cases from the family islands are treated by local physicians. However, there is no evidence of a change in the prevalence of drug use or habits in the Bahamas so changes in the pattern of new admissions reported here do reflect changes in the scale of cocaine abuse in the community. Some patients may have been admitted to both the CPC and the SRH, there being no central data system to exclude such duplicate entries. However, doctors who work at both places feel that overlap will have been very small. During the study period, only 4 drug patients admitted to the SRH were referred from the CPC. Likewise, in discussion with most of the few private psychiatrists on New Providence, it was clear that the CPC and the SRH cover most of the Bahamas whose use of cocaine or other drugs caused problems severe enough for them to seek medical assistance.

**RESULTS**

**Community Psychiatry Clinic**

The CPC opened in 1980 but new and returning patients were not distinguished in the records. Statistically, admission data are interpretable as rates. An incident case of cocaine-related admissions have risen from none in 1982 to 20 in 1984, there being a probable decline in 1985. Some of the earlier cases disappeared in the CPC, some of the cocaine use may have been recorded only as "drug abuse" and drug dependence patients among the very wealthy minority on the Bahamas whose use of cocaine or other drugs caused problems severe enough for them to seek medical assistance.

**Sandilands Rehabilitation Hospital**

SRH has a long tradition of treating acute ill alcoholics and drug addicts from the whole of the Bahamas. 86% of the 1984 drug admissions were from New Providence. Although there were a few cocaine-related admissions during the first three quarters of 1983, a marked increase began in the last quarter of 1983. The number of first drug admissions for which cocaine was the primary drug increased sharply from 1 in 1980 to 224 in 1984 (fig. 2). The number of first admissions due primarily to other drugs was more stable. So great was the increase in drug patients was not primarily due to increased clinic awareness.

**SUMMARY**

Data from the US National Institute on Drug Abuse point to a 91 percent increase in cocaine-related deaths between 1980 and 1983. Kleber and Gawin have suggested that certain drugs have a low proclivity for producing compulsive-additive behaviour, so that, say, less than 15% of people using such drugs become addicted; examples are alcohol and marijuana.

Footnotes at end of article.
Mode of cocaine use

Smoking (freebasing) accounted for 98 percent of cocaine-related referrals in 1984. Cocaine use in the Eastern USA ("crack") is produced when cocaine hydrochloride powder is treated with alkali. It is volatile with moderate heating and is easily absorbed through the lungs and rapidly absorbed through the skin. Cocaine reaches the brain, and the "rush" can begin in 5-12 seconds, producing a short period of ecstasy. This does not mean that cocaine is more powerful on the first use of cocaine and that addicts seek to repeat it the same sensation is not experienced again.

The most common pattern of usage varies from a few hours, during which time the user may consume 4-5 g cocaine, to a few days of intermittent use, usually over a weekend, during which time up to 10 g may be consumed. Most patients report using the drug at freebasing parties or "base houses".

Cocaine-dependent individuals usually seek help during or after some crisis, financial, social, medical, or psychological. For example, Demographic characteristics

For 1984, 81 percent of cocaine admissions to SRH were males and male drug abusers in general were aged 11-39 years (mean 25). Cocaine users tended to be slightly older than other drug users (26 vs 25.5 years). Female drug addicts were aged 15-39 years (mean 24 years). Almost all patients were Bahamian.

Other forms of surveillance

Most patients seen at the Sandlinds Hospital were referred from the SRH so data from this clinic were not included. About 60 percent of the patients seen were using both cocaine and cannabis, though the latter was less common. Cocaine users that had precipitated the hospital admission. Neither suicide nor drug-related death is usually recorded on death certificates, so we decided to base this study on the number of hospital admissions. We used vital statistics as a surveillance method. Police statistics showed some increase in street crime in the Bahamas, but not the magnitude suggested by the clinic and hospital admission data. In 1980-83 drug arrests averaged 1049 a year with no clear trend over time. There were 1501 arrests for 1984, an increase of 37 percent.

CONCLUSION

In the Bahamas, data from public psychosomatic services demonstrate an epidemic of cocaine abuse requiring medical care. Cannabis has complicated this picture by producing other adverse symptoms from cocaine use. In early 1983 a major change in the incidence of new drug users, especially cocaine users, was noted in the method of use, the increasing use of the dangerous and illegal pathways to cocaine abuse, and the decrease in street crime in the Bahamas. Since cocaine is smoked, it is not surprising that the predominant use is intranasal. Cocaine adds to existing social problems and drug abuse complications of drug abuse. The most obvious explanation is that cocaine was introduced into the islands or that its price fell. Former addicts, who did not seek to repeat it the same sensation is not experienced again. It is believed in the Bahamas so we decided not to consider the habit or whose addiction had made the patient reliable, and a relative or friend was needed to confirm the psychotic state.

We conclude that the medical epidemic of cocaine-associated deaths, 5 of which were suicides. Cocaine psychosis was common: the patient would present with severe agitation, impaired judgment, paranoid ideation, intense denial, violent behaviour, threats of suicide, and hallucinations. The patient's history is an important factor in periods of lucidity they would try to mislead the physician, and a relative or friend was needed to confirm the psychotic state.

Mr. MOYNIHAN. Mr. President, the hour is 1:30 and has appeared. I respectfully yield the floor, my colleague from New Mexico having arisen. Mr. DOMENICI. Mr. President, is there any time remaining?

Mr. DOMENICI. Mr. President, I assume there will be others who desire to use some of the time. Mr. President, I rise today to support President George Bush's nominee for National Drug Control Policy Director. That is actually his title. I do not know the former Governor of the State of Florida very well. I have met with him and acquainted myself with him since he was nominated. I know him from a distance. I have now had an opportunity to look into his background and his efforts both before he was Governor and after he was Governor. I have no doubt he will do a good job for this President and for our country.

Many in Congress remain very concerned about the drug problem in this country. We have put a lot of new laws in place, a lot of new funding. We have created this new policy position with Secretary and cabinet status.

We have seen some statistics which would indicate we are gaining some respects in this war on drugs. But they
are very, very paradoxical because, on the other hand, we are losing. While we are gaining in terms of fewer participants in illegal drugs overall, and fewer high school students, those who are staying on the wrong side of the street, crack, and that type of drug, which has such enormous potential for harm, seems to be gaining in use.

So we still have a very big job in front of us. It is a war. This is a big enough battle to call it America's society war.

If it continues at the pace that is currently in the streets of the United States, in our homes, and in our schools.

So I am very hopeful that this nominee is going to do a good job.

Mr. President, on November 23, 1990, President George Bush announced his intention to nominate Florida Gov. Bob Martinez as the second National Drug Control Policy Director. The President called the announcement, a battlefield promotion for a leader who has earned his stripes on the front lines. As former Governor and mayor of Jacksonville, Bob Martinez will be especially effective in joining hands with local leaders. As a teacher who spent 7 years in the classroom, he knows the long-term key to winning this effort to stop drug abuse before it starts.

I rise today in support of the President's nomination of Governor Martinez to this important position. He has a strong record of experience in fighting the plague of drugs. As the southernmost point of the continental United States, Florida has been besieged by illegal drug smuggling and the problems resulting from drug-related crime and use. As Governor, Martinez vigorously responded to the crisis in Florida with some of the Nation's most innovative antidrug policies. His hands-on experience at both the State and local level lends him uniquely qualified to tackle the problem at a national level.

Mr. President, standing on a strong and committed record, Governor Martinez will be a challenging national commander in the fight against drugs, a leader capable of uniting Federal, State, and local governments behind an effective and balanced antidrug policy.

There are many examples of his strong leadership. Bob Martinez was the first Governor to appoint a State drug czar to coordinate antidrug activities and agencies in Florida.

He was appointed by President Reagan to the White House Conference on a Drug-Free America in 1987, where national leaders gathered to discuss the fight against drugs. Among other initiatives proposed by the conference, their recommendations to increase capacity and accountability in the treatment system, drug test in the throughput, and to construct more beds, raze crack houses, and maintain crime and use. As Governor, Martinez' tenure in Tallahassee, the State's capital, has earned his stripes on the front lines. As Governor Martinez vigorously responded to the crisis in Florida with some of the Nation's most innovative antidrug policies. His supply-oriented approach toward the drug crisis that is nearly 180 degrees counter to my own. Only my respect for the President's traditional right to choose the members of his leadership team and my hope that Governor Martinez is capable of learning from the stark realities of his prospective job compel me to vote to confirm him as the Nation's second drug czar.

Mr. President, I have strong reservations about the nominee. I am fearful that Governor Martinez will continue the Bush administration's misguided overemphasis on enforcement as opposed to rehabilitation, on supply as opposed to demand. This policy is reflected in the fiscal year 1992 drug budget request which seeks to increase the war on drugs by $1 billion to $35 million in substance abuse treatment and 32% in prevention funding. When he took office in 1986, Florida was spending about $35 million in substance abuse treatment; by 1990, that level had risen to only $22 million. In contrast, he boosted spending on corrections from $514 million to $528 million. As a result of Governor Martinez' supply oriented policy, more than 45,000 Floridians in 1987 alone were arrested on drug possession charges, the majority of whom were not hardened criminals and thus could probably have been rehabilitated at much less financial and social cost than it did to arrest, prosecute, and imprison them.

This wild imbalance in priorities may reflect a troubling predisposition on Governor Martinez' part to view drug addicts as criminals beyond redemption, as individuals who warrant no further consideration beyond night arrests and a cold jail cell. If so, this is cruel and pessimistic view of the human condition, and a shortsighted one as well. By focusing on catching, prosecuting, and incarcerating drug offenders, he ignores the fact that most of the thousands arrested on drug possession charges during his tenure were not violent criminals, but troubled individuals who, if they had access to

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

The yeas and nays were ordered.
drug education and treatment programs, could have been given an opportunity to turn their lives around. Without addressing the root causes of drug abuse—poverty, alienation, and ignorance. If we are serious about this crisis, we will attack drugs through prevention and education programs in homes, in classrooms, in workplaces, as well as in the streets. We need to refocus antidrug efforts and marshal our national resources to provide greater access to more effective treatment for those seeking it. We particularly need to protect drug-exposed infants and preserve families. Women are bearing drug-addicted children because there are no treatment slots available—much less ones that will allow them to keep their families intact.

Mr. President, these are the types of programs that we need to emphasize. I am not sure that Governor Martinez is up to this challenge, particularly as he is apparently unwilling to forego using the bully pulpit to make political messages. Senators SIMON and METZENBAUM raised this particular concern at the recent Judiciary Committee hearings, in which the nominee could not absolutely assure them that he would refrain from politicizing the office of drug czar of from making campaign speeches. It is ironic, and perhaps tragic, that our first two drug policy directors have been political rather than professional appointments.

Mr. President, these are harsh words. But I say them in the hope that Governor Martinez, a reasonable and honorable man I am sure, will heed them in his new office after he is confirmed. I hope that the Governor understands that addressing the entire Nation’s drug problem requires a larger perspective and deeper understanding than he has hitherto demonstrated as a State official. I hope that he finds time to listen to those of us who call for a more balanced approach to a national crisis—one that it is no exaggeration to say threatens our economy, our safety, and our political institutions. It is only this hope, and the respect I hold for the executive branch’s traditional prerogatives, that allows me to set aside my reservations and support Governor Martinez for this important position.

Mr. GRASSLEY. Mr. President, the individual who becomes the next Director of National Drug Control Policy has a unique opportunity to build on recent successes. Since September 1988, the Federal Government has implemented a multipronged national strategy to attack the use and the trafficking in illegal drugs. This comprehensive strategy—invoking only governments at all levels but the private sector as well—has helped to change the country’s attitude toward illegal drugs and those who use and traffic in them—especially toward those who are casual or recreational drug users.

And, after decades of hoping that the problem would “just go away,” the American people—the vast majority of whom are law-abiding citizens—are finally speaking with one voice: drug use is wrong; it will no longer be tolerated; and it must stop.

This unambiguous message—reflected in most reputable national polls—is probably more important than any government initiative. And it is getting through loud and clear.

So, as I view it, we are at a critical juncture in the war against drugs.

And that is where the Office of National Drug Control Policy and its Director come in.

As I have stated before, the one thing that the Director of national drug control policy can do best is to be the tough “voice” of a coordinated campaign against those who—because of their disregard for the rights of law-abiding citizens—are at war with our communities.

Another role is to be an advocate for antidrug education and drug treatment, as well. But education and treatment-on-demand programs—although appealing—should not be supported blindly, without any accountability and actual reduction in the drug using population.

Because it is utopian to suggest that we know how to educate the whole population against using drugs, or how to successfully treat every drug addict, and simply lack more money to do so.

No one can say how well Governor Martinez will exercise the bully pulpit as drug czar.

Nor, can anyone say to what extent he will resist the urge to simply spend more money.
March 21, 1991

rehabilitation and treatment pro­
grams, and through outreach efforts 
that keep pregnant women from turn­
ing the next generation of children into 
occident drug users.

If President Bush is to succeed as our 
Commander in Chief in the domestic 
war on drugs, he should find the best 
expert available for this crucial posi­
tion. He should be nominating the 
Norman Schwarzkopf of Drug Strate­
gies' to this post. With all due respect 
to Governor Martinez, there is very lit­
tle evidence that he has the experience, 
the vision, or the commitment, to be 
that kind of a leader. Therefore, I with­
hold my consent on this nominee.

Mr. SANFORD. Mr. President, I 
would like to make a statement re­
garding the nomination of Bob Mar­
tinez to become the director of the Of­
ce on National Drug Control Policy. I 
am aware of the debate that occurred 
during his nomination hearing in the 
Labor Committee and I regret I was 
not able to participate in the discus­sions. I support Mr. Martinez and the 
Senators who are in opposition to Mr. 
Martinez' appointment as drug czar be­
cause of his strong focus on law en­
forcement and supply-side policies. The 
administration needs to recognize the 
importance of treatment and rehabili­
tation programs in the drug war efforts 
and it needs to make funding of those 
programs a priority.

This country is facing a crisis. The 
debilitating effects of drug abuse have 
reached all parts of our society. We 
desperately need to develop a new and 
effective national drug strategy.

The administration in the past has 
been successful in deflecting attention 
from the persistence of heavy drug use 
in our inner cities. It was cited that 
drug use has gone down, but I would 
argue as would many others that drug 
adictions have increased. If the ad­
mnistration believes that we are pro­
limating the size of the addict popula­tion, 
there will continue to be a lopsided 
drug war and a lack of balance between 
supply and demand efforts.

No one disputes the fact that the war 
on drugs is a multifaceted battle. Sub­
stance abuse is a disease which must be 
treated, just as drug dealers are crim­
nals who must be arrested and jailed. 
Demand reduction efforts must receive 
as much attention as supply reduction 
efforts if drug abuse is truly to be con­
trolled. Education components must 
work in unison with enforcement mea­sures. Treatment must be a part of our 
program to stop the proliferation of 
drugs.

I challenge Mr. Martinez to be sen­
titive to the various facets of drug 
abuse control and to promote policies 
that bring parity to the administra­
tion's efforts in controlling the demand 
and supply of illicit drugs. I also chal­
lege him to craft policies which would 
allow Federal programs to work with 
those that are developed in commu­
nities to fight drug use. We must en­
courage communities to fight back, for 
without the cooperation and coordina­
tion of our communities, the drug war 
will be an uphill battle, especially for 
those that are underprivileged, unedu­
cated, and rural folks.

I am aware that the State of Florida 
is believed to be the entry point for 
over 70 percent of the cocaine smuggled 
to the United States, thus interdict­
tion programs are essential. However, 
should Mr. Martinez nomination be 
confirmed, I challenge him to remem­
ber that he is now leading the cam­
paign against drugs in respect to the 
total country. I trust that he will re­
fect considerably on his 7 years as an 
educator, and teach America the vital 
role that education must play if we are 
to win this war. It is through education 
and improved social conditions that we 
must show our citizens not to turn to 
drugs in despair.

In the wake of our successful mili­
tary campaign in the Persian Gulf, we
must now turn our attention to the domes­
tic campaign that needs to be waged 
at home. I implore Mr. Martinez 
and the administration to carefully 
consider all facets of the drug war in 
crafting their drug policies and have 
vision enough to recognize the impor­
tance in providing adequate treatment, 
rehabilitation, and education programs 
in fighting the war on drugs. Our most 
precious resources, our citizens, must 
not be forgotten in our efforts to con­
tril illicit substances.

Mr. DURENERGER. Mr. President, 
I rise today to support the President's 
nomination of Bob Martinez to be the 
next Director of the Office of National 
Drug Control Policy. The Martinez 
nomination has been endorsed by an 
impressive array of political and civic 
leaders, drug treatment and prevention 
organizations, and law enforcement of­
cials. I am pleased to add my name to 
that list. Bob Martinez is an excellent 
choice to lead America's war on drugs.

Henry Ford once remarked, "The 
question, 'Who ought to be boss?' is like 
asking Who ought to be the tenor in 
the quartet?' Obviously, the man 
who can sing tenor." I believe that 
President Bush has chosen the right 
"tenor" for the job. Bob Martinez has 
already proven that he is an innova­
tive, effective leader in the war on 

When he served as the mayor of 
Tampa, Martinez played a key role in 
forging the national drug policy rec­
ommendations of the U.S. Conference 
of Mayors. And during his 4 years as 
Governor of Florida, Martinez made 

Mr. President, I hope that my col­
leagues will join me in confirming Bob 
Martinez, the President's outstanding 
choice for the next Director of the Of­

Sanford
As I stated earlier, this is a critical time in our country’s War on Drugs. Governor Martinez will have to exercise strong leadership to continue the progress achieved thus far. With a critical eye, he will have to define which programs outlined in the drug strategies of the past have yielded the most positive results, and fight for their continued funding. He will also have to terminate those initiatives which have not been successful and determine what can be done in their place. I hope that he will take the time to visit each of the high intensity drug trafficking areas to see first hand how accurately the priorities of our Nation’s drug control policy reflects the needs of the communities hardest hit by the War on Drugs.

We place in his hands a tremendous responsibility—to respond to the needs of Federal, State, and local agencies, to ensure the continued vigilance and commitment by the administration to the war against the drug dealers, and to work with members of the appropriate committees to forge a sound drug policy that adequately addresses the problems of today while anticipating the problems of the future. As a member of the Appropriations Subcommittee which oversees the funding of the Office of National Drug Control Policy, I will be especially interested in the priorities set forth by Governor Martinez as he defines the agenda for drug control efforts in the 1990’s.

It will not always be easy. It will require the same thoughtfulness and commitment that our country exhibited in declaring a military victory in the Persian Gulf. If we truly are waging a war on drugs, I hope that Governor Martinez will step forward and demonstrate the leadership necessary for us to win. I wish him the best of luck in this endeavor and look forward to working closely with him upon his confirmation.

Mr. DOLE. Mr. President, few jobs in the Government are more difficult—and more important—than that of Director of the Office of National Drug Control Policy.

And few Americans are more qualified to serve in this position than Bob Martinez.

Mr. Martinez is a public school teacher, as mayor of Tampa, and as Governor of Florida. Bob Martinez has fought on the front lines against the drug traffickers who poison our communities and our children.

Mr. Martinez knows what works and what doesn’t. He knows we can’t moollycoddle drug dealers and kingpins. He knows the necessity for drug treatment centers. He knows that our children must continue to be educated about the dangers of drugs.

Mr. President, under the leadership of President Bush, we are making progress in the war against drugs. Public attitudes are turning against those who use or sell narcotics. Studies show that drug use seems to be decreasing. Resources for law enforcement and treatment are at record levels. Central and South American allies are working with us to put drug cartels out of business.

There is, however, much more work to be done. More criminals to be locked up, more victims to be treated, more cartels to close down. Mr. Brown.

In closing, let me ask my colleagues to give Governor Martinez the time to do his job. Over 70 committees in the House and Senate exercise some authority over narcotics. Sometimes it seemed that former Director Bennett was up here everyday for one hearing or another.

The gulf war was a success because, once the war started, Congress didn’t micromanaging or second guess our generals.

Let’s do the same here. Let’s resist the temptation to micromanage the war against drugs. Governor Martinez has the experience, the skills, and the support of the President needed to get the job done. Let’s allow him to do just that.

Mr. BROWN. Mr. President, I rise to express my strong support for the confirmation of Bob Martinez as drug czar of the United States.

Governor Martinez will bring to this position a wealth of experience and knowledge. The Governor’s testimony before the Judiciary Committee last month was further testament to his dedication to the war against drugs and his ability to lead the Nation in this fight.

As mayor and Governor of a State besieged by illegal drug smuggling, drug abuse, and drug-related crime, Governor Martinez brings a unique perspective which is invaluable to implementing a nationwide strategy involving all levels of government.

As a junior high and high school teacher for 7 years, he is fully aware of the pressures our young people face during their most vulnerable years, and the support they need to steer clear of drugs. Educating kids about the dangers and real-life consequences of drug use is key to putting drug dealers out of business and winning the drug war.

Governor Martinez has been a leader in the drug war both on the State and national level. He was the National Governor’s Association’s spokesman on drug abuse, traveled to a number of South American drug producing countries to support antidrug efforts, including the Colombian crackdown against the drug lords, and was appointed by President Reagan to the White House Conference on a drug-free America in 1987.

Among his accomplishments as Governor, Governor Martinez led Florida in implementing the Nation’s first comprehensive drug-free workplace program for State government workers; expanded the concept of drug-free zones in Florida by imposing mandatory minimum sentences on individuals convicted of drug activity near public parks and playgrounds, public housing facilities, colleges and universities; developed the first state-wide program incarcerating nonviolent offenders, including boot camps; doubled the State’s prison capacity, constructing more beds than in the previous 20 years; supported a program which saved the Florida taxpayers over $350 million by using prisoners to build prison beds, raze crack houses and maintain highways and parks; and successfully pursued a plan to target career criminals by imposing stiffer penalties for repeat offenders.

Governor Martinez has the knowledge, experience and initiative to lead the Nation in the fight against drugs. Bob is an excellent choice for the job and I hope that the Senate will give its full support for his nomination.

Mr. BAUCUS. Mr. President, I will support this nomination.

Most Americans think of illegal drug use as an almost exclusively urban problem. There is no doubt drugs plague all our big cities; it is a problem of tragic proportions.

Yet some Americans think of rural America, places like Montana, as an oasis—a place free from the scourge of drugs. I wish this were the case. Unfortunately it is not:

Earlier this year, nine people were charged with conducting a sophisticated scheme to launder Colombian drug money in northwest Montana;

Last year, I joined with Senator PRYOR in requesting a General Accounting Office study of the rural drug problem. GAO found that the prevalence of substance abuse in rural America is roughly the same as that in urban America;

According to testimony by Pete Dun­ham, the chief state’s attorney for Montana, before the Senate Judici­ary Committee, Montana is a major center for the production of meth­amphetamine—a deadly drug sometimes called Crank.

Mr. President, last year, with the leadership of the distinguished chairman of the Judiciary Committee, this body passed a rural drug initiative as part of the crime bill. I am proud to have helped draft this important piece of legislation.

However, as the above examples point out, much work remains to be done. We cannot walk away from this problem; we cannot turn our backs on rural America.

As drug policy czar, Governor Mar­tinez must make eliminating the scourge of rural drugs a top priority.

I have personally brought this matter to the Governor’s attention. From
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our discussion, I am satisfied he will be responsive to this urgent need of rural America.

For this reason, I am pleased to support his nomination. I look forward to working with Governor Martinez in the years ahead.

Mr. COATS. Mr. President, I am pleased to lend my strong support to Gov. Bob Martinez as Director of the National Drug Control Policy.

As a Nation, we clearly demonstrated our ability to successfully shore our resolve and commit our resources and effectively and decisively wage war. With this same strength of purpose, we must continue to battle the scourge of drugs. One crime, one addicted to crack, one teenager slain, is a price our society can ill afford to bear.

In my travels throughout my State of Indiana, I have visited neonatal units overwhelmed by drug addicted babies born to children increasingly fearful of violence in the schools. I have heard mothers anxious about the intrusion of gangs, I have talked to police chiefs and prosecutors about a criminal justice system overwhelmed.

And yet, I have also sensed a new resolve to do the hard work of recapturing our schools and neighborhoods, of cleansing our communities from the plague of drugs. Drug use in any form is no longer tolerable to the socially responsible. We cannot in good conscience divorce the violence we see on our streets from each individual's decision to abuse drugs. Among the heartening developments in the past year was the first time drug use among high school students is at its lowest point in over a decade and casual drug use has declined by more than 30 percent.

Former drug czar, William Bennett, thought I have listened to the battle lines. We must consistently apply stiff social sanctions to discourage drug use and we must compassionately help those seeking treatment and assistance. I was pleased to sponsor legislation last session allowing schools to institute random drug testing for those students engaging in extracurricular activities. Our young people must learn that drug abuse has consequences.

Finally, we have a message to the drug terrorists of the world. Do not provoke the wrath of this great Nation. Our military has demonstrated its unparalleled ability to precisely pinpoint targets and to effectively protect our shores. We are serious and we are committed. We are deterred to prevail.

Governor Martinez has been on the front lines of the drug battle. The State of Florida has been a testing ground for interdiction efforts and crackdowns on distribution networks. I am confident he will demonstrate the same commendable leadership as his predecessor, and I commend the President on his nomination.

Mr. CHAFFEE. Mr. President, I would like to express my support for the President's nomination of Gov. Bob Martinez to be the National Drug Control Policy Director. He is a vitally important position, and I believe the President has chosen his nominee well.

As we all know so well, the war on drugs calls for a three-pronged approach. First, we must increase our efforts to control drug trafficking so that less drugs will be available. Second, we must ensure that there are enough programs for treatment and rehabilitation of people who currently use drugs. Third, and certainly as important, we must educate your youngsters so that they will not become drug users. Governor Martinez, who is also a former mayor and teacher, understands the need for all three facets of this program. Moreover, he has already responded to the challenge.

Due to its proximity to many of the drug producing countries in Latin America, Florida has been inundated with the epidemic of crime and drug use. In response, in 1988, Governor Martinez was the first Governor to appoint a State drug czar whose mandate was to oversee and coordinate antidrug activities and agencies in Florida. While Governor, he enlisted the help of the National Guard to assist other agencies with cargo inspections, air reconnaissance, and transportation. During his governorship, Florida was evaluated by Federal agencies as one of the Nation's role models in the drug battle.

During his governorship, Florida ranked among the top 10 States for per capita spending on drug treatment. While other States increased government support for drug treatment by an average of 23 percent, Florida increased such support by 33 percent. As a result, in his last year in office, Florida drug treatment and rehabilitation of the crime and drug use capacity, compared to the nationwide rate of 79.4 percent. Governor Martinez created drug free zones in Florida to ensure a safer environment for school children.

Mr. President, these are just a few of the many accomplishments of Gov. Bob Martinez. Governor Martinez has been in city government, he has been a teacher and he has served as Governor of the Nation's largest and most populous States. He will bring with him the perspective of each of these positions to his job as Director of the Office of Drug Control Policy. I welcome his leadership in this area and hope that my colleagues will vote in favor of his nomination.

Mr. SIMPSON. Mr. President, I am pleased to voice my support for the President's choice to head the Office of National Drug Control Policy. And once again I would like to take this opportunity to commend the chairman of the Judiciary Committee for his swift action in scheduling hearings on this nomination and for his leadership in the manner in which the hearings were conducted. As always, he was fair and patient during those hearings. The ranking member and the ranking member were both tireless and thorough during the long hours of testimony.

We have a fine nominee here—as is usual from our President. Governor Martinez has had real hands on experience in fighting the drug war. He has shown us signs of winning the war in Florida. He has at least won a few battles—he has some very good "firsts" to his credit, too.

He was the first—as Governor—to appoint a drug czar to lead the fight against drugs at the State and local level and he led Florida into becoming the first State to implement a Drug-Free Workplace Program for State government workers—this included drug testing—and he took the first test himself.

He was appointed by President Reagan to the White House Conference on a Drug-Free America in 1987. There, he led the Nations' Governors in presenting recommendations which were later incorporated into President Bush's drug strategy—increase accountability and capacity in treatment systems, drug testing throughout the criminal justice system, drug free workplaces and drug free schools, to name but a few.

As Governor of Florida, he led the fight for licensing of more effective and reliable drug testing techniques. He is also a strong advocate of alternative forms of incarceration for criminals. His State was one of the first to implement such forms of incarceration, such as boot camps, for first time and nonviolent offenders.

Governor Martinez implemented teacher training for substance abuse education and channeling of asset forfeiture funds back into law enforcement activities: He supports the policy of letting the criminals pay the costs of law enforcement. He is also a leader in the effort to involve other countries in the war on drugs and has traveled to Colombia, Bolivia, and Panama and was a leading advocate behind the President's effort to lend full U.S. assistance to the war on drug lords in Colombia. His fluency in Spanish has been of great benefit in dealing with our fine South American neighbors. He has all of the tools for the job. He will do it well.

So indeed, the Governor comes before the Senate with a commendable record. He is certainly highly qualified to assume the post as Director of the Nation's drug control strategy.

I urge his confirmation.

Mr. BINGAMAN. Mr. President, today I would like to voice my support for the confirmation of Robert Martinez, to be the new Director of National Drug Control Policy. I regret to cast such a vote, be-
cause I genuinely respect the President's right to considerable discretion in appointing his advisers. I am convinced, however, that the continuing problem of drug abuse in our country poses far too serious a threat to our future, and our children's future, to vote any other way.

The devastation wrought by drug abuse, to families, communities and our entire society, is tremendous; and although we have made some progress in our effort to combat illicit drug use, much remains to be done. The task at hand demands strong, yet balanced, leadership, both from Congress and from the administration. We simply cannot continue the status quo. We must make a renewed and serious commitment to providing our Nation with the type of leadership we need to get us out of the mess that drug abuse has gotten us into. Unfortunately, I do not believe that Robert Martinez will provide that leadership.

An overwhelming majority of the electorate supports the appointment of his advisers. I am convinced, however, that the continuing problem of drug abuse in our country poses far too serious a threat to our future, and our children's future, to vote any other way.

Mr. President, I will conclude by stating again that I regret having to cast a vote against this nomination. But drug abuse is one of the most serious problems we face. It threatens to destroy an entire generation, and all the talk in the world will not bring us one step closer to arresting that threat.

We need action, and we need it now. We need a leader committed to the entire fight. We need a leader willing to embrace a comprehensive battle strategy. Thank you.

Mr. KERRY. Mr. President, according to public opinion polls the war on drugs is not the priority issue that it was when the President took office. The former Director of Drug Policy, William Bennett, claims the reason is because we are on the verge of victory. The truth, however, is that other issues, including the Persian Gulf and the domestic economic issues have simply occupied the attention of the American people.

Make no mistake about it: the drug war has not been won. In many ways, it still has not begun. The declaration of war may be 10 years old, but the President still has not laid out a thoughtful, long-term strategy that mobilizes the resources of our Nation against the use of drugs.

The President's nomination of former Gov. Bob Martinez of Florida raises questions about how the administration plans to fight the war on drugs.

I intend to vote for the confirmation of Governor Martinez, but I do so with serious reservations.

Governor Martinez is a decent and capable public servant. However, his approach to the drug war in Florida is proof that he is not a man of vision on this issue.

The Governor spearheaded one of the most aggressive crackdowns on drugs and crime in the United States during the 1980's. He implemented strict prison time for casual drug use, just to what the Washington Post said about the Governor's tough approach.

Overwhelmed by a seemingly endless number of drug offenders pouring into prisons, Florida's corrections department has been forced to slash the sentences of inmates at over more rapid rates—and it is releasing prisoners.

As a result this conservative law-and-order State is now the Nation's leader in the early release of convicted felons and punishment for crime is declining precipitously.

This happened despite the fact that the Governor invested more than $550 million in building new prison space. The Governor was so preoccupied with locking people up that he neglected the treatment side of the equation.

While the Governor was slamming the door on casual drug users, less than one out of every four Floridians who needed substance abuse treatment was receiving it. While the prison system in Florida overflowed, only one in six adolescents in Florida who needed substance abuse treatment was receiving it. While Florida was one of the first States to criminally prosecute a woman for maternal substance abuse, in Florida substance abuse treatment was only available for 15 percent of all pregnant addicts.

During the Martinez years, Florida ranked last in the Nation in terms of funding for treatment and 31st in terms of funding for prevention.

The point is that in fighting the war on drugs, Governor Martinez has proven to be a supply sider. Using that strategy he has not been very successful in fighting the war on drugs in the State of Florida. I have read nothing in Governor Martinez' testimony before the Senate Judiciary Committee that would lead me to believe that he would change his approach on the national level.

We need a new Federal strategy. The current one, which allocates nearly 70 percent of our resources to the supply side, is simply not working. The inner cities of our Nation are drug invested killing zones. Despite the tough talk coming from the administration on drugs, violent crime, 70 percent of which is drug related, has increased 5 percent across the country.

The trend of violent crime is especially disturbing among the young black male population. The Federal Center for Disease Control has said that homicide was the leading cause of death for black males of ages 15 to 24. Among factors contributing to the rising number of killings, the CDC listed "immediate access to firearms, alcohol and substance abuse and drug trafficking".

No one is suggesting that we don't want to provide more resources to our law enforcement agencies. I have been a proponent of increased resources for law enforcement since I came to the Senate. I authored legislation last year doubling the amount of funding for State and local law enforcement.

But I also recognize that the only way to actually win the war on drugs is...
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CURB AMERICA'S DRUG HABIT, AND THE

We can do much better than that. We are only educating 55 percent of our kids. We can do much better than that.

We need a National Director of Drug Policy who will make a commitment to treatment on demand and to educating all of our children about the dangers of drugs. I am hopeful that once Governor Martinez fully appreciates the breadth of the problem, that he will make such a commitment.

Mr. HARKIN. Mr. President, I rise today to support the nomination of Bob Martinez to be Director of National Drug Control Policy. In doing so, I also wish to express my deep concerns about the direction taken by our national drug policy and my hope that under the direction of Bob Martinez, we will see a more active as opposed to reactive drug control strategy.

As chairman of the Labor, Health and Education and Related Agencies Appropriations Subcommittee, I strongly believe that there must be more of an emphasis on drug education, treatment and prevention in this country's national drug control strategy. Unfortunately, only 30 percent of current funds allocated to the war on drugs goes for prevention and treatment programs.

We must ensure that our drug control policy contains adequate funds to educate our young people of the dangers of drugs and drug abuse, to take steps to prevent the use of drugs and to treat those in our society who have fallen at the hands of these dangerous and violent drugs.

The answer is no and will never be to simply build more prisons in order to simply lock these people away without the benefit of drug education and treatment, only to eventually set them free at the end of their sentence, still addicted to and not educated about the dangers of drug use.

There have been reservations surrounding nominee Gov. Bob Martinez's ability to recognize the importance of drug education and treatment programs in the war against drugs. While I believe that this country is in no position to allow on-the-job training to the Director of our National Drug Control Policy, I also think that Governor Martinez will recognize, support, and come to believe in the importance of drug education and treatment programs.

The war on drugs is entering a critical phase. The easy victories have been won. While casual drug use and drug use among the middle class is down, hardcore drug use remains constant. While the Nation's attitude towards drugs has changed, the Nation still needs someone who will be able to communicate and coordinate a national drug strategy. It is my hope that Mr. Martinez will be that person this country so desperately needs. I am optimistic that Mr. Martinez' experiences as an educator and a leader in Florida's fight against drugs will permit him to identify the current deficiencies in our national drug control strategy and take immediate and swift actions to correct them.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Bob Martinez to be Director of National Drug Control Policy? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 88, nays 12, as follows:

[Rollcall Vote No. 41 Ex.]

YEAS—88

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

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

The PRESIDING OFFICER. The Senator from Tennessee [Mr. Gore] is recognized.

Mr. GORE. I thank the Chair. (The remarks of Mr. Gore pertaining to the introduction of Senate Joint Resolution 101 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions."

Mr. BUMPERS addressed the Chair. The PRESIDING OFFICER. The Senator from Arkansas. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is presently in morning business.

UNITED STATES-JAPANESE RELATIONS

Mr. BUMPERS. Mr. President, I will only take 60 seconds.

I want to add my voice to the chorus of outrage that has been expressed, especially in the agriculture community of this country, about what happened in Japan last Sunday when rice, and I think it was Arkansas rice, displayed in a trade show in Japan was ordered removed.

When there was some hesitancy by the displayers who were exhibiting these rice packages, it is my understanding the police were brought in, and the Senator said: Either you remove this rice from display or we are taking you to the slammer.

I wish I had been there. I have never spent any time in a Japanese jail, and I do not have any such desire. But I promise you, if I had been there, I would have allowed them to escort me to their jail. It is one of the most insulting, outrageous things that has ever happened in American-Japanese relations.

It is not just because it is rice. It is that we have a $50 billion trade deficit against the Japanese annually, year after year, that we open our markets, automobiles, everything else, to the Japanese, and some of us from rice-producing States have fought for years to get our rice sent there.

They subsidize their rice farmers to the tune of about $900 a ton, and we will sell them all the rice they want for about $200 a ton. Think about the disparity in the price, with the kind of subsidies they are providing for their rice farmers. Then tell us: We do not
even want the Japanese people to see your rice and demand it be removed. I hope the President will get involved in this, Mr. President, and say to the Japanese people, to the Japanese Government, and especially those in charge of their trade relations with the United States, we are offended to the core about this unseemly event.

Mr. President, I yield the floor.

Mr. LEVIN addressed the Chair.

Mr. LEVIN. Mr. President, on that same subject, let me say that when I read those reports, I shared the same outrage as my good friend from Arkansas. We have seen evidence of unfair trade practices against American products across the board. Very few of us represent States which have not been negatively impacted by unfair barriers in Japan to our products.

In Michigan, it is agricultural product; it is automobile parts; it is telecommunications equipment; on and on. We have been talking about this now for a decade. We go back in quotations all the way to President Nixon saying that we are turning the corner on trade with Japan; they are opening up their markets.

Mr. President, we have had rhetoric now for about two decades, and this recent incident is nothing short of an outrage. For Japan to threaten to put in jail an American who simply wants to display an American product, in this case rice, is something which is so offensive that our President ought to get on the telephone to the Prime Minister of Japan and tell him to modify that law or somebody is going to go to prison, and make a point of it. We cannot tolerate a one-way street in trade any longer. It is intolerable.

Mr. President, a lot of folks get upset at Japan, and I am one of them. But I am more upset at our own Government. If Japan wants to keep our products out, that is their decision. If they want to put quotas and tariffs and barriers on American goods, that is their decision. If we tolerate it, that is our decision. But we should not tolerate it. We have had a weak trade policy for too long. This recent incident in Japan over rice is only the most dramatic evidence of a very weak trade policy which has resulted in a one-way street. We are not perfect. People say, well, gee, we have quotas and we have tariffs, too. We are not perfect. But compared to Japan and other countries, we are very much better than they are.

Mr. President, I am glad that my friend from Arkansas raised this subject. It is our current plan in the subcommittee that I chair on Government Affairs to hold a hearing into what happened in Japan last Sunday. We are not going to let this one rest.

This did not end with that threat to put an American in jail because he or she wanted to display Arkansas rice. This incident did not end in Japan last Sunday. We are going to drive home to the Administration that American policy is weak, and the product of that weakness is what happened in Tokyo. We have to change our policies here to respond to what they are doing to us over there.

I thank the Chair, and I yield the floor.

The PRESIDENT OFFICER. The Senator from Michigan.

UNFAIR JAPANESE TRADE BARRIERS

Desert Storm Supplemental Authorization and Military Personnel Benefits Act

Mr. NUNN. Mr. President, in a moment, I would like to lay before the Senate the Persian Gulf Supplemental Authorization and Personnel Benefits Act of 1991. This bill, when it is introduced, will represent the agreement between the House and the Senate on the Desert Storm Supplemental Authorization and Military Personnel Benefits Act for fiscal year 1991, which we passed in the Senate last week, and which the House also passed last week.

We worked very hard this week with a number of committees in the Senate and the House to complete work on this bill. The Veterans' Affairs Committees, the Governmental Affairs Committees, the Agriculture Committees, the Labor Committees, as well as the Armed Services Committees, have all been involved in working out this compromise. The Senate leadership has also been very involved.

Mr. President, I express my thanks to all of these committees for the spirit of cooperation which has allowed us to complete work on this important bill in a useful and timely fashion.

I particularly want to thank the leadership and their very competent staff, because without their leadership in this matter, we could not have done it in this timeframe.

With the need to complete the bill this week, we have worked out this compromise bill without a formal conference. When it is adopted by the Senate, it will go to the House for final action later today. And then, if passed by the House, to the President for his signature.

Mr. President, I ask unanimous consent that a joint explanatory statement in the nature of a conference report statement of the managers explaining this compromise bill be printed in the Record at the conclusion of my remarks.

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

(See exhibit 1.)

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Mr. NUNN. Mr. President, this bill provides additional funds during fiscal year 1991 for the costs of the Persian Gulf war. It gives the Defense Department increased flexibility to manage military personnel levels in the aftermath of the war. It authorizes certain benefits for the military men and women involved in the war. It establishes certain reporting requirements of Department of Defense to keep Congress informed on the cost of the war, and to provide Congress with an after-action report on the conduct of the war, and it authorizes additional funds during fiscal year 1991 for the Department of Energy.

Authorization of Funds for the Costs of the Persian Gulf War

There was very little difference between the House and Senate bills in the authorization of funds to pay the costs of the Persian Gulf war. Like the version adopted by the Senate, this compromise bill establishes a mechanism to ensure that foreign contributions in the defense cooperation account are used to pay for the costs of the war to the maximum extent possible. The $15 billion in U.S. taxpayer funds authorized for the new Persian Gulf conflict working capital account may be used to pay for the costs of the Persian Gulf conflict to the extent that foreign contributions are not available to pay these costs.

The bill includes important safeguards to maintain appropriate congressional oversight over the transfer of funds in the defense cooperation account and the Persian Gulf conflict working capital account to pay for the cost of the Persian Gulf conflict. The transfer authority in the bill can be used only after the Secretary of Defense provides the Congress with a notification and a period of 7 days elapses.

The notification must include: First, a certification that the amounts proposed to be transferred will be used only to fund the incremental costs of Operation Desert Shield/Storm; second, a list of the amounts to be transferred and the accounts to which the transfer will be made; and third, a description of the programs, projects, and activities to which the funds are proposed to be transferred. If the transfer is from the working capital account, the notification must also explain why foreign contributions have not provided sufficient funds to permit transfers from the defense cooperation account.

On a monthly basis, the Secretary of Defense will provide an accounting of transfers in a report to the Congress and the General Accounting Office. These notification, certification, and reporting requirements ensure that Congress will continue to oversee the expenditure of funds to pay for the costs of the Persian Gulf war in the months ahead.
WAIVER OF PERSONNEL CEILINGS

The committee bill also includes important authority requested by the Defense Department to waive certain military personnel end strength and grade ceilings for fiscal year 1991 because of requirements resulting from Operation Desert Shield and Operation Desert Storm. These waivers are necessary to minimize personnel turbulence and involuntary separations as the military services draw down their strength as projected in their budgets in the aftermath of the Persian Gulf war.

PERSONNEL BENEFITS

Mr. President, we had a very good discussion during the Senate floor debate on the personnel benefits in this bill for the military members serving in Operation Desert Shield and Desert Storm and their families. Senator MITCHELL and Senator Dole appointed a task force under the capable leadership of Senator Glenn and Senator MCCAIN, and this task force developed a consensus package of benefits that was included in the Senate-passed bill.

I am pleased to report to my colleagues that all of the benefits in the Senate bill are in this compromise bill. These include:

- An increase in imminent danger pay from $110 per month to $150 per month;
- An increase in the servicemen's group life insurance benefit from $50,000 to $100,000;
- Medical special pay for activated reservists;
- An increase from $3,000 to $6,000 in the death gratuity;
- Family assistance and child care enhancements;
- Transitional health care for reservists;
- A delay in the reduction of CHAMPUS mental health benefits;
- Assistance for reservists who are farmers and ranchers and who were activated for the Persian Gulf war;
- Authority to waive certain requirements for Government student loans.

In addition to these Senate provisions, this bill includes several provisions from the House-passed bill. These include:

- An increase from $90 to $75 in the family separation allowance;
- Authority to pay basic allowance for quarters to certain activated single reservists; and
- A delay in the proposed increase in the deductible for military families under the CHAMPUS program.

In addition to these benefits for military members and their families, this bill contains increases in certain veterans' benefits. The bill provides wartime veterans' benefits to military members who served on active duty during the Persian Gulf war. The monthly benefits under the Montgomery GI bill for active and reserve military personnel are also increased.

In developing the Senate package of benefits, Mr. President, the bill reported by the Senate Armed Services Committee increased $358 in benefits to which $142 was added by the Senate leadership package. In our negotiations with the House, we agreed on a total package of $655 million, of which $255 million would be for veterans' benefits and $400 million for the benefit of Active and Reserve military members and their families.

Mr. President, this is a good benefit package that recognizes the sacrifices of our dedicated men and women in uniform and their families. I want to again acknowledge the hard work of Senator Glenn and Senator MCCAIN, the chairman and ranking minority member of the Senate Armed Services Committee, for their extraor-dinaries and acts in this area over the last 3 months.

DEFENSE DEPARTMENT REPORTING REQUIREMENTS

This compromise bill also contains the two important reporting requirements related to the Persian Gulf war that were adopted in the original Senate bill.

The first reporting requirement includes procedures for ensuring that there will be a complete accounting of all expenditures and sources of funding related to Operation Desert Shield and Desert Storm. This provision is similar to H.R. 586 which was recently passed by the House of Representatives.

The second reporting requirement calls for a comprehensive assessment of the conduct of the war by the Defense Department.

The lessons learned from the strategy, tactics, logistics, personnel policies, and other aspects of the Persian Gulf conflict will have a major impact on the decisions in this and future years about our national defense posture. This bill includes the Senate provision that requires the Defense Department to make an assessment, after the cessation of hostilities, on the conduct and "lessons learned" of Operation Desert Shield and Desert Storm.

SUPPLEMENTAL AUTHORIZATION FOR THE DEPARTMENT OF ENERGY

Finally, Mr. President, this bill includes a supplemental authorization of $623 million for the Department of Energy in fiscal year 1991. $283 million of this amount is for operating expenses at the Rocky Flats Plant at Golden, CO. The remaining $340 million is for high-priority environmental compliance and cleanup activities in the Department of Energy.

CONCLUSION

Mr. President, I am hopeful that the Congress will be able to complete action on this important legislation this week. This bill authorizes funds to pay for the costs of Operation Desert Shield and Operation Desert Storm, and recognizes the sacrifices of the military members and their families who served in this conflict.

In closing I want to express my appreciation to the leaders, Senator MITCHELL and Senator Dole, and their staffs for their help on this legislation; to the Members of the other Senate and House committees who cooperated in getting a compromise bill; and of course to Senator Warner from Virginia, my colleague and ranking Republican on the Armed Services Committee, has worked on very hard, along with other Members of the Committee. It involves the Service-men's Group Life Insurance Program, known as SGLI.

The Senate bill increased the maximum amount of coverage under the SGLI Program from the current $50,000 to $100,000. Beyond the war period itself, this increase will not cost the Federal taxpayers anything, because the SGLI Program is financially self-sustaining, with premiums in peacetime.

Military members currently pay 8 cents per $1,000 of coverage.

The Senate bill also provides a retroactive gratuity to the survivors of military members who died since the start of the Persian Gulf conflict, that is, since August 2, 1990, equal to the amount of the military member's SGLI coverage at the time of death. This retroactive gratuity would be paid to survivors of military members whose death was in conjunction with or in support of Operation Desert Storm, or attributable to hostile actions in regions other than the Persian Gulf, as approved by the Congress.

If a military member died during Operation Desert Shield or Desert Storm, for example, and had $50,000 coverage under the SGLI Program, his or her survivor would get an additional $50,000, for a total benefit of $100,000. The cost of this retroactive benefit would be approximately $25 million, and would be paid for by Department of Defense funds.

Mr. President, the House has agreed to accept a retroactive increase in the SGLI program, but they are reluctant at this time to agree to the prospective increase in the SGLI benefit to $100,000 that is in this bill.

Mr. President, I hope the House will agree to this increase.

In the first place, increasing future SGLI benefits will not cost the Government any more money in peacetime. This is life insurance for the troops.
and the troops pay the premiums. The average term life insurance policy in the United States will cover $100,000, and the maximum SGLI benefit should be raised to $100,000 also.

More importantly, Mr. President, the House readily agreed to the retroactive $100,000. and the troops pay the premiums. The average term life insurance policy in the United States will cover $100,000, and the maximum SGLI benefit should be raised to $100,000 also.

Mr. President, the retroactive and prospective increases in SGLI coverage to $100,000 in this bill are important benefits for military members and their families particularly those who have been hit so hard with grief during this conflict. I hope these increases will be agreed to by the House.

I hope this will be agreed to by the House.

JOINT EXPLANATORY STATEMENT—PERSIAN GULF CONFLICT SUPPLEMENTAL AUTHORIZATION AND PERSONNEL BENEFITS ACT OF 1991


On March 19, 1991, the Senate received H.R. 1175, amended it with the text of S. 578, passed it, and returned it to the House.

The following joint explanatory statement explains the compromise agreement that has been reached by the Senate and House Armed Services Committees and other committees on the differences between the texts of H.R. 1175 and S. 578.

In this joint explanatory statement, the phrase “the House bill” refers to H.R. 1175, as passed by the House on March 13. The phrase “the Senate amendment” refers to S. 578, as passed and amended by the Senate with the text of S. 578 on March 19. The phrase “the final bill” refers to the compromise agreement.

TITLE I—AUTHORIZATION OF FISCAL YEAR 1991 SUPPLEMENTAL APPROPRIATIONS FOR OPERATION DESERT STORM

The House bill contained a series of provisions (secs. 101-104) that would establish the supplemental appropriations for Operation Desert Storm for fiscal year 1991. Section 101 would authorize, during fiscal year 1991, the appropriation of the balances contributed to the Defense Cooperation Account, or for some minimal SGLI coverage (S. 578). Some of these balances would be transferred to the Department of Defense to pay for the incremental costs associated with Operation Desert Storm or the replenishment of the SGLI accounts. Section 102 would substantially raise the SGLI Working Capital Account and would authorize $15 billion to be appropriated to the account during fiscal year 1991. This section would specifically limit the amount of funds transferred for transfers to pay for the incremental costs of Operation Desert Storm to the extent that funds are not available for transfer from the Defense Cooperation Account. Section 103 would authorize the transfer of amounts appropriated from the Defense Cooperation Account and appropriated to the Persian Gulf Working Capital Account, or between the military personnel and operation and maintenance accounts, to pay for the incremental costs associated with the military operations in the Persian Gulf. Section 105 would establish certain notification and reporting requirements to be followed by the Secretary of Defense before implementing any transfer of funds from the Defense Cooperation Account, the Persian Gulf Working Capital Account, or between the military personnel and operation and maintenance accounts. Section 106 would require the Secretary of Defense to provide monthly reports of transfers made pursuant to the authority in this title to the congressional defense committees.

The Senate amendment contained similar provisions (secs. 101-105).

The final bill contains the House provisions with technical amendments.

The authority provided in the final bill is based on the understanding that the Secretary of Defense will develop a process for the resolution of any concerns that may be raised by the congressional defense committees with respect to transfers authorized by this title. This process should involve the four congressional defense committees and should be more streamlined than the process currently used with respect to approval of transfer. It is expected that the four congressional defense committees will expedite consideration of all transfer requests and will register any concerns with DoD over any proposed transfer within seven days. The traditional paperwork used by DoD to report transfers to the Congress is not necessary in the case of transfers for the incremental costs of Operation Desert Storm. This approach will preserve the congressional oversight role over the expenditure of funds to pay the incremental costs of Operation Desert Storm.

TITLE II—WAIVER OF PERSONNEL CEILINGS AFFECTED BY OPERATION DESERT STORM

The House bill contained provisions (sec. 211 and sec. 212) that would: (1) authorize the Secretary of Defense to waive the active duty, selected reserve, and reserve active duty end strengths prescribed for fiscal year 1991 in the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-107); and (2) authorize the President to waive the strength ceilings applicable to senior enlisted grades for the duration of the Persian Gulf conflict.

The Senate amendment contained a similar provision (sec. 201), except the authority to waive the end strengths and grade ceilings would be vested in the Secretaries of the Military Departments, and the grade ceiling waivers would include not only the senior enlisted grades, but the active duty and full-time National Guard field grades, and the general and flag officer grades as well.

The final bill contains the Senate provision.
The Senate amendment contained no similar provision.

The final bill contains the House provision amended to condition the payment of these pays on the completion of certification requirements by affected personnel within 180 days of their release from their duty assignments in connection with the Persian Gulf conflict or such additional time after that period as determined to be necessary by the Secretary of Defense.

Foreign language proficiency pay (sec. 306)

The House bill contained a provision (sec. 223) that would require that foreign language proficiency pay be paid to members of the armed forces assigned to duty in connection with the Persian Gulf conflict who meet all eligibility criteria for such pay except that they have not been certified by the Secretary concerned to be proficient in a foreign language necessary for national defense purposes.

The Senate amendment contained no similar provision.

The final bill contains the House provision amended to condition the payment of these pays on the completion of certification requirements by affected personnel within 180 days of their release from their duty assignments in connection with the Persian Gulf conflict. The period as determined to be necessary by the Secretary of Defense.

Increase in the amount of death gratuity (sec. 307)

The House bill contained a provision (sec. 231) that would amend section 1478(a) of title 10, United States Code, to establish a standard death gratuity rate of $2,000 for all grades, effective August 2, 1990.

The Senate amendment contained a similar provision (sec. 308), except the authority for the $2,000 death gratuity rate would be temporary and effective January 16, 1991.

The final bill contains the House provision amended to make the provision temporary.

Servicemen’s Group Life Insurance gratuity (sec. 306)

The Senate amendment contained a provision (sec. 330) that would authorize the payment of a gratuity to the survivors of service members who died after August 1, 1990 and the effective date of the SGLI increase to twice the amount of SGLI coverage of the deceased at the time of death. The gratuity would apply only to service members whose deaths were in conjunction with or in support of Operation Desert Storm, and would be unavailable to hostile action in regions other than the Persian Gulf designated by the Secretary of Defense.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Payment for accrued leave (sec. 309)

The Senate amendment contained a provision (sec. 303) that would ensure that survivors of military members are entitled to the payment for the unused accrued leave of a member who dies while on active duty on the same basis as provided for members in section 1115 of the National Defense Authorization Act for Fiscal Year 1981.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Removal of limitation on the accrual of savings of members in a missing status (sec. 310)

The House bill contained a provision (sec. 232) that would amend section 1035(b) of title 10, United States Code, to remove the ceiling on savings deposits for service members carried in a missing status as defined in section 551(2) of title 37, United States Code, during the period of the Persian Gulf conflict.

The Senate amendment contained no similar provision (sec. 304).

The final bill contains the House provision.

Basic allowances for quarters for certain members of the reserve components without dependents (sec. 305)

The House bill contained a provision (sec. 224) that would require payment of basic allowance for quarters to reserve component members without dependents called to active duty in connection with the Persian Gulf conflict who are unable to occupy their primary residence that is owned by the member, or for which the member is responsible for rent.

The Senate amendment contained no similar provision.

The final bill contains the House provision amended to clarify the intent of the House provision.

Legislative Provisions Not Adopted

Repeal wartime and national emergency prohibitions on the payment of certain pays and allowances (sec. 221)

The House bill contained a provision (sec. 221) that would repeal the prohibition on the payment of imminent danger pay and family separation allowance during times of war or national emergency declared by the Congress.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Foreign duty pay

The House bill contained a provision (sec. 223) that would increase the current foreign duty pay for enlisted personnel to a flat rate of $25 per month.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Transitional comissary and exchange benefits

The House bill contained a provision (sec. 240) that would require the Secretary of Defense to prescribe regulations allowing a member of a reserve component called or ordered to active duty in connection with the Persian Gulf conflict to use commissary and exchange stores to the same extent as authorized for service members called or ordered to active duty.

The Senate amendment contained no similar provision.

The final bill contains the Senate provision amended to clarify the intent of the Senate provision.

Temporary CHAMPUS provisions regarding deductibles and copayment requirements (sec. 312)

The House bill contained a provision (sec. 242) that would delay the implementation of the increase in the CHAMPUS deductible mandated by section 712 of the National Defense Authorization Act for Fiscal Year 1991 from April 1, 1991 to October 1, 1991, in the case of dependents of active duty personnel who are serving or have served in the Persian Gulf theater in connection with the Persian Gulf conflict.

The Senate amendment contained no similar provision.

The final bill contains the House provision.

The Senate amendment contained a provision (sec. 331) that would allow CHAMPUS health care providers to waive any requirement for payment by the patient of copayment charges during the Persian Gulf War period, provided that CHAMPUS health care providers who grant such waivers do not increase the amount charged to the federal government for the service for which the waiver is granted.

The House bill contained no similar provision.

The final bill contains the Senate provision amended to specify that this provision applies to dependents of military personnel serving in the Persian Gulf and requires certification by the health care provider on cost.

Transitional health care (sec. 313)

The House bill contained a provision (sec. 243) that would extend transitional health care benefits to reservists called or ordered to active duty in connection with the Persian Gulf conflict and to active duty personnel involuntarily retained on active duty under section 673c of title 10, United States Code. Section 243 would authorize eligibility for two months of medical care in military medical treatment facilities or under CHAMPUS unless the former service members and dependents are covered by an employer-sponsored health insurance plan.

The Senate amendment contained a similar provision (sec. 307), except that the transitional health care coverage would be for 30 days and would not include involuntarily retained personnel.

The final bill contains the Senate provision amended to include involuntarily retained personnel under the transitional health coverage being authorized.
Extension of certain Persian Gulf conflict provisions (sec. 314)

The House bill contained a provision (sec. 248) that would require the Secretary of Defense to carry out a study of departmental policies relating to the family interests and responsibilities of reserve component members called or ordered to active duty and of active and reserve component service members deployed overseas. The study would examine the responsibilities of such policies to the needs of service members and the continuity of military dependents among the Military Departments. The Secretary of Defense would be required to submit a report to Congress on the findings of the study no later than March 31, 1991.

The Senate amendment contained no similar provision. The final bill contains the House provision.

Study of Department of Defense policies relating to deployment of military service members with dependents or service members from families with more than one service member (sec. 315)

The House bill contained a provision (sec. 248) that would require the Secretary of Defense to carry out a study of fiscal year constraints on spending in support of the Persian Gulf conflict established in title XI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1634 et seq.).

The Senate amendment contained no similar provision. The final bill contains the House provision.

Legislative Provisions Not Adopted

Sense of Congress regarding the provision of medical care by Germany to dependents of members of the armed forces deployed to the Persian Gulf region (sec. 249)

The House bill contained a provision (sec. 249) that would express the sense of Congress that the President should request the Government of Germany to provide without reimbursement of funds medical care to military dependents living in Germany in order to replace military medical personnel and equipment deployed to the Persian Gulf region to treat casualties resulting from the Persian Gulf conflict. The Senate amendment contained no similar provision. The final bill does not contain the House provision.

Morale telephone calls

The House bill contained a provision (sec. 250) that would express the sense of Congress that the Secretary of Defense should contract with private telephone companies, or establish alternative telephone arrangements, to provide at least ten minutes of free telephone calls a month for each member of the armed forces serving in the combat zone designated in connection with the Persian Gulf conflict.

The Senate amendment contained no similar provision. The final bill does not contain the House provision.

Adjustment in the effective date of changes in mental health benefits as a result of Operation Desert Storm (sec. 319)


The House bill contained no similar provision.

The final bill contains the Senate provision amended to change the effective date of the changes in CHAMPUS mental health benefits from February 15, 1991 to October 1, 1991. CHAMPUS is directed not to absorb any of the costs associated with the change in benefits made by this section which exceed the $36 million budgeted for these benefits by this Act.

Sense of House on the separation of certain members from their infant children (sec. 317)

The House bill contained a provision (sec. 241) that would amend chapter 41 of title 38, United States Code, by inserting a new section that would preclude female members with a child under six months of age from being called to active duty, if a member of a reserve component, or (2) assigned to a duty location or circumstance that requires the child to live at a different location from a member of the armed forces on active duty. Section 241 would provide the same exemptions to male service members who have sole custody of a child under the age of six months.

The Senate amendment contained no similar provision. The final bill contains the House provision amended to express the sense of the House on this issue.

Legislative Provisions Not Adopted

Sense of Congress regarding the provision of medical care by Germany to dependents of members of the armed forces deployed to the Persian Gulf region (sec. 249)

The House bill contained a provision (sec. 249) that would express the sense of Congress that the President should request the Government of Germany to provide without reimbursement of funds medical care to military dependents living in Germany in order to replace military medical personnel and equipment deployed to the Persian Gulf region to treat casualties resulting from the Persian Gulf conflict. The Senate amendment contained no similar provision. The final bill does not contain the House provision.

Pension eligibility (sec. 333)

Section 501(1) of title 38 defines the term "period of war" as including the Spanish American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and the period beginning on the date of any future declaration of war by Congress and ending on the date prescribed by presidential proclamation or concurrent resolution of Congress. The House bill contained a provision (sec. 301(a)) that would add to the definition of periods of war the "Persian Gulf War," the period beginning on August 2, 1990, and ending on the date prescribed by Presidential proclamation or by law. The Senate amendment contained a similar provision (sec. 362).

The final bill contains this provision.

Pension eligibility (sec. 333)

Section 501(1) of title 38 defines certain periods of war for purposes of eligibility for the VA need-based pension programs for non-service-disabled veterans, surviving spouses and dependent children of deceased wartime veterans. Under section 541(l) of title 38, for a surviving spouse to be eligible for a pension, he or she must have married the veteran by a specified date, i.e., not later than 10 years after the termination of the period of war in the cases of veterans of World War II, Korean War, and Vietnam War.

The House bill contained a provision (section 301(b) that would (1) add the "Persian Gulf War" to the definition of periods of war eligible for pension eligibility purposes, and (2) provide for pension eligibility for a surviving spouse of a Persian Gulf War veteran if the spouse marries the veteran before January 1, 2001.

The Senate amendment contained a similar provision (sec. 363) which would provide pension eligibility for a surviving spouse if the marriage occurred not later than 10 years after the termination of the Persian Gulf War.

The final bill contains the substance of the House provision.

Period of services for dental benefits (sec. 333(a))

Section 612(b)(1) of title 38 requires VA to furnish outpatient dental services for a dental condition or disability which is service-connected but not compensable in degree if (1) the condition or disability is shown to be a result of service, (2) the veteran's discharge or release after a period of not less than 180 days immediately preceding the date of discharge or release of the veteran's discharge or release, (3) the veteran served on active duty for a period of not less than 180 days immediately preceding the date of discharge or release, and (4) the veteran was not provided, within the 90-day period immediately before the date of discharge or release, a complete dental examination and all appropriate dental services indicated by the examination as needed. Under section 621(b)(2), the Service Secretary concerned is required to furnish each individual, at the time of discharge or release from active duty, written notice of this benefit and record the member's receipt of the notice.

The House bill contained a provision (sec. 306(c)) that would reduce from 180 days to 90 days the minimum active-duty service requirement for eligibility for this benefit (as well as for the notice provision) for veterans of the Persian Gulf War.

The Senate amendment contained no similar provision.

The final bill contains the House provision.

Presumption relating to psychosis (sec. 334(b))

Under section 602 of title 38, an active or non-active duty member of the Armed Forces of the United States who was honorably discharged from service, or discharged under conditions other than dishonorable, before June 26, 1949, is entitled to a presumptive allowance for pension purposes of entitlement to VA health care if the psychosis was developed before June 26, 1949, in the case of a World War II veteran, before January 1, 1957, in the case of a veteran of the Korean conflict, or before May 8, 1977, in the case of a Vietnam-era veteran.

The House bill contained a provision (sec. 306(d)) that would make this presumption applicable to a veteran of the Persian Gulf War who developed a psychosis within two years after discharge from active service and who applied for treatment within 90 days after discharge or release; and (2) the veteran was not provided, within the 90-day period immediately before the date of discharge or release, a complete dental examination and all appropriate dental services indicated by the examination as needed. Under section 621(b)(2), the Service Secretary concerned is required to furnish each individual, at the time of discharge or release from active duty, written notice of this benefit and record the member's receipt of the notice.

The Senate amendment contained in provision (sec. 306(b)) that would reduce from 180 days to 90 days the minimum active-duty service requirement for eligibility for this benefit (as well as for the notice provision) for veterans of the Persian Gulf War.

The final bill contains the House provision.
Vietnam era who receive additional VA service-connected disability compensation, or increased VA non-service-connected disability pension, by reason of being permanently housebound or so permanently and irremediably unable to engage in any suitable avocation due to service-connected disability and tendance, are entitled to be furnished such drugs and medicines as may be prescribed for the treatment of any illnesses or injuries from such disability. VA is required to continue furnishing drugs and medicines to any such veteran whose pension payments have been discontinued because the veteran's annual income exceeds the applicable maximum for pension payments, if the veteran's annual income does not exceed that maximum by more than $1,000.

The House bill contained a provision (sec. 303(e)) that would extend this entitlement to drugs and medicines to veterans of any "period of war," rather than veterans of the periods specified in present section 612(h) of title 38, who meet the requirements of section 612(h). In conjunction with the amendment proposed to be made in the definition of "period of war" by section 301(a) of the bill, this change would provide eligibility to Persian Gulf War veterans, and veterans of subsequent war periods, who meet those requirements.

The Senate amendment contained a provision (sec. 364(b)) that would add service during the Persian Gulf War to the war service periods on which eligibility under section 621(h) may be based.

The final bill contains the House provision.

**Expansion of readjustment counseling eligibility (sec. 612A)**

Section 612A of title 38 provides that, upon the request of any veteran who served on active duty during the Vietnam era, the Secretary of Veterans Affairs shall furnish counseling to assist the veteran in readjusting to civilian life. The counseling must include a mental and physical assessment. A veteran whose pension payments have been discontinued under this section is also entitled to receive counseling and related mental health services. (1) a description of plans to coordinate treatment services for PTSD; (2) a description of the available programs and resources to meet those needs; (3) the specific plans of each Secretary for treatment of PTSD, particularly with respect to any specific needs of members of reserve components; (4) an assessment of needs for additional resources in order to carry our such plans; and (5) a description of plans to coordinate treatment services for PTSD with the other department. The first reports would be due not later than 90 days after enactment of this measure and the second, a year later.

The Senate amendment contained no provision.

The final bill contains the House provision.

**Incentives in Servicemen's Group Life Insurance and Veteran's Group Life Insurance maximums (sec. 336)**

Subchapter III of chapter 19 of title 38 sets forth the Servicemen's Group Life Insurance (SGLI) and the Veterans' Group Life Insurance (VGLI) programs. Under that subchapter, the Secretary of Veterans Affairs is authorized to purchase from commercial life insurance companies a policy or policies of group life insurance to insure against death any active-duty service member and certain members of the Ready Reserve and Retired Reserve. Eligible service members and reservists are automatically covered in the amount of $50,000 but may elect coverage of less than $50,000 or to not participate in the program at all. Premium payments for SGLI are deducted each month from the basic pay of the Serviceman without regard to the extra hazards of active duty service. SGLI coverage is provided free of charge for 120 days following separation from active duty. Higher premium rates for active duty, veterans who participated in the SGLI program may participate in the Veterans' Group Life Insurance (VGLI) program.

VGLI provides five-year term group life insurance in amounts ranging from $5,000 to $50,000. A veteran may not obtain more insurance under VGLI than the veteran had under the SGLI program. At the end of the five-year term, the veteran has the right to obtain an individual life insurance policy at a standard rate from any company participating in the SGLI program.

The Senate amendment contained a provision (sec. 336) that would increase the amount of monthly chapter 30 payments for part-time study to (1) $108.75 for those serving on active duty for three years or more, and (2) $250 for those serving two years on active duty.

The final bill contains a provision that would increase, in fiscal years 1992 and 1993, the amount of monthly chapter 30 payments for full-time study to (1) $145 for full-time study, and (2) $150 for three-quarter-time study, and (3) $70 for half-time study.

The House bill contained a provision (sec. 304(b)) that would increase the amount of monthly chapter 106 payments for full-time study to (1) $310 for full-time study, and (2) $259 for those serving two years on active duty for three years or more, and (2) $259 for those serving two years on active duty.

The final bill contains a provision that would increase, in fiscal years 1992 and 1993, the amount of monthly chapter 106 payments for full-time study to (1) $145 for full-time study, and (2) $150 for three-quarter-time study, and (3) $70 for half-time study.

The Senate amendment contained a provision (sec. 336) that would increase the amount of monthly chapter 106 payments for full-time study to (1) $310 for full-time study, and (2) $259 for three-quarter-time study, and (3) $100 for half-time study.

The Senate amendment contained a provision (sec. 336(a)) that would increase the amount of monthly chapter 106 payments, but only for reservists who are ordered to active duty during the Persian Gulf War, to (1) $145 for full-time study, (2) $165.75 for three-quarter-time study, and (3) $72.50 for half-time study.

The final bill contains a provision that would increase, in fiscal years 1992 and 1993, the amount of monthly chapter 106 payments to (1) $310 for full-time study, (2) $259 for three-quarter-time study, and (3) $100 for half-time study. After fiscal year 1993, the Secretary of Veterans Affairs would have authority to continue the increased rates and to increase the rates of chapter 30 payments.
The Senate amendment contained a provision (sec. 307) that would add veterans of the Persian Gulf War to those who must be reemployed under the VACE. The House bill contained no similar provision.

The final bill contains the Senate provision.

Reasonable accommodations for disabled veterans (sec. 339)

Section 302 of title 38 provides that, in the case of a person who is eligible for reemployment under chapter 33 or chapter 36 of title 38, who has applied for reemployment under the provisions of that chapter, and who is no longer qualified to perform the duties of his or her previous position by reason of a disability sustained during reserve training or active-duty service, he or she shall be offered any other position in the employment for which he or she is qualified and which will provide like seniority, status, and pay, or the nearest approximation of the previous position.

The Senate amendment contained a provision (sec. 379) that would require an employer to make reasonable accommodations to reasonably accommodate individuals to perform the duties of his or her previous position. For the purposes of this provision, the term "reasonable accommodation" would have the meaning provided in section 101(9) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(9)).

The House bill contained no similar provision.

The final bill contains the Senate provision amended to clarify that (1) an employer would not be required to make accommodations to an individual if the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the employer's business, and (2) exclude certain small employers from this requirement. Until June 30, 1994, the requirement would apply to employers with 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year. After that date, the requirement would apply to those who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

Retraining of former employees (sec. 360)

Section 302 of title 38 (In conjunction with section 2024) generally requires an employer to restore to employment a person who left active duty on or after September 7, 1980, for the purpose of active duty for training, or inactive-duty training, who applies for reemployment within a prescribed period after release from service if that person is still qualified to perform the duties of the position.

The Senate amendment contained a provision (sec. 372) that would require that an employer make reasonable efforts to reemploy an individual to perform the duties of his or her previous position.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Entitlement for VA-guaranteed loans (sec. 341)

Under section 102(a) of title 38, basic entitlement for VA home loan benefits is authorized for (a) veterans who served on active duty at any time during World War II, the Korean conflict, the Vietnam era and whose total service was for 90 days or more, and (b) veterans of only peacetime service who served at least 181 days on active duty. Generally, veterans with at least two years on active duty for training under the chapter 21 (or the equivalent in part-time assistance) or who were discharged early by reason of hardship or service-connected disability in certain cases of a person who is eligible for reemployment sustained during reserve training or active-duty service, he or she shall be offered any previous position.

The Senate amendment contained a provision (sec. 306) that would extend eligibility for home loan benefits to Persian Gulf War veterans whose total service is for 90 days or more. The Senate amendment contained a provision (sec. 371) that would extend home loan eligibility to Persian Gulf War veterans whose total service is for 90 days or more and who also meet the minimum service requirements of section 3103A of title 38 (primarily reserves whose period of activation is between 89 and 180 days). The final bill contains the Senate provision.

Legislative Provisions Not Adopted

Dependency and indemnity compensation

Under chapter 13 of title 38, dependency and indemnity compensation (DIC) is paid to the surviving spouse and children of a veteran whose active-duty service is for a period of at least two years on active duty, or the full period for which they were ordered to active duty, or those who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year. During a period in which the Secretary of Veterans Affairs is furnishing medical care and services to members of the armed forces to meet emergency requirements, section 501A(b)(2)(Br) of title 38 authorizes the Secretary to contract with private facilities for the provision of hospital care for a veteran who is receiving VA hospital care, or is eligible to receive such care. The Secretary is paid so as to base the rates on the age of the veteran, the type of care provided, and (2) in three increments, on October 1 of 1992, 1993, and 1994, increasing by $20 to $30 the amount paid to a surviving spouse or each dependent child.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Chapter 30 program for active-duty service members

Under section 3103A of title 38, active-duty participants who complete the basic service requirements are entitled to 36 months of full-time educational assistance (or the equivalent in part-time assistance). Section 2131 of title 38 establishes the Program (VEAP) as a six-year program for full-time study, (2) $150 for half-time study, and (3) $100 for three-quarter-time study, and (3) $70 for half-time study.

The final bill contains the House provision. The Senate amendment contained a provision (sec. 306(a)) that would authorize the Secretary to contract with private facilities for hospital care for all veterans entitled to hospital care under section 106(a) of title 38 (known as "Category A" veterans).

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Improved educational assistance for members of the Selected Reserve who serve on active duty during the Persian Gulf War

Section 2131 of title 10 establishes the amounts of monthly educational assistance under the chapter 106 MGB program as follows: (1) $140 for full-time study, (2) $105 for three-quarter-time study, and (3) $70 for half-time study.

The final bill contains the House provision. The Senate amendment contained a provision (sec. 304(a)) that would provide that for the purposes of the amendment under chapter 106 payments to each member of the Selected Reserve who serve on active duty during the Persian Gulf War and who is entitled to chapter 106 benefits a monthly educational assistance allowance in the amount of (1) $270 for each month of full-time service, (2) $202.50 for each month of service for three-quarter-time study, and (3) $135 for each month of service for half-time study.

The final bill does not contain the House or Senate provision.

Eligibility of requirements for MGB benefits for members of the selected reserve

Section 2132(a) of title 10 provides eligibility for chapter 106 educational assistance benefits to those (1) who enlist, reenlist, or extend an enlistment in the Selected Reserve for at least six years; and (2) who, before completing initial active duty for training, have completed the requirements of a secondary school diploma.

The House bill contained a provision (sec. 305(a)) that would extend chapter 106 eligibility to members of the Selected Reserve, without regard to the length of their enlistments, if they were called or ordered to active duty in connection with the Persian Gulf War and released from active duty upon completion of the required initial active duty for training.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.
Section 1622 provides that funds contributed by a participant or the Secretary to the Volunteer Education Account (VEAP Account) are to be deposited into a fund referred to as the Post-Vietnam Era Veterans Assistance Account.

Section 2333 of title 10 provides that an individual's entitlement to the chapter 106 program of educational assistance for members of the Selected Reserve expires (1) at the end of the 10-year period of enrollment, or (2) on the date the person is separated from the Selected Reserve, whichever occurs first.

The Senate amendment contained a similar provision (sec. 366). The final bill does not contain the House or Senate provision.

Chapter 33 educational assistance program

Section 1711 of title 38 provides that individuals who are eligible for the Survivors' and Dependent's Educational Assistance Program (VA-VEAP) are entitled to 36 months of full-time educational assistance (or the equivalent in part-time assistance). Section 1711(d)(2) provides that in the aggregate period for which any person may receive assistance under the VA-administered programs, the amount of assistance that would have been in the fund for him or her if the payment had not been made, the Senate amendment contained a similar provision (sec. 369(b)). The final bill does not contain the House or Senate provision.

Chapter 106 program for reservists

Section 2313 of title 10 provides that individuals who are eligible for the chapter 106 MGIB program for members of the Selected Reserve are entitled to 36 months of full-time educational assistance (or the equivalent in part-time assistance), and by reference to section 1795 of title 38, limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

The House bill contained a provision (sec. 306(d)(3)) that would provide that, in the case of a reservist, who, as a result of having to discontinue the pursuit of a course of study because of being called to active duty in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, the payment of chapter 35 benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance. The Senate amendment contained a similar provision (sec. 369). The final bill does not contain the House or Senate provision.

Burial and funeral expenses

Section 2395 of title 10 provides that the Secretary of Veterans Affairs is authorized to make direct loans to veterans living in areas where housing credit is not generally available to veterans who are in need of obtaining home loans which, while for financing home loans which are made under specific authority, the Senate amendment contained a similar provision (sec. 369). The final bill does not contain the House or Senate provision.

Reemployment of retirees

Section 108 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101-500) amended sections 8344 and 8468 of title 5 of the United States Code, to permit the Director of the Office of Personnel Management, at the request of the head of an Executive branch agency, to waive the provisions of section 8344 and 8468 of title 5, pertaining to the reduction of retirement annuities for reemployed retirees in emergency situations involving a direct threat to life or property or other unusual circumstances.

The Senate amendment contained a provision (sec. 374) that would (a) permit the Secretary of Veterans Affairs to waive the requirements in sections 8344 and 8468 of title 5 of reductions in annuity payments to reemployed retirees in cases in which the Secretary determines that the granting of waivers is necessary to recruit sufficient health-care specialists who have been ordered to active duty during the Persian Gulf War, or (b) to enable VA to respond to the health-care needs of military personnel (pursuant to section 5011A of title 38 during the Persian Gulf War; (b) permit any such waiver to extend for the duration of the Persian Gulf War and a period of not more than two years after the termination of the war; and (c) provide that any such waiver would take place upon receipt by the Director of the Office of Personnel Management of a written notice from the Secretary. For the purpose of this provision, "health-care specialist" is defined as including a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expended function dental auxiliary, medical technician, or other medical support personnel.

The House bill contained no similar provision.

The final bill does not contain the Senate provision.

Part D—Federal Employment Benefits

Federal civilian employee leave provisions (sec. 361)

The Senate amendment contained a provision (sec. 332) that would require the Office of Personnel Management to establish a leave bank program which would allow a federal employee to allocate any unused annual leave to the bank for the purposes of allowing federal civilians who are activated for service in connection with the Persian Gulf War to draw leave from such a bank upon the return to civilian employment.

The House bill contained no similar provision.

The final bill contains no similar provision.

Part F—Higher Education Assistance

The Senate amendment contained provisions (secs. 341, 342, 343, 344, 345, and 346) that would provide for the waiver of certain government loan requirements and other educational assistance requirements for military personnel serving on active duty in connection with Operation Desert Storm.

The House bill contained no similar provisions.

The final bill contains the Senate provisions.

Part F—Programs for Farmers and Ranchers

The Senate amendment contained provisions that would provide certain farm loans, basic protection, minimum guarantee requirement, conservation requirement, and other waivers for farmers or ranchers activated for other who have served in the Persian Gulf War.

The House bill contained no similar provision.

The final bill contains provisions similar to the Senate provisions.
The House bill contained a provision (sec. 391(a) states that in addition to the authorization of appropriations from the Defense Cooperation Account in titles I and II of the bill, $655 million is authorized to be appropriated from that Account. The $655 million would be available only for the payment of benefits authorized by title III (i.e., new benefits established by title III or increases or enhancements in existing benefits).

The bill makes it clear that not more than $255 million in appropriations would be available for the veterans benefits authorized in Part C of title III. The bill also makes it clear that funds appropriated from the Defense Cooperation Account are available for payment of Montgomery GI Bill rate increases only for fiscal years 1992 and 1993. Appropriations from any Montgomery GI Bill rate increases made under the authority of Part C could not be funded from the Defense Cooperation Account. Section 391(b) authorizes funds from the Defense Cooperation Account under this provision for long-term costs only from the amounts remaining in the Defense Cooperation Account on October 1, 1992 (minus any funds appropriated pursuant to other authorizations in this Act).

Section 391(c) provides that the costs of the benefits authorized by title III as fiscal years 1991 through 1996 are incremental costs associated with Operation Desert Storm. This definition includes Montgomery GI Bill rate increases after fiscal year 1993, nor does it include the health benefits provided in section 334.

Section 392 makes it clear that all benefits authorized by title III are discretionary for budgetary purposes. No entitlement or eligibility arises with respect to any benefit in title III unless an appropriations Act appropriates funds for such benefits (with two exceptions discussed below). As a general matter, these provisions are established through legislation as entitlements, and eligibility is not contingent upon enactment of an appropriation Act. However, because the benefits in title III are funded through the unique mechanism of the Defense Cooperation Account, which requires both an authorization and an appropriation, the entitlement and eligibility for the benefits in title III are subject to an appropriation. Section 392 provides that the requirement for an appropriation to the Defense Cooperation Account for any Montgomery GI Bill rate increases after fiscal year 1993 and the health benefits provided in section 334; this is because such benefits are discretionary with the VA and will not be funded through the Defense Cooperation Account.

Section 393 defines the term "Montgomery GI Bill rate increases." It also provides a rule of construction, stating that the benefit rates provided under title III and those provided under section 334 are those involving a new payment or benefit provided by title III or any increase in payments or benefits previously provided by law. This section also provides that no provision to fund benefits and payments from the Defense Cooperation Account under this title does not apply to benefits previously provided by law in effect on the date of enactment.

Title IV—Reports on Foreign Contributions and the Costs of Operation Desert Storm

The House bill contained a provision (sec. 391) that would indicate that Congress supports and endorses national, state, and local grassroots efforts to support our servicemen and women who participated in Operation Desert Storm, and their families here at home; encourages Federal, state and local governments and private businesses and industry to organize task forces to provide support for the families of servicemen and women deployed in the Persian Gulf region and to organize celebrations for the servicemen and women upon their arrival home; and encourages state and local government, business, and industry efforts to include Vietnam veteran organizations in all activities conducted for the benefit of the troops returning from Operation Desert Storm.

The Senate amendment contained no similar provision.

The final act contains the House provision with minor technical corrections.

Grassroots efforts to support our troops (sec. 394)

The House bill contained a provision (sec. 394) that would require the Department of Defense to convene a congress of the Army to convey to either Caroline County, Virginia, or the Commonwealth of Virginia, approximately 150 acres of land for the purpose of establishing a memorial to the fallen service members.

The Senate amendment contained no similar provision.

The final bill contains the House provision.

Extension of time for filing for persons serving in combat zone (sec. 605)

Under the Ethics in Government Act of 1978, certain senior officials are required to file financial disclosure statements by May 15 of each year, and within 30 days of leaving their positions. The Act permits extensions of up to 90 days. The Department of Defense has requested legislation to permit an additional extension for persons serving in a combat zone, similar to the authorized extension of time for filing a tax return.

Section 605 of the final bill authorizes a person serving in a combat zone to obtain an extension of time to file a financial disclosure statement. The extension would be (1) the last day of service in an area designated by the President as a combat zone for purposes of the Internal Revenue Code; or (2) the last day of hospitalization as a result of an
injury received or disease contracted while serving in such an area.

Kuwait reconstruction (sec. 606)
The House amendment contained three provisions (secs. 504-506) that would express the sense of Congress regarding the award of contracts to rebuild Kuwait. One provision would express preference for U.S. firms employing American workers; another for firms employing veterans; and a third that contracts and subcontracts should be awarded to small and minority-owned firms. The President would be required to submit periodic reports to the Congress on the operation of these provisions.

The Senate amendment contained no similar provisions.

The final bill contains these preferences but states the intention.

Use of U.S. funds to rebuild Iraq (sec. 507)
The Senate amendment contained a provision (sec. 501) that would express the sense of the Senate that none of the funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq while Saddam Hussein remains in power.

The House bill contained no similar provision.

The final bill contains a provision expressing the sense of the Congress that none of the funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq while Saddam Hussein remains in power in Iraq.

Withholding of payments to indirect-hire civilian personnel of nonpaying housing nations (sec. 508)
The House bill contained a provision (sec. 109) that would require the Secretary of Defense to withhold payments to any nonpaying or pledging nation that would otherwise be paid as reimbursements for expenses of indirect-hire civilian personnel of the Defense Department in that nation at the end of the six month period following the date of enactment of this act. The term "nonpaying pledging nation" means a foreign country that has not paid as reimbursements for expenses of indirect-hire civilian personnel of the Defense Department in that nation at the end of the six month period following the date of enactment of this act.

The Senate amendment contained no similar provision.

The final bill contains a provision expressing the sense of the Senate that none of the funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq while Saddam Hussein remains in power.

Relief from requirements for reductions in defense acquisition workforce during fiscal year 1991 (sec. 605)

Section 905 of the National Defense Authorization Act for Fiscal Year 1991 mandated a 30 percent reduction in acquisition personnel, to be achieved by annual percent reductions from fiscal year 1991 through fiscal year 1995. The House amendment contained a provision (sec. 507) that would exempt from the fiscal year 1991 reductions any installation which experienced an increase of 4 percent or more in its workload as a result of Operation Desert Storm.

The Senate amendment contained no similar provision.

The final bill contains a provision stating that the Secretary should use the flexibility provided in last year's legislation to ensure that any installation or facility that experiences a significant increase in workload resulting from Operation Desert Storm should not be required to make a defense acquisition workforce reduction during fiscal year 1991 that would adversely affect the ability of that installation to perform its mission.

Legislative Provision Not Adopted

Cost estimate
The House bill contained a provision (Sec. 3) which contained specific estimates of outlays in the bill for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

TITLE VII-MISCELLANEOUS TECHNICAL AMENDMENTS


The House bill contained no similar provisions.

The final bill contains the Senate provisions with a clarifying amendment.

Authorization of supplemental appropriations for operating expenses (sec. 801)
The House bill contained a provision (sec. 401) that would authorize $283 million for operating expenses at the Rocky Flats plant in Golden, Colorado.

The Senate amendment contained no similar provision.

The final bill contains the House provision.

Authorization of supplemental appropriations for environmental restoration and waste management (sec. 802)
The House bill contained a provision (sec. 402) that would authorize $340 million for environmental restoration and waste management to accelerate certain high priority environmental remediation and clean-up activities, and to implement new state agreements.

The Senate amendment contained no similar provision.

The final bill contains the House provision with technical amendments.

Applicability of recurring general provisions (sec. 403)
The House bill contained a provision (sec. 403) that would provide that general provisions contained in part B of title 31 of the National Defense Authorization Act for Fiscal Year 1991 shall apply to this act.

The Senate amendment contained no similar provision.

The final bill contains the House provision with technical amendments.

Relocation of Rocky Flats Plant operations (sec. 804)
The House bill contained a provision (sec. 1) that would authorize the Department of Energy to establish a program to relocate, within 10 years, operations performed at Rocky Flats to a site or sites where public health and safety can be assured. The Secretary of Energy would be required to submit to Congress, within 60 days, a report describing the program for relocation.

The Senate amendment contained no similar provision.

The final bill contains the House provision.

The program and report required by section 804 should be in addition to the ongoing completion of the work authorized forth in the Department of Energy Nuclear Weapons Complex Reconfiguration Study. The program and plan should focus on accelerating the relocation of the Rocky Flats facility, including early partial relocation of segments of the operations currently conducted at the facility. The report should include the program milestones and schedule needed to identify a suitable site or sites, complete construction, and transfer operations to a new facility within a ten-year period. In addition, the program should address workforce management during the transition of work away from Rocky Flats, and assistance for Department of Energy and contractor employees and affected communities during the transition.

Mr. NUNN, Mr. President, with the permission of the leaders, I will propose an unanimous-consent request that the amendment has been cleared on both sides.

PERSIAN GULF CONFLICT SUPPLEMENTAL AUTHORIZATION AND PERSONNEL BENEFITS ACT OF 1991

Mr. NUNN. On behalf of the two leaders, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 725, the Persian Gulf authorization and personnel benefits bill, introduced today by Senators MITCHELL, DOLE, NUNN, WARNER, GLENN, and MCCAIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:


The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, the bill is cleared on this side. The Senator from Virginia will await enactment before making his statement.

Mr. DOLE. Mr. President, I am pleased to join my colleagues in supporting this important legislation.

As we know, the bill before us accomplishes two purposes.

First, it authorizes the funds necessary to pay for the defense related costs of Operations Desert Shield and Desert Storm.

And second, it provides a package of benefits for those who served in the Persian Gulf War. I commend the major differences between the House and the Senate were resolved in conference committee, and the bill before us today is very similar to the legislation which was passed by this body last week.
The total price tag for this legislation has increased from $500 million to $655 million—an amount which OMB assures can be covered by the contributions made by our allies to the defense cooperation account.

As I said, Mr. President, in the final analysis, no price tag can be put on the debt we owe to the men and women who put their lives on the line in the Persian Gulf.

Through provisions such as authorizing double indemnity life insurance for those killed in Desert Shield and Desert Storm, as well as for the courageous American soldiers brutally killed late last year in El Salvador, we will ensure that the families of those who gave their life do not have to face hardships because of their sacrifice.

And by increasing the education benefits in the Montgomery GI bill, we will help our soldiers in the transition from the best trained military force in the world to the best trained workforce in the world.

Mr. President, the troops of Operations Desert Shield and Desert Storm were where America needed them. By passing this bill, we will ensure that they and their families receive the benefits they so richly deserve.

Mr. THURMOND. Mr. President, on March 12, just 9 days ago, I spoke before this body in strong support of the Desert Storm Supplemental Authorization Act. At that time, I challenged the Congress to act swiftly on the legislation and demonstrate its support to our men and women who delivered us to victory over Saddam Hussein's forces. Mr. President, I am delighted to see that the Congress met my challenge.

The Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 that we are considering is the culmination of a great cooperative effort, reminiscent of the coalition that fought in the Persian Gulf. It took the cooperation of both Republican and Democratic, several committees and the leadership of both Chambers to craft what is a comprehensive bill to pay for the cost of Desert Storm and provide the benefits for our current force and for veterans benefits as this force ages.

Mr. President, I strongly support the waiver of the personnel ceiling for fiscal year 1991. After a virtually flawless performance on the battlefield, it would be nothing short of a tragedy to force out thousands of servicemen and women immediately after their return from the battlefield. We should all remember that our fighting forces are composed of volunteers who view the military as a vocation. They are not the draftees of World War II who were eager to resume their civilian lives.

Mr. President, this legislation addresses many of the difficulties that surfaced during the call up of our reserve component forces. I am especially pleased that the bill provides for medical specialty pay for activated medical personnel who in my judgment have been disproportionately impacted by the call up.

The bill also provides support for military families who were left behind, increasing family separation pay, deferment for three years in CHAMPUS deductible and cuts in CHAMPUS mental health care. The bill also provides $50 million for child care assistance and family education and support services. This funding is especially critical for the families of reserve component soldiers who do not have the support structure found in the active component community.

Mr. President, this is a comprehensive and fair legislative package to assist our service members and their families. It deserves our unanimous backing. I urge my colleagues to support it.

Mr. President, before I close I want to recognize Senator MITCHELL, the majority leader, Senator DOLE, the minority leader, Senator NUNN, the chairman of the Armed Services Committee and Senator WARNER, the ranking member, for their good work in putting together this piece of legislation. They have done a superb job and deserve our gratitude.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

S. 725
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION I. SHORT TITLE
This Act may be cited as the "Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991".

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.
Sec. 4. Construction with Public Law 101-510.

TITLE I—AUTHORIZATION OF FISCAL YEAR 1991 SUPPLEMENTAL APPROPRIATIONS FOR OPERATION DESERT STORM
Sec. 102. Persian Gulf Conflict Working Capital Account.
Sec. 103. Additional transfer authority.
Sec. 104. Administration of transfers.
Sec. 105. Notice to Congress of transfers.
Sec. 106. Monthly reports on transfers.

TITLE II—WAIVER OF PERSONNEL CEILINGS AFFECTED BY OPERATION DESERT STORM
Sec. 201. Authority to waive end strength and grade strength laws.
Sec. 204. Conforming repeal.
Sec. 205. Relationship to other laws.
Sec. 206. Authorization for PERSONS SERVING IN ARMED FORCES DURING THE PERSIAN GULF CONFLICT
Part A—Military Compensation and Benefits
Sec. 301. Temporary increase in the rate of special pay for duty subject to hostile fire or imminent danger.
Sec. 302. Temporary increase in family separation allowance.
Sec. 303. Determination of variable housing allowance for Reserves.
Sec. 304. Medical, dental, and nonphysician special pays for reserve, recalled, or retained health care officers.
Sec. 305. Waiver of board certification requirements.
Sec. 306. Foreign language proficiency pay.
Sec. 307. Temporary increase in amount of death gratuity.
Sec. 308. Death gratuity for participants who died before the date of enactment.
Sec. 309. Treatment of accrued leave of members who die while on active duty.
Sec. 310. Removal of limitation on the accrual of savings of members in the personnel ceiling.
Sec. 310A. Basic allowance for quarters for certain members of reserve components without dependents.
Part B—Military Personnel Policies and Programs
Sec. 311. Grade of recalled retired members.
Sec. 312. Temporary CHAMPUS provisions regarding deductibles and copayment requirements.
Sec. 313. Transitional health care.
Sec. 314. Extension of certain Persian Gulf conflict provisions.
Sec. 315. Study of Department of Defense policies relating to deployment of military servicemembers with dependents or servicemembers from families with more than one servicemember.
Sec. 316. Adjustments in the effective date of changes in mental health benefits as a result of Operation Desert Storm.
Sec. 317. Sense of the House of Representatives concerning services to Persian Gulf War veterans.

Part C—Veterans Benefits and Programs
Sec. 331. Title of Montgomery GI bill educational assistance payments.
Sec. 332. Inclusion of Persian Gulf War veterans in definition of "period of war" for purposes of veterans benefits.
Sec. 333. Pension eligibility for Persian Gulf War veterans and surviving spouses of Persian Gulf War veterans.
Sec. 334. Health benefits.
Sec. 335. Reports by Secretary of Defense and Secretary of Veterans Affairs concerning services to treat post-traumatic stress disorder.
Sec. 336. Life insurance benefits.
Sec. 337. Increase in the amount of Montgomery GI bill educational assistance payments.
Sec. 338. Membership on Educational Benefits Advisory Committee for Persian Gulf War veterans.
Sec. 390. Improved reemployment rights for digitally dislocated employees.
Sec. 400. Requalification of former employees.
Sec. 410. Eligibility for housing benefits.
Part D—Federal Employee Benefits
Sec. 411. Leave bank for Federal civilian employees in reserves who were activated during Persian Gulf War or Desert Shield.
Part E—Higher Education Assistance
Sec. 412. Title I—Grants to Farmers and Ranchers
Sec. 413. Definitions.
Sec. 414. Base protection.
Sec. 415. Waiver of minimum planting requirement.
Sec. 416. Conservation requirements.
Sec. 417. Farm credit provisions.
Sec. 418. Program administration provisions.
Sec. 419. Administration.
Sec. 420. Outreach projects.
Part G—Budget Treatment
Sec. 422. Benefits contingent upon appropriations from Defense Cooperation Account.
Sec. 423. Definition; construction of sections 391 and 392.
TITLE IV—REPORTS ON FOREIGN CONTRIBUTIONS AND THE COSTS OF OPERATION DESERT STORM
Sec. 401. Reports on United States costs in the Persian Gulf conflict and foreign contributions to offset such costs.
Sec. 402. Reports on foreign contributions in response to the Persian Gulf crisis.
Sec. 403. Form of reports.
TITLE V—REPORT ON THE CONDUCT OF THE PERSIAN GULF CONFLICT
TITLE VI—GENERAL PROVISIONS
Sec. 601. Child care assistance.
Sec. 602. Family education and support services.
Sec. 603. Land conveyance, Fort A.P. Hill Military Reservation, Virginia.
Sec. 604. Grassroots efforts to support troops.
Sec. 605. Extension of time for filing for perfects serving in combat zone.
Sec. 606. Sense of Congress concerning businesses seeking to participate in the rebuilding of Kuwait.
Sec. 607. Sense of Congress regarding use of United States funds for rebuilding Iraq.
Sec. 608. Withholding of payments to indirect-hire civilian personnel of nonpaying pledging nations.
Sec. 609. Relief from requirements for reductions in defense acquisition workforce during fiscal year 1991.
TITLE VII—MISCELLANEOUS TECHNICAL AMENDMENTS
Sec. 701. Amendments to title 10, United States Code.
TITLE II—WAIVER OF PERSONNEL CEILINGS AFFECTED BY OPERATION DESERT STORM

SEC. 201. AUTHORITY TO WAIVE END STRENGTH AND GRADE STRENGTH LAWS

(a) FISCAL YEAR 1991 END STRENGTH.—The Secretary of a military department may waive any end strength prescribed in section 101–510; 104 Stat. 1468, or any provision of section 101 of title 10, United States Code, with respect to that military department.

(b) GRADE STRENGTH LIMITATIONS.—The Secretary of a military department may suspend, for a period of one year, any provision of section 157, 523, 524, 525, or 526 of title 10, United States Code, with respect to that military department.

SEC. 202. WITHDRAWAL OF WAIVER

The Secretary of a military department may exercise the authority provided in subsection (a) or (b) of section 201 only after the Secretary submits to Congress a certification that the Defense Authorization Act for Fiscal Year 1991 includes a report that includes a detailed report on the cumulative total.

SEC. 203. AUTHORIZATION FROM DEFENSE COOPERATION ACCOUNT

(a) AUTHORIZATION.—In addition to authorizations under section 101, there is hereby authorized to be appropriated from the Defense Cooperation Account such sums as may be necessary for increases in military personnel costs for fiscal years 1991 through 1995 resulting from the exercise of the authorities provided in section 201. Such increases in costs are incremental costs associated with Operation Desert Storm.

(b) USE OF FUNDS.—Funds appropriated to the Persian Gulf cooperation fund or otherwise otherwise eligible for special pay under section 302, 302a, 302b, 302c, or 303 of title 37, United States Code, may exercise the authority provided in subsection (a) to schedule or complete that certification.

SEC. 204. CONFORMING REPEAL

Section 1117 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1637) is repealed.

SEC. 205. CERTIFICATION TO OTHER LAWS

(a) RELATIONSHIP TO OTHER WAIVER AUTHORITY.—The authority provided in section 201(a) is in addition to the waiver authority provided in sections 40(c) and 41(d) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) and the waiver authority provided in section 1117 of title 10, United States Code.

(b) RELATIONSHIP TO OTHER SUSPENSION AUTHORITY.—The authority provided in section 201(b) is in addition to the authority provided in section 227 of title 10, United States Code.

TITLE III—BENEFITS IN THE ARMED FORCES DURING THE PERSIAN GULF CONFLICT

PART A—MILITARY COMPENSATION AND BENEFITS

SEC. 301. TEMPORARY INCREASE IN THE RATE OF SPECIAL PAY FOR RESERVE FOR HOSTILE FIRE OR IMMINENT DANGER

(a) INCREASED RATE.—In lieu of the rate of special pay pursuant to section 303 of title 37, United States Code, the rate of special pay payable under that section shall be $150 for each month during the period described in subsection (b).

(b) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on August 1, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the date 180 days after the end of the Persian Gulf conflict.

SEC. 302. TEMPORARY INCREASE IN FAMILY SEPARATION ALLOWANCE

(a) INCREASED ALLOWANCE.—In lieu of the family separation allowance payable under section 427(b)(1) of title 37, United States Code, the family separation allowance payable under that section shall be $75 for each month during the period described in subsection (b).

(b) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on January 1, 1991, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.

SEC. 303. DETERMINATION OF VARIABLE HOUSING ALLOWANCE FOR RESERVES

(a) USE OF PRINCIPAL PLACE OF RESIDENCE.—For the purpose of determining the entitlement of a Reserve described in subsection (b) to a variable housing allowance under section 403a of title 37, United States Code, the Reserve shall be considered to be assigned to duty at the Reserve's principal place of residence determined as prescribed by the Secretary of Defense.

(b) RELATED INCREASES.—A Reserve referred to in subsection (a) is a member of a reserve component of the uniformed services who is scheduled or ordered to duty in the Armed Forces under a call or order to active duty in connection with Operation Desert Storm and is assigned to duty away from the Reserve's principal place of residence determined as prescribed by the Secretary.

SEC. 304. MEDICAL, DENTAL, AND NONPHYSICIAN SPECIAL PAY FOR RESERVE, RETIRED, OR RETAINED HEALTH CARE OFFICERS

(a) ELIGIBLE FOR SPECIAL PAY.—A health care officer described in subsection (b) shall be eligible for special pay under section 302, 302a, 302b, 302c, or 303 of title 37, United States Code (whichever applies), notwithstanding any requirement in those sections that—

(1) the call or order of the officer to active duty be for a period of not less than one year; or

(2) the officer execute a written agreement to remain on active duty for a period of not less than one year.

(b) HEALTH CARE OFFICERS DESCRIBED.—A health care officer referred to in subsection (a) is an officer of the Armed Forces who is otherwise eligible for special pay under section 302, 302a, 302b, 302c, or 303 of title 37, United States Code, and who—

(1) is a reserve officer on active duty under a call or order to active duty for a period of less than one year in connection with Operation Desert Storm;

(2) is involuntarily retained on active duty under section 613C of title 10, United States Code, or is recalled to active duty under section 686 of that title, in connection with Operation Desert Storm;

(3) voluntarily agrees to remain on active duty for a period of less than one year in connection with Operation Desert Storm;

(4) is involuntarily retained on active duty for a period of less than one year in connection with Operation Desert Storm;

(5) is involuntarily retained on active duty for a period of less than one year in connection with Operation Desert Storm; or

(6) qualifies for the purposes of section 613C of title 10, United States Code, for active duty for a period of less than one year in connection with Operation Desert Storm.

(c) PERIOD FOR CERTIFICATION.—The period described in subsection (a) for completion of board certification or recertification requirements with respect to a member of the Armed Forces described in subsection (b) may be extended to the extent the Secretary determines appropriate.

(d) ELIGIBLE MEMBERS DESCRIBED.—The eligibility of members described in subsection (a) is limited to members who—

(1) is a medical or dental officer or a nonphysician health care provider;

(2) has completed any required residency training; and

(3) was, except for the board certification requirement, otherwise eligible for special pay under section 302, 302a, 302b, 302c, or 303 of title 37, United States Code, in connection with the duty assignment in connection with Operation Desert Storm.

(e) CERTIFICATION INTERRUPTED BY OPERATION DESERT STORM.—A member of the Armed Forces described in subsection (b) is otherwise eligible for special pay under section 302, 302a, 302b, 302c, or 303 of title 37, United States Code, by operation of subsection (c) if the member was unable to schedule or complete that certification or recertification earlier because of a duty assignment in connection with Operation Desert Storm.

(f) CERTIFICATION INTERRUPTED BY RESERVE MEDICAL OFFICER.—While a reserve medical officer otherwise eligible for special pay under section 302, 302a, 302b, 302c, or 303 of title 37, United States Code, by operation of subsection (c) if the member was unable to schedule or complete that certification or recertification earlier because of a duty assignment in connection with Operation Desert Storm.

SEC. 305. WAIVER OF BOARD CERTIFICATION REQUIREMENTS

(a) CERTIFICATION INTERRUPTED BY OPERATION DESERT STORM.—A member of the Armed Forces described in subsection (b) is otherwise eligible for special pay under section 302, 302a, 302b, 302c, or 303 of title 37, United States Code, by operation of subsection (c) if the member was unable to schedule or complete that certification or recertification earlier because of a duty assignment in connection with Operation Desert Storm.

(b) ELIGIBLE MEMBERS DESCRIBED.—A member of the Armed Forces referred to in subsection (a) is a member who—

(1) is a medical or dental officer or a nonphysician health care provider;

(2) has completed any required residency training; and

(3) was, except for the board certification requirement, otherwise eligible for special pay under section 302, 302a, 302b, 302c, or 303 of title 37, United States Code, in connection with the duty assignment in connection with Operation Desert Storm.

(c) PERIOD FOR CERTIFICATION.—The period described in subsection (a) for completion of board certification or recertification requirements with respect to a member of the Armed Forces described in subsection (b) may be extended to the extent the Secretary determines appropriate.

(d) ELIGIBLE MEMBERS DESCRIBED.—The eligibility of members described in subsection (a) is limited to members who—

(1) is a medical or dental officer or a nonphysician health care provider;

(2) has completed any required residency training; and

(3) was, except for the board certification requirement, otherwise eligible for special pay under section 302, 302a, 302b, 302c, or 303 of title 37, United States Code, in connection with the duty assignment in connection with Operation Desert Storm.
SEC. 307. TEMPORARY INCREASE IN AMOUNT OF DEATH GRATUITY.

In lieu of the amount of the death gratuity specified in section 174(8)(a) of title 10, United States Code, the amount of the death gratuity payable under this section shall be $6,000, for all members of the uniformed services who dies as a result of injury or illness incurred during the Persian Gulf conflict or during the 180-day period beginning at the end of the Persian Gulf conflict.

SEC. 308. DEATH GRATUITY FOR PARTICIPANTS WHO DIED BEFORE THE DATE OF ENACTMENT.

(a) PAYMENT OR DEATH GRATUITY.—Subject to subsections (b) and (c), the Secretary of Defense shall pay a death gratuity to each deceased member of the uniformed services who died after August 1, 1990, and before the date of the enactment of this Act, and whose death was in conjunction with, or in support of Operation Desert Storm, or at a separate action in regions other than the Persian Gulf, as prescribed in regulations set forth by the Secretary of Defense.

(b) AMOUNT AND DISTRIBUTION OF GRATUITY.—The amount of the death gratuity payable to an SGLI beneficiary in the case of a deceased member of the uniformed services under this section shall be equal to the Servicemen's Group Life Insurance paid or payable to such beneficiary under subchapter III of chapter 37, United States Code, by reason of the death of such member.

(c) APPLICATION FOR GRATUITY REQUIRED.—A death gratuity payable to an SGLI beneficiary under this section upon receipt of a written application therefor by the Secretary of Defense within one year after the date of the enactment of this Act.

(d) REGULATIONS.—The Secretary shall prescribe in regulations the form of the application for benefits under this section and any procedures and requirements that the Secretary considers necessary to carry out this section.

(e) DEFINITIONS.—In this section:

(1) The term "SGLI beneficiary", with respect to a deceased member of the uniformed services, means a person to whom Service- men's Group Life Insurance is paid or payable under subchapter III of chapter 37, United States Code, by reason of the death of such member.

(2) The term "designated" has the meaning given that term in section 101(25) of title 38, United States Code.

SEC. 309. TREATMENT OF ACCRUED LEAVE OF A MEMBER WHO DIES WHILE ON ACTIVE DUTY.

(a) SURVIVORS ELIGIBLE FOR PAYMENT FOR ACCRUED LEAVE.—In the case of a member of the uniformed services who dies as a result of an injury or illness incurred while serving on active duty during the Persian Gulf conflict, the limitation in the second sentence of subsection (b)(3) of section 103 of title 38, United States Code, and in subsection (f) of that section shall not apply with respect to a payment made pursuant to subsection (d) of that section for leave accrued during fiscal year 1990 or 1991 in which the member had so served satisfactorily.

(b) GRADE UPON RELEASE FROM ACTIVE DUTY.—(1) For the purposes of section 688(b) of the United States Code, a member of the Armed Forces ordered to active duty in a grade that is higher than the member's retired grade pursuant to subsection (a) shall be entitled to receive the retirement grade to which that member was so promoted.

(2) A retired member described in subsection (a) who, upon being released from active duty in a grade described in paragraph (1), has served on active duty satisfactorily, as determined by the Secretary concerned, for not less than a total of 36 months in a grade higher than the member's retired grade, is entitled, upon that release from active duty, to placement on the retired list in that grade.

(c) EFFECTIVE DATE.—This section shall apply with respect to retired members ordered to active duty on or after August 2, 1990.

SEC. 310. TEMPORARY CHAMPUS PROVISIONS REGARDING DEDUCTIBLES AND COVERAGE REQUIREMENTS.

(a) DELAY IN THE INCREASE OF ANNUAL DEDUCTIBLES UNDER CHAMPUS.—The annual deductible specified in section 1079 of title 10, United States Code, as in effect on November 4, 1990, which is the date of enactment of the United States Code, may take effect on or after August 2, 1990.

(b) WAIVER OF COVERAGE REQUIREMENTS.—(1) Any civilian health care provider furnishing health care pursuant to a plan contracted for under the authority of section 1079 or 1086 of title 10, United States Code, may waive, in whole or in part, any requirement for payment under subsection (b) of that section to the dependent of a member of the uniformed services who serves or served on active duty in the Persian Gulf Theater of Operations in connection with Operation Desert Storm.

(2) A patient referred to in paragraph (1) is a dependent of a member of the uniformed services who serves or served on active duty in the Persian Gulf Theater of Operations in connection with Operation Desert Storm.

(c) EFFECTIVE DATE.—This section shall take effect on November 4, 1990.
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(1) Eligible Member Described.—A member of the Armed Forces referred to in subsection (a) is a member who—
   (1) is a member of a reserve component of the Armed Forces and is called or ordered to active duty under section 673 of title 10, United States Code, in connection with Operation Desert Storm;
   (2) is involuntarily retained on active duty under section 673 of title 10, United States Code, in connection with Operation Desert Storm; or
   (3) voluntarily agrees to remain on active duty for a period of less than one year in connection with Operation Desert Storm.

(b) Health Care Described.—The health care referred to in subsection (a) is—
   (1) medical and dental care under section 1076 of title 10, United States Code, in the same manner as a dependent described in subsection (a)(2) of that section; and
   (2) health benefits contracted under the authority of section 1079(a) of that title and subject to the same rates and conditions as apply to persons covered under that section.

(c) Dependents Defined.—For purposes of this section, the term “dependents” has the meaning that term has in section 1072(b) of title 10, United States Code.

SEC. 314. Extension of Certain Persian Gulf War Matters for Fiscal Year 1992

Title XI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1634 et seq.) is amended as follows:

(1) The following sections are amended by striking out “Operation Desert Shield” each place it appears and inserting in lieu thereof “the Persian Gulf conflict”: sections 1111(b)(1), 1114, and 1115.

(b) Section 1115 is further amended—
   (1) by striking out for fiscal year 1990 and during fiscal year 1991 in subsection (b)(1);
   (2) by inserting “or for fiscal year 1992” in subsection (b)(2) after “fiscal year 1991”; and
   (3) by striking out subsection (c).

(c) Sections 1114(a) and 1115(a) are amended by striking out “during fiscal year 1990 or 1991.”

SEC. 315. Study of Department of Defense Policies Relating to Deployment of Military Servicemembers with Dependents or Servicemembers from Families with More Than One Servicemember

(a) Study.—The Secretary of Defense shall carry out a study of the policies of the Department of Defense relating to—
   (1) to activation of units and members of reserve components for active duty (other than for training); and
   (2) to deployments overseas of members of the Armed Forces (whether from active or reserve components) as those policies affect the family responsibilities and interests of members of the Armed Forces who have minor children or who are from families with more than one member in the Armed Forces.

(b) Matters to Be Considered.—The study under subsection (a) shall examine the family policies of the military departments for deployment of the Armed Forces and shall consider whether these policies adequately address the needs of reserve component personnel. The study shall also assess the responsiveness of current policies to the needs of the all-volunteer force as it is presently constituted, as reflected by its demographic profile.

(c) Report.—Not later than March 31, 1992, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study under subsection (a). The report shall include an analysis of the effect of deployments made as part of military operations during the Persian Gulf conflict on members of the Armed Forces who were both deployed and the number of children of those members.

(d) Dependent Defined.—For purposes of this section, the term “dependents” has the meaning that term has in section 1072(b) of title 10, United States Code.

SEC. 316. Adjustment in the Effective Date of Benefits and Assignment Policies

SEC. 316A. Adjustment in the Effective Date of Mental Health Benefits as a Result of Operation Desert Storm


(b) Section 8044 of the Department of Defense Appropriations Act, 1991 (Public Law 101-511; 104 Stat. 1584) is amended by inserting (A) in the matter preceding the first proviso, by striking out “this Act” and inserting in lieu thereof “any Act appropriating funds to the Department of Defense for fiscal year 1992 and”, and (B) in the fifth proviso, by striking out “February 15, 1991” and inserting in lieu thereof “October 1, 1991.”

(c) Transition Provision.—Effective as of February 15, 1991, subsections (a)(4) and (1) of section 1079 of title 10, United States Code, as those subsections were in effect on February 14, 1991, are revived.

(d) Funds.—Of the amount authorized to be appropriated by section 391, $36,000,000 shall be available to the Department of Defense for the two-year period beginning on the first day of the first fiscal year that begins after the fiscal year 1992, to provide for necessary expenses covered by this section, as determined by the Secretary of Defense.

SEC. 317. Sense of the House of Representatives on Separation of Certain Members of the Armed Forces and Their Infant Children

It is the sense of the House of Representatives that—

(1) the Armed Forces shall strive to devise and implement a uniform policy with respect to the deployment of mothers of newborn children.

(2) Such policy should provide that to the maximum extent possible, mothers of newborn children under the age of 6 months shall not be—
   (A) deployed in the case of a mother on active duty;
   (B) activated, if activation requires separating the mother and child, or deployed in the case of a mother serving in a reserve component.

PART C—Veterans Benefits and Programs

SEC. 311. Short Title

This part may be cited as the “Persian Gulf War Veterans’ Benefits Act of 1991.”

SEC. 312. Inclusion of Persian Gulf War Within Definition of “Period of War” for Purposes of Veterans Benefits

Section 101 of title 38, United States Code, is amended—

(1) in paragraph (1), by inserting “the Persian Gulf War,” after “the Vietnam era”; and

(2) by adding at the end the following new paragraph:

“(d) The term ‘Persian Gulf War’ means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or law.”

SEC. 313. Pension Eligibility for Persian Gulf War Veterans and Survivors

(a) Section 501 of title 38, United States Code, is amended by inserting “the Persian Gulf War,” in paragraph (4) after “the Vietnam era.”

(b) Section 541(f)(1) of such title is amended—

(1) by striking out “or” before (D); and

(2) by inserting before the semicolon in the end “, or (E) January 1, 2001, in the case of a surviving spouse of a veteran of the Persian Gulf War.”

(c) Conforming Amendments.—(1) The heading above section 541 of such title is amended to read as follows:

“OTHER PERIODS OF WAR.”

(2) The table of sections at the beginning of chapter 15 of such title is amended by striking out the heading between the items relating to February 15, 1990, and inserting in lieu thereof the following:

“Other Periods of War.”

SEC. 314. Health Benefits

(a) Period of Service for Dental Benefits.—Section 1086 of title 38, United States Code, is amended by inserting “or, in the case of a veteran who served on active duty during the Persian Gulf War, 60 days” before “180 days” in paragraphs (1)(B)(i) and (2).

(b) Presumption Relating to Psychosis.—Section 105 of such title is amended—

(1) by striking out “the Vietnam era” and inserting in lieu thereof “the Vietnam era, or the Persian Gulf War”;

(2) by striking out “or” after “Korean conflict,” the second place it appears; and

(3) by inserting “or before the end of the two-year period beginning on the last day of the Persian Gulf War, in the case of a veteran of the Persian Gulf War,” after “Vietnam era veteran.”

(c) Coverage of Certain Prescription Drug Benefits.—Section 212(b) of such title is amended in the first sentence by striking out “the Mexican border region” and all that follows through “and inserting” and inserting in lieu thereof “the Persian Gulf War.”

(d) Readjustment Counseling.—Section 212(a)(1) of such title is amended—

(1) by inserting “(1)” after “(a)” and;
March 21, 1991

SEC. 332. REPORTS BY SECRETARY OF DEFENSE AND SECRETARY OF VETERANS AFFAIRS CONCERNING SERVICES TO TREAT POST-TRAUMATIC STRESS DISORDER

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall each submit to Congress two reports containing, with respect to their respective Departments, the following:

(1) An assessment of the need for rehabilitative services for members of the Armed Forces participating in the Operation Desert Storm who experience post-traumatic stress disorder.

(2) A description of the available programs and resources to meet those needs.

(b) TIMES FOR SUBMISSION OF REPORTS.—The first report by each of the Secretaries shall be submitted not later than 90 days after the date of the enactment of this Act, and the second report by each of the Secretaries shall be submitted a year later.

SEC. 336. LIFE INSURANCE BENEFITS

(a) SERVICEMEN'S GROUP LIFE INSURANCE.—Section 777 of title 38, United States Code, is amended—

(1) in subsection (a), by striking out ‘‘$50,000’’ each place it appears and inserting in lieu thereof ‘‘$100,000’’; and

(2) in subsection (d),—

(A) by striking out ‘‘January 1, 1996’’ each place it appears and inserting in lieu thereof ‘‘May 1, 1991’’; and

(B) by striking out ‘‘$50,000’’ and inserting in lieu thereof ‘‘$100,000’’.

(b) VETERANS' GROUP LIFE INSURANCE.—Section 777(a) of such title is amended—

(1) in subsection (a), by striking out ‘‘$50,000’’ each place it appears and inserting in lieu thereof ‘‘$100,000’’;

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to deaths on or after the date of the enactment of this Act.

SEC. 337. INCREASE IN THE AMOUNT OF MONTGOMERY GI BILL EDUCATIONAL ASSISTANCE PAYMENTS

(a) AMOUNTS OF EDUCATIONAL ASSISTANCE PAYMENTS UNDER CHARTER 30.—Section 1415 of title 38, United States Code, is amended—

(1) in subsection (a), by striking out ‘‘and (c)’’ and inserting in lieu thereof ‘‘(c), (d), (e), and (f)’’; and

(2) in subsection (b), by striking out ‘‘In’’ and inserting in lieu thereof ‘‘Except as provided in subsections (c), (d), (e), and (f),’’ and—

(3) by adding at the end the following new subsection:

‘‘(f)(i) During the period beginning on October 1, 1991, and ending on September 30, 1993, the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be $350 and $275, respectively.

(ii) During the period beginning on October 1, 1993, and ending on September 30, 1995, the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be $400 and $325, respectively.

(iii) During the period beginning on October 1, 1995, and ending on September 30, 1997, the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be $450 and $375, respectively.

(iv) During the period beginning on October 1, 1997, and ending on September 30, 1999, the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be $500 and $400, respectively.

(v) During the period beginning on October 1, 2000, and ending on September 30, 2002, the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be $600 and $500, respectively.

(vi) During the period beginning on October 1, 2003, and ending on September 30, 2005, the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be $650 and $550, respectively.

(vii) During the period beginning on October 1, 2006, and ending on September 30, 2008, the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be $700 and $600, respectively.

(viii) During the period beginning on October 1, 2009, and ending on September 30, 2011, the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be $750 and $650, respectively.

(ix) During the period beginning on October 1, 2012, and ending on September 30, 2014, the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be $800 and $700, respectively.

(x) During the period beginning on October 1, 2015, and ending on September 30, 2017, the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be $850 and $750, respectively.

(xi) During the period beginning on October 1, 2018, and ending on September 30, 2020, the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be $900 and $800, respectively.’’.

SEC. 338. INCREASED BENEFITS ADVISORY COMMITTEE FOR PERSIAN GULF WAR VETERAN

(a) IN GENERAL.—Section 2132(a) of title 38, United States Code, is amended by adding at the end the following new section:

‘‘12027. Qualification for employment position

For the purposes of this chapter, a person shall be considered qualified to perform the duties of an employment position if such person, with or without reasonable accommodation, can perform the essential functions of the position.

(b) For purposes of subsection (a) of this section, an employer shall be required to make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such employer.

(c) For purposes of subsections (a) and (b) of this section—

(1) the term ‘‘employer’’ means—

(A) until July 26, 1994, a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person; and

(B) on and after July 26, 1994, a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person;

(2) a ‘‘ qualified individual with a disability’’ means a person with a disability who meets the definition of ‘‘disability’’ as defined in section 12111(2) of the Americans with Disabilities Act of 1990; and

(3) the term ‘‘reasonable accommodation’’ means, with respect to such an employment position, such modifications or adjustments to the employment opportunities of such person, with or without reasonable accommodation, can perform the essential functions of the position.

(d) The term ‘‘employer’’ does not include the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c)(8) of the Internal Revenue Code of 1986; and

(2) the terms ‘‘reasonable accommodation’’ and ‘‘undue hardship’’ have the meanings given to such terms in section 12111(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(9) and (10)).

(e) Nothing in this chapter shall be interpreted to limit in any way any of the rights conferred by the Americans with Disabilities Act of 1990.’’.
(a) IN GENERAL.—Section 201(a) of title 38, United States Code, is amended—

(1) in clause (A), by inserting “or able to become requalified with reasonable efforts by the employer” after “perform the duties of such position”; and

(2) in clause (B), by inserting “or able to become requalified with reasonable efforts by the employer” after “perform the duties of such position” each place it appears.

(b) PART D—FEDERAL EMPLOYEE BENEFITS

SEC. 361. LEAVE BANK FOR FEDERAL CIVILIAN EMPLOYEES IN RESERVES WHO ARE ENGAGED DURING PERSIAN GULF WAR

(a) CIVIL SERVICE EMPLOYEES.—The Office of Personnel Management shall establish a leave bank under section 6361(1) of title 38, United States Code, for all federal civilian employees who are engaged in military service during Operation Desert Storm pursuant to an order issued under title 38, United States Code, and who return to civilian employment within the time limits established by that title.

(b) DEPARTMENT OF VETERANS AFFAIRS EMPLOYEES.—The Secretary of Veterans Affairs shall establish a leave bank under section 6361(1) of title 38, United States Code, for all federal civilian employees who are engaged in military service during Operation Desert Storm pursuant to an order issued under title 38, United States Code, and who return to civilian employment within the time limits established by that title.

(c) MANAGEMENT.—The amendments made by this section shall take effect as of August 1, 1990.

SEC. 362. ELIGIBILITY FOR HOUSING BENEFITS

Section 202(a) of title 38, United States Code, is amended by adding at the end the following new paragraph:

“(D) any Reserve of the Armed Forces called to active duty under section 672(a), 672(g), 673, 673b, 674, 675, or 688 of title 10, United States Code, and who return to civilian employment with their agencies; and

(4) Employees in the Armed Forces who are reemployed under this section on a case-by-case basis.

PART E—HIGHER EDUCATION ASSISTANCE

SEC. 371. SHORT TITLE

This part may be cited as the “Persian Gulf Conflict Higher Education Assistance Act”.

SEC. 372. OPERATION DESERT STORM WAIVER AUTHORITY

(a) PURPOSE.—It is the purpose of this section to—

(1) the men and women serving on active duty in connection with Operation Desert Storm who are borrowers of Stafford Loans or Perkins Loans, are placed in a worse position financially in relation to those loans because of such service;

(2) the administrative requirements placed on all those interests which are awarded in accordance with title IV of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) (hereafter in this section referred to as the “Act”) for loans made in such military service are minimized to the extent possible without impairing the integrity of the student loan programs, in order to ease the burdens on such individuals to avoid inadvertent, technical defaults; and

(3) the future eligibility of any individual for Pell Grants is not reduced by the amount of such assistance awarded for a period of instruction that such individual was unable to complete, or for which the individual did not receive academic credit, because the individual was called up for such service.

(b) WAIVER REQUIREMENT.—Notwithstanding any other provision of law, unless otherwise provided for in the Secretary of Education shall waive or modify any statutory or regulatory provision applicable to the student financial aid programs under the Act that the Secretary deems necessary to achieve the purposes stated in subsection (a), including—

(1) the length of, and eligibility requirements for, the military deferments authorized under sections 427(a)(2)(C)(I), 428(b)(1)(M)(i), and 446(c)(2)(A)(II) of the Act, in order to extend the period of Stafford Loans or Perkins Loans to those who is or was serving on active duty in connection with Operation Desert Storm;

(2) the administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Act who care or were engaged in such military service;

(3) the number of years for which individuals are engaged in such military service;

(4) the point at which the borrower of a Stafford Loan or Perkins Loan who is or was serving on active duty in connection with Operation Desert Storm to obtain a military deferment under which interest shall accrue and shall, if otherwise payable by the Secretary of Education, be paid by the Secretary of Education, for the duration of such service;

(5) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a single period of deferment under section 427(a)(2)(C)(I) or 428(b)(1)(M)(i) of the Act;

(6) the terms and conditions to be applied in lieu of the terms and conditions to be applied in accordance with this subsection as well as information the Secretary receives regarding any institutions that are not providing such required tuition and fees, or a credit in a comparable amount against future tuition and fees.

(c) ENCOURAGEMENT AND REPORT.—The Secretary of Education shall encourage institutions to provide such refunds or credits, and shall report to the appropriate committees of Congress on the actions taken in accordance with this subsection as well as information the Secretary receives regarding any institutions that are not providing such required tuition and fees.

SEC. 373. ELIGIBILITY OF STUDENT BORROWERS

Section 101 of the Public Health Service Act (42 U.S.C. 294d) is amended—

(1) by striking “or” at the end of clause (vii); and

(2) by adding at the end the following new clause:

“(viii) the modification of the terms “annual adjusted family income” and “available income” in section 201(f) of the Act; and

(3) by inserting such terms and conditions and making the operations described in subsection (d) of section 201(f) of the Act applicable to such terms and conditions; and

(4) Such term means—

(A) The term “active duty” has the meaning given such term in section 101(18) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school;

(B) by striking “and” and all that follows through “clause (b) above” in clause (vii) and inserting the following:

“and (viii) in addition to all other deferments for which the borrower is eligible under clauses (i) through (vii) during which the borrower is a member of the Armed Forces on active duty during the Persian Gulf conflict, and any period described in clauses (i) through (viii) shall not be included in determining the 25-year period described in subparagraph (B);”;

and

(2) by adding at the end the following new subsection:

“(C) as used in this section:—

(1) the term ‘active duty’ has the meaning given such term in section 101(18) of title 10, United States Code, except that such term does not include active duty for training;
The provisions of sections 372 and 373 shall cease to be effective on September 30, 1997. (b) REQUIREMENTS.—The Secretary may [remove the representation of the spouse or close relative (even in the absence of a power of attorney)] made under such procedures if—

(1) the Secretary determines that the reliance is appropriate in order to prevent undue hardship and to provide equitable treatment for the activated reservist; and

(2) the Secretary has reason to believe that the representation of the spouse or close relative is in accordance with the wishes of the activated reservist.

The Secretary shall issue such regulations, and take such other actions, as are necessary to carry out this part. Section 558 of title 5, United States Code, shall not apply with respect to the implementation of this part by the Secretary.

(a) The Secretary shall conduct a sufficient number of outreach projects to inform appropriate households, of which a member is a member of the Armed Forces serving on active duty (other than the reservist) or might be eligible for participation in the Food Stamp Program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(b) The Secretary shall—

(1) in designing and carrying out projects under subsection (a), consult with the Department of Defense, appropriate State agencies, and appropriate military family support groups; and

(2) ensure that the projects under subsection (a) begin no later than July 1, 1991, and end July 1, 1992.

The Secretary shall submit a report, by September 1, 1992, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the effectiveness of each method used under subsection (a) to inform households of food stamp eligibility.

(a) AUTHORIZATION.—In addition to the authorization of appropriations in titles I and II, there is hereby authorized to be appropriated—

the amount appropriated for fiscal years after fiscal year 1993, as specified in section 259 of the Defense Authorization Act for Fiscal Year 2000 and $655,000,000, to be available only for the payment of title III benefits for fiscal years 1991 through 1995, except that none of the amount appropriated pursuant to such authorization shall be available for (1) the payment of Montgomery GI bill rate increases for fiscal years after fiscal year 1993, or (2) for costs under the amendments made by section 334. Of the amount appropriated pursuant to such authorization, $255,000,000 is to be allocated only for the costs of benefits under part C of this title, and no more than such amount may be available from such account for those costs.

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SEC. 391. AUTHORIZATION OF APPROPRIATIONS FROM DEFENSE COOPERATION ACCOUNT

(a) AUTHORIZATION.—In addition to the authorization of appropriations in titles I and II, there is hereby authorized to be appropriated from the Defense Cooperation Account the sum of $655,000,000, to be available only for the payment of title III benefits for fiscal years 1991 through 1995, except that none of the amount appropriated pursuant to such authorization shall be available for (1) the payment of Montgomery GI bill rate increases for fiscal years after fiscal year 1993, or (2) for costs under the amendments made by section 334. Of the amount appropriated pursuant to such authorization, $255,000,000 is to be allocated only for the costs of benefits under part C of this title, and no more than such amount may be available from such account for those costs.

(b) REQUIREMENTS.—The Secretary may [remove the representation of the spouse or close relative (even in the absence of a power of attorney)] made under such procedures if—

(1) the Secretary determines that the reliance is appropriate in order to prevent undue hardship and to provide equitable treatment for the activated reservist; and

(2) the Secretary has reason to believe that the representation of the spouse or close relative is in accordance with the wishes of the activated reservist.

The Secretary shall issue such regulations, and take such other actions, as are necessary to carry out this part. Section 558 of title 5, United States Code, shall not apply with respect to the implementation of this part by the Secretary.

(a) The Secretary shall conduct a sufficient number of outreach projects to inform appropriate households, of which a member is a member of the Armed Forces serving on active duty (other than the reservist) or might be eligible for participation in the Food Stamp Program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(b) The Secretary shall—

(1) in designing and carrying out projects under subsection (a), consult with the Department of Defense, appropriate State agencies, and appropriate military family support groups; and

(2) ensure that the projects under subsection (a) begin no later than July 1, 1991, and end July 1, 1992.

The Secretary shall submit a report, by September 1, 1992, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the effectiveness of each method used under subsection (a) to inform households of food stamp eligibility.

(a) AUTHORIZATION.—In addition to the authorization of appropriations in titles I and II, there is hereby authorized to be appropriated from the Defense Cooperation Account the sum of $655,000,000, to be available only for the payment of title III benefits for fiscal years 1991 through 1995, except that none of the amount appropriated pursuant to such authorization shall be available for (1) the payment of Montgomery GI bill rate increases for fiscal years after fiscal year 1993, or (2) for costs under the amendments made by section 334. Of the amount appropriated pursuant to such authorization, $255,000,000 is to be allocated only for the costs of benefits under part C of this title, and no more than such amount may be available from such account for those costs.

(b) REQUIREMENTS.—The Secretary may [remove the representation of the spouse or close relative (even in the absence of a power of attorney)] made under such procedures if—

(1) the Secretary determines that the reliance is appropriate in order to prevent undue hardship and to provide equitable treatment for the activated reservist; and

(2) the Secretary has reason to believe that the representation of the spouse or close relative is in accordance with the wishes of the activated reservist.

The Secretary shall issue such regulations, and take such other actions, as are necessary to carry out this part. Section 558 of title 5, United States Code, shall not apply with respect to the implementation of this part by the Secretary.

(a) The Secretary shall conduct a sufficient number of outreach projects to inform appropriate households, of which a member is a member of the Armed Forces serving on active duty (other than the reservist) or might be eligible for participation in the Food Stamp Program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(b) The Secretary shall—

(1) in designing and carrying out projects under subsection (a), consult with the Department of Defense, appropriate State agencies, and appropriate military family support groups; and

(2) ensure that the projects under subsection (a) begin no later than July 1, 1991, and end July 1, 1992.

The Secretary shall submit a report, by September 1, 1992, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the effectiveness of each method used under subsection (a) to inform households of food stamp eligibility.

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(c) INCREMENTAL COSTS.—The costs of title III benefits (other than Montgomery GI bill rate increases and costs under amendments made by section 334) for fiscal years 1991 through 1995 and the costs of Montgomery GI bill rate increases for fiscal years 1992 and 1993 shall specify the incremental costs associated with Operation Desert Storm.

SEC. 392. BENEFITS CONTINGENT UPON APPROPRIATIONS FROM DEFENSE CO-OPERATION ACCOUNT

(a) IN GENERAL.—No person is entitled to, or eligible for, any title III benefit that is payable pursuant to fiscal years 1991 through 1995 unless an appropriations Act appropriates funds for the payment of such rate increases from the Defense Co-operation Account for transfer to applicable appropriation accounts.

(b) SPECIFIC COST AREAS.—Each report prepared under subsection (a) on the incremental costs associated with Operation Desert Storm shall specify the amount of such costs among the military departments, the Defense Agencies of the Department of Defense, and the Office of the Secretary of Defense, by category, including the following:

(1) AERIAL.—Aircraft costs related to the transportation by personnel, equipment, and supplies.

(2) SEA Lift.—Sealift costs related to the transportation by sea of personnel, equipment, and supplies.

(3) PERSONNEL.—Personnel costs, including pay and allowances of members of the reserve components of the Armed Forces called or ordered to active duty, and increased pay or ordered to active duty and increased pay.

(c) SPECIFIC COST AREAS.—Each report prepared under subsection (b) on the incremental costs associated with Operation Desert Storm shall specify the amount of such costs among the military departments, the Defense Agencies of the Department of Defense, and the Office of the Secretary of Defense, by category, including the following:

(1) AERIAL.—Aircraft costs related to the transportation by personnel, equipment, and supplies.

(2) SEA Lift.—Sealift costs related to the transportation by sea of personnel, equipment, and supplies.

(3) PERSONNEL.—Personnel costs, including pay and allowances of members of the reserve components of the Armed Forces called or ordered to active duty, and increased pay or ordered to active duty and increased pay.

(d) DESCRIPTION AND VALUE OF IN-KIND CONTRIBUTIONS.—Each report prepared under subsection (a) shall specify the amount of contributions made to the United States by foreign countries to offset those costs. The Secretary shall prepare the reports in consultation with the Secretary of Defense, the Secretary of State, the Secretary of Treasury, and other appropriate Government officials.

(b) COSTS OF OPERATION DESERT STORM.—(1) PERIOD COSTS AND CUMULATIVE COSTS.—Each report prepared under subsection (a) shall specify:

(A) the incremental costs associated with Operation Desert Storm that were incurred during the period covered by the report, and the total of such costs, the Directors and Secretaries shall separately identify those costs that—

(1) are nonrecurring costs;

(2) (B) VETERANS BENEFITS.—No person is entitled to, or eligible for, any title III benefit that is payable pursuant to fiscal years 1991 through 1995 unless an appropriations Act appropriates funds for the payment of such rate increases from the Defense Co-operation Account for transfer to applicable appropriation accounts.

(b) DEFINITION; CONSTRUCTION OF SECTIONS 391 AND 392

(a) DEFINITION.—For purposes of this title, the term "Montgomery GI bill rate increases" means increases provided by section 337 with respect to fiscal years 1992 and 1993 in the monthly rates of educational assistance payments to veterans who are entitled to, or eligible for, payment of Montgomery GI bill rate increases during fiscal year 1992 or fiscal year 1993.

(b) VETERANS BENEFITS.—No person is entitled to, or eligible for, any title III benefit that is payable pursuant to fiscal years 1991 through 1995 unless an appropriations Act appropriates funds for the payment of such rate increases from the Defense Co-operation Account for transfer to applicable appropriation accounts.

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(b) VETERANS BENEFITS.—No person is entitled to, or eligible for, any title III benefit that is payable pursuant to fiscal years 1991 through 1995 unless an appropriations Act appropriates funds for the payment of such rate increases from the Defense Co-operation Account for transfer to applicable appropriation accounts.

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(b) VETERANS BENEFITS.—No person is entitled to, or eligible for, any title III benefit that is payable pursuant to fiscal years 1991 through 1995 unless an appropriations Act appropriates funds for the payment of such rate increases from the Defense Co-operation Account for transfer to applicable appropriation accounts.

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(b) VETERANS BENEFITS.—No person is entitled to, or eligible for, any title III benefit that is payable pursuant to fiscal years 1991 through 1995 unless an appropriations Act appropriates funds for the payment of such rate increases from the Defense Co-operation Account for transfer to applicable appropriation accounts.

(b) DEFINITION; CONSTRUCTION OF SECTIONS 391 AND 392

(a) DEFINITION.—For purposes of this title, the term "Montgomery GI bill rate increases" means increases provided by section 337 with respect to fiscal years 1992 and 1993 in the monthly rates of educational assistance payments to veterans who are entitled to, or eligible for, payment of Montgomery GI bill rate increases during fiscal year 1992 or fiscal year 1993.

(b) VETERANS BENEFITS.—No person is entitled to, or eligible for, any title III benefit that is payable pursuant to fiscal years 1991 through 1995 unless an appropriations Act appropriates funds for the payment of such rate increases from the Defense Co-operation Account for transfer to applicable appropriation accounts.
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(C) to the extent the Secretary of State considers appropriate, to other International or noninternational organizations, for the purpose of dealing with consequences of the Persian Gulf crisis (including contributions for such purposes as furnishing humanitarian assistance, medical care, food, education, social services, or furnishing assistance for responding to oil spills), and the value and nature of such contributions received by each such organization.

(5) OTHER FORMS OF CONTRIBUTIONS.—A description of international agreements entered into by the United States as a result of the Persian Gulf crisis, a description of prepositioning rights, base or other military facilities access rights, or air transit rights granted to the United States as a result of the Persian Gulf crisis.

(6) CONTRIBUTIONS TO OTHER FOREIGN COUNTRIES.—Any information available on the types of any additional assistance (financial, in-kind, or host-country support) pledged and received as a contribution to other foreign countries as a result of the Persian Gulf crisis.

(7) CUMULATIVE TOTALS.—Each report submitted pursuant to subsection (c) shall include cumulative totals for, and any information available on the aggregate value of, the contributions that have been pledged, and the contributions that have been paid or otherwise delivered during the period beginning August 1, 1990, and ending on December 31, 1990.

(B) A report prepared pursuant to subsection (a) shall be submitted to the Congress by the President on September 25, 1991. The report (including the preliminary report) shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff and the Commander in Chief, United States Central Command.

(B) DISCUSSION OF ACCOMPLISHMENTS AND STRATEGIES.—In addition to any report, to the extent feasible) shall contain a discussion, with a particular emphasis on accomplishments and shortcomings, of the following matters:

(1) The military objectives of the multinational coalition.
(2) The military strategy of the multinational coalition to achieve those military objectives and how the military strategy contributed to the achievement of those objectives.
(3) The deployment of United States forces and the transportation of supplies to the theater of operations, including an assessment of aircraft, ships, aircraft, prepositioning ships, and Maritime Prepositioning Squadron ships.
(4) The conduct of military operations.
(5) The use of special operations forces, including operational and intelligence uses classified under special access procedures.
(6) The employment and performance of United States military equipment, weapon systems, and munitions (including items classified under special access procedures).
(7) The assignment of roles and missions among coalition forces in operations in the theater of operations.
(8) The problems posed by Iraqi possession and deployment of those forces to the theater of operations.
(9) The policies and procedures relating to the use of civilian support from other nations, with particular emphasis on medical support provided in the theater of operations.
(10) The role of women in the theater of operations.

(2) The effects of reserve component forces, including a discussion of each of the following matters:

(1) The readiness and activation of such forces.
(2) The decisionmaking process regarding both activation of reserve component forces and deployment of those forces to the theater of operations.
(c) CASUALTY STATISTICS.—The report (and the preliminary report, to the extent feasible) shall also contain (1) the number of military and civilian casualties sustained by coalition forces and (ii) estimates of such casualties sustained by Iraq and by nations not directly participating in the hostilities in the Persian Gulf area during the Persian Gulf War.

(d) CLASSIFICATION OF REPORTS.—The Secretary of Defense shall submit both the report and the preliminary report in a classified format and in an unclassified form.

TITLE VI—GENERAL PROVISIONS

SEC. 601. CHILD CARE ASSISTANCE

(a) IN GENERAL.—The Secretary of Defense may provide assistance for families of members of the Armed Forces serving on active duty during the Persian Gulf conflict in order to ensure that the children of such families obtain needed child care services. The assistance authorized by this section should be provided primarily toward providing needed child care services for children of such personnel who are serving in the Persian Gulf area or who have been otherwise deployed, ordered, or called to active duty in connection with Operation Desert Storm.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated from the Defense Cooperation Account for fiscal year 1991 under section 101(a), $20,000,000 shall be available to carry out the provisions of this section. The costs of carrying out such provisions are incremental costs associated with Operation Desert Storm.

(c) SUPPLEMENTATION OF OTHER PUBLIC FUNDS.—Funds appropriated pursuant to subsection (b) are made available to be supplemented only to the extent such funds are made available to provide child care services necessary to meet needs arising out of the deployment, the return from deployment, or the medical or rehabilitation needs of such members.

(d) FAMILY SUPPORT ASSISTANCE.—Family support assistance authorized by this section may be used for the following purposes:

(1) Family crisis intervention.
(2) Family counseling.
(3) Family support groups.
(4) Expenses for volunteer activities.
(5) Respite care.
(6) Hospitalization and advocacy.
(7) Food assistance.
(8) Employment assistance.
(9) Child care.
(10) Benefits eligibility determination services.
(11) Transportation assistance.
(12) Adult day care for dependent elderly and disabled adults.
(13) Temporary housing assistance for immediate family members visiting soldiers wounded during Operation Desert Storm and receiving medical treatment at military hospitals and facilities in the United States.

(e) FAMILY EDUCATION AND SUPPORT SERVICES.

(a) IN GENERAL.—The Secretary of Defense may provide assistance in accordance with this section to families of members of the Armed Forces serving on active duty in order to provide educational assistance and family support services necessary to meet needs arising out of Operation Desert Storm.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated from the Defense Cooperation Account for fiscal year 1991 under section 101(a), $30,000,000 shall be available to carry out the provisions of this section. The costs of carrying out such provisions are incremental costs associated with Operation Desert Storm.

(c) SUPPLEMENTATION OF OTHER PUBLIC FUNDS.—Funds appropriated pursuant to subsection (b) are made available to be supplemented only to the extent such funds are made available to provide educational assistance to appropriate private or public entities.

(d) EDUCATIONAL ASSISTANCE.—Educational assistance authorized by this section may be used for the furnishing of one or more of the following forms of assistance:

(1) Individualized counseling for children and other members of the families of members of the Armed Forces of the United States who have been deployed in connection with, or are casualties of, Operation Desert Storm.
(2) Training and technical assistance to better prepare teachers and other school employees to address questions and concerns of children of such members of the Armed Forces.
(3) Other appropriate programs, services, and information designed to address the special needs of children and other members of the families of members of the Armed Forces pursuant to paragraph (1) resulting from the deployment, the return from deployment, or the medical or rehabilitation needs of such members.

(e) FAMILY SUPPORT ASSISTANCE.—Family support assistance authorized by this section may be used for the following purposes:

(1) Family crisis intervention.
(2) Family counseling.
(3) Family support groups.
(4) Expenses for volunteer activities.
(5) Respite care.
(6) Hospitalization and advocacy.
(7) Food assistance.
(8) Employment assistance.
(9) Child care.
(10) Benefits eligibility determination services.
(11) Transportation assistance.
(12) Adult day care for dependent elderly and disabled adults.
(13) Temporary housing assistance for immediate family members visiting soldiers wounded during Operation Desert Storm and receiving medical treatment at military hospitals and facilities in the United States.

(f) FAMILY EDUCATION AND SUPPORT SERVICES.

(a) IN GENERAL.—The Secretary of Defense, acting through the Secretary of Defense or an appropriate designee, shall, to the maximum extent practicable, identify a parcel of land that—

(A) is owned by the United States, is subject to Federal, State, or local government ownership, and is suitable for the construction and operation of such facility;
(B) is in the parcel of land referred to in subparagraph (A) and shall be subject to the conditions and limitations set out in subparagraph (A), all right, title, and interest in and to such parcel of land (together with the improvements thereon) shall revert to the United States.

(b) CONSTRUCTION AND OPERATION OF FACILITY.—The Secretary shall promptly cause such facility to be constructed and operated.

(c) COSTS.—The Secretary shall determine the costs of constructing and operating such facility.

SEC. 602. FUNDING OF CONSTRUCTION AND OPERATION OF MILITARY RESERVATION, VIRGINIA

(a) CONVEYANCE AUTHORIZED.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall convey to the Commonwealth, the following actions:

(i) construction of a regional correctional facility, to the Commonwealth, pursuant to this section, shall be subject to the conditions that—

(A) such construction be completed and the operation of such facility commence not later than five years after such date; and
(B) such parcel be used only for the construction and operation of such facility.

(b) USE OF PROPERTY; REVERSION.—(1)(A) A conveyance pursuant to this section shall be subject to the conditions that—

(i) an entity be established under the laws of the Commonwealth for the construction and operation of such facility;
(ii) the parcel of land referred to in subparagraph (A) shall be conveyed to the entity established pursuant to such conveyance; and
(iii) such conveyance shall be subject to the following conditions:

(I) the entity shall promptly convey all right, title, and interest of the Commonwealth in the parcel of land referred to in subparagraph (A) to the entity established pursuant to such conveyance; and
(II) the entity established pursuant to such conveyance shall use such parcel of land, subject to the conditions that—

(i) such construction be completed and the operation of such facility commence not later than five years after such date; and
(ii) such parcel be used only for the construction and operation of such facility.

(c) USE OF PROPERTY; REVERSION.—(2) If the parcel of land conveyed pursuant to this section is conveyed to Caroline County, Virginia, pursuant to this section, shall be subject to the conditions that—

(i) construction of a regional correctional facility pursuant to the agreement referred to in subparagraph (A) shall commence not later than 24 months after the date of the enactment of this Act; and
(ii) such construction be completed and the operation of such facility commence not later than five years after such date.

(d) CONSTRUCTION AND OPERATION OF FACILITY.—The Secretary shall promptly cause such facility to be constructed and operated.

(e) COSTS.—The Secretary shall determine the costs of constructing and operating such facility.

SEC. 603. FUNDING OF CONSTRUCTION AND OPERATION OF MILITARY RESERVATION, VIRGINIA

(a) ORDCON P.II, MILLTARY RESERVATION, VIRGINIA

(A) CONVEYANCE AUTHORIZED.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall, after consultation with appropriate representatives of Caroline County, Virginia, and the Commonwealth of Virginia (hereinafter in this section referred to as the "Commonwealth"), as appropriate, all right, title, and interest of the United States in and to a parcel of land located at Fort A.P. Hill, Virginia, consisting of approximately 150 acres.

(B) IDENTIFICATION OF PROPERTY.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary shall, after consultation with appropriate representatives of Caroline County, Virginia, and the Commonwealth of Virginia (hereinafter in this section referred to as the "Commonwealth"), as appropriate, all right, title, and interest of the United States in and to a parcel of land located at Fort A.P. Hill, Virginia, consisting of approximately 150 acres.

(C) CONSTRUCTION AND OPERATION OF FACILITY.—The Secretary shall promptly cause such facility to be constructed and operated.

(d) COSTS.—The Secretary shall determine the costs of constructing and operating such facility.

SEC. 604. FUNDING OF CONSTRUCTION AND OPERATION OF MILITARY RESERVATION, VIRGINIA

(a) ORDCON P.II, MILLTARY RESERVATION, VIRGINIA

(A) CONVEYANCE AUTHORIZED.—Not later than one year after the date of the enactment of this Act, the Secretary shall, after consultation with appropriate representatives of Caroline County, Virginia, and the Commonwealth of Virginia (hereinafter in this section referred to as the "Commonwealth"), as appropriate, all right, title, and interest of the United States in and to a parcel of land located at Fort A.P. Hill, Virginia, consisting of approximately 150 acres.

(B) IDENTIFICATION OF PROPERTY.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary shall, after consultation with appropriate representatives of Caroline County, Virginia, and the Commonwealth of Virginia (hereinafter in this section referred to as the "Commonwealth"), as appropriate, all right, title, and interest of the United States in and to a parcel of land located at Fort A.P. Hill, Virginia, consisting of approximately 150 acres.

(C) CONSTRUCTION AND OPERATION OF FACILITY.—The Secretary shall promptly cause such facility to be constructed and operated.

(d) COSTS.—The Secretary shall determine the costs of constructing and operating such facility.

SEC. 605. FUNDING OF CONSTRUCTION AND OPERATION OF MILITARY RESERVATION, VIRGINIA

(a) CONVEYANCE AUTHORIZED.—Not later than one year after the date of the enactment of this Act, the Secretary shall, after consultation with appropriate representatives of Caroline County, Virginia, and the Commonwealth of Virginia (hereinafter in this section referred to as the "Commonwealth"), as appropriate, all right, title, and interest of the United States in and to a parcel of land located at Fort A.P. Hill, Virginia, consisting of approximately 150 acres.

(B) IDENTIFICATION OF PROPERTY.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary shall, after consultation with appropriate representatives of Caroline County, Virginia, and the Commonwealth of Virginia (hereinafter in this section referred to as the "Commonwealth"), as appropriate, all right, title, and interest of the United States in and to a parcel of land located at Fort A.P. Hill, Virginia, consisting of approximately 150 acres.

(C) CONSTRUCTION AND OPERATION OF FACILITY.—The Secretary shall promptly cause such facility to be constructed and operated.

(d) COSTS.—The Secretary shall determine the costs of constructing and operating such facility.
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that seven years after the date of the enactment of this Act;
(iii) such parcel of land be used only for the purpose of construction and operation of such facility;
(iv) Alexandria City, Fairfax County, the City of Alexandria, Prince William County, Stafford County, and Culpeper County, Virginia, be offered the opportunity for participation in such entity; and
(v) no fee be charged by the Commonwealth for the conveyance pursuant to, lease by, or use of such parcel of land by such entity.

SEC. 605. EXTENSION OF TIME FOR FILING FOR PERSONS SERVING IN COMBAT ZONE

(a) IN GENERAL.—Section 101(g) of the Ethics in Government Act of 1978 is amended—
(1) by inserting "(1)" after "(g)"; and
(2) by adding at the end the following:
"(2)(A) In the case of an individual who is serving in the Armed Forces, or serving in support of the Armed Forces, in an area where that area is designated by the President by Executive order as a combat zone for purposes of section 112 of the Internal Revenue Code of 1986, the date for the filing of any report shall be extended so that the date is 180 days after the later of—
(i) the last day of the individual’s service in such area during such designated period; or
(ii) the last day of the individual’s hospitalization as a result of injury received or disease contracted while serving in such area.

(b) The Office of Government Ethics, in consultation with the Secretary of Defense, may prescribe procedures under this paragraph.

SEC. 606. EFFECTIVE DATE.—The amendments made by this section shall apply with respect to reports required to be filed after January 17, 1991.

§ 606. SENSE OF CONGRESS CONCERNING BUSINESS SEEKING TO PARTICI­PATE IN THE REBUILDING OF KU­WAIT

(a) FINDINGS.—The Congress finds as follows:
(1) The Armed Forces of the United States, together with allied forces, have successfully liberated Kuwait and have restored the independence of that nation.
(2) During the occupation of Kuwait by Iraq, much damage was done to the infrastructure, environment, and industrial capacity of Kuwait, and rebuilding of Kuwait is urgently needed.
(3) The principal test of a nation’s commitment to the liberation of Kuwait in the Persian Gulf conflict was its willingness to provide military forces for the liberation of Kuwait.
(4) United States firms, including small and minority-owned businesses, have expressed a significant interest in participating in the rebuilding of Kuwait.
(5) Small and minority-owned businesses face inherent difficulties in competing in foreign markets and in obtaining a share of contracts from foreign governments, particularly those contracts that are performed in distant parts of the world.
(b) SENSE OF CONGRESS CONCERNING SOURCE SELECTION FOR KUWAIT CONTRACTS.—It is the sense of Congress that the Army Corps of Engineers and other Federal agencies should award contracts for the rebuilding of Kuwait, and, in recommending business firms to the Government of Kuwait for the award by it of such contracts, should encourage the Government of Kuwait to award such contracts, in accordance with the following principle:

(1) First, to United States firms, including small and minority-owned businesses, that are committed to employing United States workers.
(2) Second, to other United States firms.

(3) Then, to firms from allied nations that committed military forces to the liberation of Kuwait during the Persian Gulf conflict.
(c) SENSE OF CONGRESS CONCERNING SELECTION FOR SUBCONTRACTS FOR KUWAIT CONTRACTS.—It is the sense of Congress that, when making recommendations to any contractor it awards a contract referred to in subsection (b) concerning the selection of firms for subcontracts under such contract, the Army Corps of Engineers shall encourage the reverter of or right of re-entry onto such parcel of land to be conveyed pursuant to this section as the appropriate representative of Caroline County, Virginia, the regional correctional facility constructed and operated in accordance with this section—
(1) shall have a maximum capacity of not more than 200 inmates;
(2) may not be used to house Federal prisoners or prisoners convicted by, or awaiting trial in the courts of the District of Columbia.

(f) TIME LIMITATION.—The period of any litigation relating to the conveyance or improvement of land under this section shall not be included in a determination of the period for conveyance or improvement, or for the reverter of or right of re-entry onto such land.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance pursuant to this section as the Secretary, in his sole discretion, shall determine appropriate to protect the interests of the United States.

(h) REPEAL.—Section 2839 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101-510; 104 Stat. 1801) is hereby repealed.

§ 604. GRASSROOTS EFFORTS TO SUPPORT OUR TROOPS

(a) FINDINGS.—The Congress finds the following:
(1) Over 400,000 American servicemen and women risked their lives in defending the interests and principles of the United States in the Persian Gulf region.
(2) These American servicemen and women performed with remarkable success against Iraq and its military-industrial complex.
(3) All Americans should take great pride in the manner in which our brave servicemen and women represented our Nation in the Persian Gulf region.
(4) All Americans eagerly await the safe return of our courageous sons and daughters who served in the Persian Gulf region.

(b) SUPPORT FOR TROOPS.—The Congress—
(1) supports and endorses national, State, and local grassroots efforts to support our servicemen and women who participated in Operation Desert Storm and their families here at home;
(2) encourages Federal agencies (in accordance with applicable law, State and local governments, and private businesses and industry) to organize task forces intended to provide support for the families of servicemen and women who participated in the Persian Gulf region and to organize celebrations for the servicemen and women upon their arrival home; and
(3) encourages those grassroots government, business, and industry efforts to include, to the extent reasonably available, the number of firms from each such country and by the dollar value of contracts and subcontracts awarded to firms from each such country.

(2) Second, to other United States citizens to carry out the contract; and
(3) should provide a preference to veterans of the Armed Forces in hiring for work on the contract.
(e) SENSE OF CONGRESS CONCERNING SMALL AND MINORITY-OWNED BUSINESS PARTICI­PATION IN KUWAIT REBUILDING CONTRACTS.—It is the sense of Congress that—
(1) the President, acting through the appropriate Government agencies (including the agencies that will be engaged in source selections or source recommendations as described in subsection (b)), should take steps to provide assistance to United States small and minority-owned businesses seeking to be awarded contracts as part of the rebuilding of Kuwait;
(2) the Administrator of the Small Business Administration and other appropriate Federal officials should conduct a public information campaign to advise small and minority-owned businesses seeking to be awarded contracts for the rebuilding of Kuwait;
(3) United States firms that are awarded contracts pertaining to the rebuilding of Kuwait should, to the maximum extent practicable, seek to award subcontracts for such contracts to United States small and minority-owned businesses.
(f) PROGRESS REPORTS.—(1) The President shall submit to Congress a report every four months with respect to the rebuilding of Kuwait, which shall show, as of the submission of the report, the country of origin of all business firms awarded Kuwait rebuilding contracts by the Corps of Engineers and other Federal agencies; the country of origin of all business firms from foreign governments; the country of origin of all business firms awarded rebuilding contracts under such contracts; and the other information specified in paragraphs (2) and (3).
(2) The President shall include in each such report the same information (to the extent reasonably available) with regard to all business firms awarded Kuwait rebuilding contracts by the Government of Kuwait and all business firms that are subcontractors under those contracts. The President shall request the Government of Kuwait to provide to the United States, on an ongoing basis, information with respect to the country of origin of those firms. To the extent that the information with respect to the country of origin of firms indicates the country of origin of firms awarded rebuilding contracts, the country of origin of firms awarded subcontracts under those contracts, and the other information specified in paragraphs (2) and (3), the President shall include such information in such report.
(3) A report required under paragraphs (2) and (3) shall be submitted within 30 days of the receipt of such information from the United States.

Section 2839 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101-510; 104 Stat. 1801) is hereby repealed.
and percentage of contractors that are small businesses, and the number and percentage of all Federal business that are small businesses and the total number of contracts awarded to United States. Each such report shall also show (to the extent reasonably available), with respect to each contract awarded to a United States firm, the number and percentage of persons employed (or expected to be employed) who are United States citizens, the number and percentage of subcontractors (not United States citizens) to whom the Federal contract was awarded, and the number and percentage of persons so employed (or expected with respect to each contract awarded to a United States firm) who are United States citizens, and the number and percentage of all persons so employed (or expected with respect to each contract awarded to a United States firm) who are United States citizens.

(a) CLARIFICATION OF WAIVER AUTHORITY.—

(1) Section 2306(a)(1) of title 10, United States Code, as added by section 834(a) of Public Law 101-510 (104 Stat. 1613), is amended—

(1) by striking out “on a case-by-case basis”;

(2) by striking out “and inserting in lieu thereof”;

(3) by striking out “of this section” before the period at the end.

(b) CLARIFICATION OF TRUTH-IN-Negotiation ACT AMENDMENTS.—

Section 2306a(a)(1) of title 10, United States Code, as amended by section 803(a) of Public Law 101-510 (104 Stat. 1613), is amended—

(1) in subparagraph (B), by striking out “$500,000” and all that follows through “under subparagraph (A) to that contract”;

(2) in subparagraph (C)(1), by striking out “$500,000” and all that follows through “under subparagraph (A) to the prime contract of that subcontract”;

(3) in subparagraph (D), by striking out “$500,000” and all that follows through “under subparagraph (A) to the prime contract of that subcontract”;

(c) Certification OF ir&D AMEndMENTS.—

Section 2372(d)(2)(B) of title 10, United States Code, as added by section 624(a)(1) of Public Law 101-510 (104 Stat. 1603), is amended by striking out “inserting in lieu thereof the dollar amount applicable under subparagraph (A) to the prime contract of that subcontract”.

(d) DEFINITION OF SMALL PURCHASE Threshold.—

Title 10, United States Code, is amended as follows:

(1) Section 2302 is amended by adding at the end the following new paragraph:

“(7) The term ‘small purchase threshold’ has the meaning given that term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403a(11)).”

(2) Section 2304 is amended—

(A) in subsection (a)—

(1) by striking out “chapter” in paragraph (2) and inserting in lieu thereof “section”;

(2) by striking out paragraph (5), as added by section 806(b)(3) of Public Law 101-510; and

(3) by adding a new section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403a(11))

(b) The Secretary should allocate those reductions for fiscal year 1991 in a manner that ensures that any Department of Defense installation or facility that will experience a significant increase in workload during fiscal year 1991 (compared to its workload during fiscal year 1990) as a direct result of activity supported by Operation Desert Storm is not required to make defense acquisition workforce reductions during fiscal year 1991 that would adversely affect the fulfillment of the installation or facility to perform its mission.

(c) For purposes of this section, the term “defense acquisition workforce reductions” means the reductions in the defense acquisition workforce required by section 905 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1621).

TITLe VIlI—miSSiONARe TECHniCAL AMEnDMENTS

SEC. 761. AMENDMENTS TO TITLE 10, UNITED STATES CODE

(a) CLARIFICATION OF WAIVER AUTHORITY.—

Section 2336(e)(1)(B) of title 10, United States Code, as amended by section 834(a) of Public Law 101-510 (104 Stat. 1613), is amended—

(1) by striking out “of less than $25,000” and inserting in lieu thereof “of not in excess of the amount of the small purchase threshold”;

(b) Section 2397(a)(1) is amended—

(1) by striking out “$25,000” and inserting in lieu thereof “the amount not in excess of the amount of the small purchase threshold”;

(2) by striking out “the amount not in excess of the amount of the small purchase threshold”;

(3) by striking out “of the amount of the small purchase threshold”.

(c) Section 2397(a)(2) is amended by striking out “the amount of the small purchase threshold”.

(d) The Secretary of Defense shall withhold payments to any nonpaying pledging nation that would involve excluding the six-month period beginning on the date of the enactment of this Act, the Secretary of Defense shall withhold payments to any nonpaying pledging nation that would otherwise be paid as reimbursements for expenses of indirect-hire civilian personnel of the Department of Defense in that nation.

(e) The Secretary of Defense may waive the requirement in subsection (a) upon certification to Congress that the waiver is required in the national security interests of the United States that it will make contributions to as a direct result of Operation Desert Storm.

(f) It is the sense of Congress that none of the funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for any nonpaying pledging nation that would otherwise be paid as reimbursements for expenses of indirect-hire civilian personnel of the Department of Defense in that nation.

(g) The Secretary of Defense may waive the requirement in subsection (a) upon certification to Congress that the waiver is required in the national security interests of the United States that it will make contributions to as a direct result of Operation Desert Storm.

(h) The Secretary of Defense may waive the requirement in subsection (a) upon certification to Congress that the waiver is required in the national security interests of the United States that it will make contributions to as a direct result of Operation Desert Storm.

(i) The Secretary of Defense may waive the requirement in subsection (a) upon certification to Congress that the waiver is required in the national security interests of the United States that it will make contributions to as a direct result of Operation Desert Storm.

(j) The Secretary of Defense may waive the requirement in subsection (a) upon certification to Congress that the waiver is required in the national security interests of the United States that it will make contributions to as a direct result of Operation Desert Storm.
(2) Section 2344(c) is amended by striking out “chapter” and inserting in lieu thereof “subchapter.”

(3) Paragraph (5) of section 2432(c), as added by section 1407(c) of Public Law 101–510 (104 Stat. 1681), is amended by striking out “section” as defined in section 4(a) of the Office of Federal Procurement Policy Act” and inserting in lieu thereof “subsection.”

(4) Section 2309(c) is amended by striking out “section” as defined in section 4(a) of the Office of Federal Procurement Policy Act” and inserting in lieu thereof “subsection.”

(5) Section 4043 is amended by striking out “subparagraphs (2) and (3)” and inserting in lieu thereof “subsection (2)” through “(b).”

(6) Section 2123(d) is amended by striking out “section 115(b)(1)(A)(ii)” and inserting in lieu thereof “section 115(a)(1)(B).”

(7) Section 2099(b) is amended by striking out “section 2411(a)(1)(D)” and inserting in lieu thereof “section 2411(D).”

(8) Section 2306(a)(1)(A)(i) is amended by striking out “section 8214(a)” after “42 U.S.C. 8214(a)” and inserting “42 U.S.C. 8214(a)” as amended by section 104(a) of the National Energy Conservation Policy Act.”

(9) Section 2508(a)(2) is amended by striking out “42 U.S.C. 8661 et seq.” before the period at the end of such section.

(10) Title 10, United States Code, is amended as follows:

(a) ENACTMENT REFERENCES.—Title 10, United States Code, is amended as follows:

(1) Section 2368(a) is amended by inserting “(42 U.S.C. 6663)” before “the period at the end of this section.”

(2) Section 2905(d)(2) is amended by striking out “two years after the date of the enactment of this Act” and inserting “two years after the date of the enactment of this Act, subject to the following effective date.”

(b) DATE OF ENACTMENT REFERENCES.—Title 10, United States Code, is amended as follows:

(1) Section 1569(c) is amended by striking out “the end of the 90-day period beginning on the date of the enactment of this section” and inserting in lieu thereof “February 27, 1990.”

(2) Section 2909(d)(2) is amended by striking out “two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1991” and inserting in lieu thereof “November 5, 1992.”

(c) DEFINITIONS.—Title 10, United States Code, is amended as follows:

(1) Section 645 is amended—

(A) by inserting “The term” in paragraphs (1), (2), and (3) after the paragraph designation; and

(B) by revising the first word after the open quotation marks in each of such paragraphs so that the initial letter of each word is lower case.

(2) Section 2196, as added by section 247(a) of Public Law 101–510 (104 Stat. 1233), is amended by inserting “the term” after “in this chapter.”

(d) OTHER AMENDMENTS.—

(1) Section 1721(c) of title 10, United States Code, is amended by inserting “3212 of the Defense Acquisition Workforce Improvement Act (title XII of Public Law 101–310),” after “3210 of the Defense Authorization Act (Public Law 100–252)’’ and inserting in lieu thereof “Activities,” dated,” and “Activities,” dated,” and

(2) Subsection (f) of section 2307 of title 10, United States Code, is amended by section 3836(a) of Public Law 101–510 (104 Stat. 1615), is redesignated as subsection (e).

(3) Section 838(c) of Public Law 101–510 (104 Stat. 1546), is amended by striking out “amended” as follows:

(1) Effective Date.—The provisions of section 2307 of title 10, United States Code, that are added by the amendments made by subsections (a) and (b) shall apply with respect to contracts entered into on or after May 6, 1990.

(2) by striking out “of this subsection” each place it appears (other than in sections 300(a)(3)(A) and (B); and

(3) by striking out “of this paragraph” each place it appears (other than in section 300(c)(2)(B)); and

(4) by striking out “of this paragraph” each place it appears (other than in section 550(c)(3)(A)(i)), and

(5) by striking out “subparagraphs (A) and (B)” and inserting in lieu thereof “subparagraphs (A) and (B).”

(c) EXCEPTIONS.—Section (b)(1) does not apply to the following provisions of title 37, United States Code:

(1) Section 204(d).”

(2) Section 206(c).

(3) Section 207(a).

(4) Section 207(b).

(5) Section 306(b).

(6) Section 312.

(7) Section 312a.

(8) Section 312c.

(9) Section 312d.

(10) Section 314.

(11) Section 314(a).”

(12) Sections 402(e), 402(f), and 402(g).

(13) Section 405(b), the last place of this “section” appears.

(14) Section 405(e).

(15) Section 406.

(16) Section 407.

(17) Section 570.

(18) Section 572.

(19) Section 574.

(20) Section 101(b).”

SEC. 703. AMENDMENTS TO TITLE 32, UNITED STATES CODE

Title 112(c)(2) of title 32, United States Code, is amended by striking out “in consultation with—” and all that follows and inserting in lieu thereof “in consultation with the Director of National Drug Control Policy.”

SEC. 704. AMENDMENTS TO PUBLIC LAW 101–510

Title 37, United States Code, is amended by striking out “amounts of—” and all that follows through “applicable” and inserting in lieu thereof “amounts of authorizations provided for the Department of Defense in this Act, subject to applicable.”

Title 112(c)(2) of title 32, United States Code, is amended by striking out “Such section” and inserting in lieu thereof “Such subsection.”

Title 355 (104 Stat. 1571) is amended—

(A) in subsection (a), by striking out “inserting after section 696” and inserting in lieu thereof “inserting after section 696;” and

(B) by redesignating as section 696 the new section to be added to title 10, United States Code, by the amendment made by subsection (a); and

(C) in subsection (b), by striking out “Section 696” and inserting in lieu thereof “Section 696.”

Section 803(a)(2) (104 Stat. 1500) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

(1) “A contracts entered into after December 5, 1990;”
(5) Section 822(g) (104 Stat. 1600) is amended

(A) in paragraph (1)—

(i) by striking out "available for the Depar

tment of State" and inserting in lieu there

of "appropriated pursuant to this Act"; and

(ii) by striking out "in the first fiscal year

in which the Institute begins operations"; and

(B) in paragraph (2), by striking out "for

each fiscal year after the fiscal year re
ferred to in paragraph (1)".

(6) Section 832 (104 Stat. 1612) is amended by inserting "of subsection (a)" in paragraph (2) by adding at the end

(7) Section 903(3)(1) (104 Stat. 1360) is amended by striking out "all forces" and all that follows through "Army Reserve Com

mand" and inserting in lieu thereof "to the

Army Reserve Command all forces of the

Armies of the United States and the Na

tional Guard of the States and the Territori

es of the District of Columbia and Guam".

(8) Section 1407(d) (104 Stat. 1681) is amended by striking out "section 2434" and inserting in lieu thereof "section 2432".

(9) Section 1451(b)(2) (104 Stat. 1688) is amended by striking out "of subchapter II" after "at the beginning".

(b) ACQUISITION WORKFORCE ACT AMEND

MENTS.—Section 2256(b) of title II of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510) amends the National Defense Acquisition Workforce Improvement Act (title XII of Public Law 101-510) as amended as follows:

(1) Section 1202(a) (104 Stat. 1688) is amended by striking out the following new section and inserting in lieu thereof "the follow

ning new chapter":

(2) Section 1208 (104 Stat. 1685) is amended

(A) in subsection (a)(1), by striking out "this Act" and inserting in lieu thereof "this title";

(B) in subsection (b)(1)—

(i) by striking out "this title" and inserting in lieu thereof "title 10, United States Code";

(ii) by inserting "the following new sec

tion" and deleting "of" in paragraph (1) as amended by section 1202(c); and

(C) in subsection (b)(2)—

(i) by striking out "this chapter" the first place it appears and inserting in lieu thereof "chapter 67 of such title as amended by section 1202"; and

(ii) by striking out "this chapter" the sec

den place it appears and inserting in lieu thereof "such chapter".

(3) Section 1309 (104 Stat. 1666) is amended

(A) in subsection (a)—

(i) by striking out "Effective during the

three-year period beginning on the date of

the enactment of this Act" and inserting in lieu thereof "Before November 6, 1990"; and

(ii) by striking out the comma after "sec

tion 1202")

(B) in subsection (b), by inserting a comma after "as added by section 1202")

(C) in subsection (c), by striking out the comma after "shall include" in the last sen

tence; and

(D) in subsection (d), by inserting a comma after "section 1722(a)(1) of such title".

(c) MENTOR-FROGTE PROGRAM.—Section 837(j) of the National Defense Authorization Act for Fiscal Year 1991 (104 Stat. 1607) is amended

(1) in subsection (c)(2)—

(i) by striking out "Disadvantaged small business concerns" and inserting in lieu thereof "Small disadvantaged small business concerns";

(ii) by striking out "one or more mentor firms" and inserting in lieu thereof "a mentor firm";

(iii) by striking out "or firms" and inserting in lieu thereof "a mentor firm or firms";

(iv) by deleting the word "and" before inserting the following new sentence: "A disadvantaged small business concern may not be a party to more than one agreement to receive such assistance from the same mentor firm or firms";

(2) in subsection (e)(3), by striking out "mentor firm or" and

(3) in subsection (k)—

(A) by striking out the comma after "section 637(d)" and inserting in lieu thereof "637(d)"; and

(B) by striking out the period at the end of the second sentence and inserting in lieu thereof "and shall prescribe procedures by which mentor firms may terminate participation in the program".

(d) OTHER TECHNICAL AMENDMENTS.—Section 3165 of Public Law 101-510 (104 Stat. 1841) is amended—

(1) in subsection (a), by redesignating sub

paragraphs (J), (K), (L), and (M) as para

tgraphs (11), (12), (13), and (14), respectively;

(2) in subsection (b), by inserting "such" in the second sentence before "education activities".

(e) EFFECTIVE DATE.—The amendments added by this section shall apply as of January 1, 1991.


(g) MISCELLANEOUS DESIGNATION.—Effective as of November 19, 1990, section 706(h) of the National Defense Authorization Act for Fiscal Year 1990 and 1991 (Public Law 101-188; 103 Stat. 1498) is hereby reinstated as originally enacted, effective as at January 1, 1991.

(h) MISCELLANEOUS DESIGNATION.—Effective as of November 19, 1990, section 706(h) of the National Defense Authorization Act for Fiscal Year 1990 and 1991 (Public Law 101-188; 103 Stat. 1498) is hereby reinstated as originally enacted, effective as at January 1, 1991.


Mr. President, I have a role in the authorship, but basically our committee—sponsored a provision which was included in the Senate-passed authorization bill to increase to $100,000 payments made under the servicemen’s group life insurance and the veteran’s group life insurance program. This provision is included in the conference agreement before the Senate today in sections 308 and 336.

In view of the strong support for this provision in the Senate and expressions of support received from the widows of servicemen who died in the gulf conflict, I strongly urge the House of Representatives not to attempt to reduce the amounts of benefits under this important military personnel program.

Mr. President, I wish to acknowledge that the genesis of this piece of legislation was from the wife of an active duty service person as she presently is assigned to my staff, Mrs. Nancy Pomerleau, on leave from another Government department, and I wish to commend her for the thought process which eventually led to this particular portion of our bill.

Mr. President, this bill provides the authorization to pay the incremental costs of Operation Desert Shield/Desert Storm, those costs which are in addition to the normal operating and other costs of the Department of Defense in peacetime. The bill would authorize expenditures of both U.S. funds and foreign contributions to meet the incremental U.S. costs of this military operation. Our partners in the coalition have pledged to the United States over $15 billion in additional assistance in support of U.S. forces in the gulf crisis.

Mr. President, I used the term “coalition,” but I want to be careful to point out that it was both the coalition of nations which supplied troops as well as other nations who did not send troops to the immediate gulf area which, combined, provided the overall contribution of $54 billion. I am especially pleased that in large measure these substantial contributions which have been made available will offset most, hopefully, if not all, of the costs of Operation Desert Shield and Operation Desert Storm.

The bill would require the administration to report periodically to the Congress on the value of cash and other assistance pledged provided to the United States as well as other nations in the region and those involved in the multinational coalition. Today I am advised that we have received almost 40 percent of the funds and assistance pledged. There are indications that additional contributions may be forthcoming in the next few days.

The bill would also authorize the appropriation of $15 billion in additional authority for a total of approximately $88 billion in total authorization appropriations for the operation. Any portion of the $15 billion of U.S. taxpayer funds that is not required to pay for the war after all foreign contributions are used are will be returned to the U.S. Treasury.

The administration provided a preliminary estimate of approximately $42 billion for the cost of the United States presence in the gulf since the invasion of Kuwait on August 2, 1990. The supplemental appropriations bill for Operation Desert Storm currently in conference will provide for the appropriation of funds to pay the amounts specifically identified by DOD. However, the cost estimate may change substantially depending on the actual phasedown and troop withdrawal schedule, as well as the completion of final accounting of the extra costs of combat operations. The flexible authorization provisions of this bill should be sufficient to cover the extra costs of the operation, assuming that all foreign pledges are honored, while allowing DOD the flexibility to refine its accounting for these costs. In addition, the bill requires the Department of Defense to advise the Congress 7 days before actually using either foreign contributions or U.S. funds to pay for specific programs or costs of the Persian Gulf crisis. This provision is, I believe, sufficient to ensure continued congressional oversight over expenditure.

The final bill also includes a provision that was included in the Senate bill which would require the Secretary of Defense to report promptly to the Congress on the lessons learned from Operations Desert Shield and Desert Storm with respect to military operations and strategy, as well as acquisition policy, environmental issues, the law of armed conflict, the role of the media, and several other issues. This report will assist the Armed Services Committee in its review of the fiscal year 1992 and future years defense budgets and in assessing the revised national military strategy.

Mr. President, the costs of the U.S.-led military operation in the Persian Gulf are not insignificant, but neither are they unexpected. The agreement before us presents the Secretary of Defense the authority to pay only the actual incremental costs for our personnel and their support, operations and transportation, and other activities directly associated with Operation Desert Shield and Operation Desert...
Storm. We in the Congress should take swift action on this measure and fulfill our obligation to ensure the continued full support of our military forces as they return from the Persian Gulf.

I wish at this time to acknowledge the very special contributions to this legislation made by my good friend and fellow colleague on the Armed Services Committee, the Senator from Ohio [Mr. GLENN], and correspondingly, on our side, the distinguished Senator from Arizona [Mr. MCCAIN], who will shortly address the Senate in connection with this important measure. These two Senators have the background and knowledge with respect to personnel matters in the military, in large measure derived from distinguished, lengthy careers on active duty.

And they are continuing their work with the military now as members of the U.S. Senate. I am sure Chairman NUNN and I wish to single them out for their special contributions in the formation of this legislation.

Senator GLENN was with the group of Senators that I was a part of in the gulf just a few days ago, and together we saw firsthand the really extraordinary contributions of both the young men and women. We brought back, firsthand, their needs. I think this piece of legislation will, in large measure, reflect their knowledge that was conveyed to us by those who took part in this gulf operation.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are in morning business.

CRIME IN AMERICA

Mr. KERREY. Mr. President, I rise to talk about a slightly different side of the Persian Gulf Operation, that personal side, and I want in no way to take away from what the distinguished Senator from Virginia just addressed. There is a problem, and we want to make certain that we take care of those individuals' families who sacrificed so much on our behalf.

Mr. President, yesterday's Washington Post carried a story on the front page that I suspect the distinguished Senator from Virginia saw as well. That was the story of the death of an Army specialist, Anthony Riggs, who was a veteran of Operation Desert Storm. He was killed in Detroit where he arrived home before his own letters to his mother. The story reported that "witnesses heard 5 rapid shots and the sounds of a car screeching down the street." Spc. Tony Riggs was one of the heroes whose operation of Patriot missiles kept the successful military operation on track.

Another young man shot to death on America's streets, and I feel personally terrible about it. I am tempted to let the feeling go, Mr. President, but this particular incident will not leave me. It does not feel as if it is out there. It feels, for me, as if it is here.

I think of a young man from Nebraska, Dan Hotz, from Omaha, who was shot and killed here in Washington in July 1989, 7 months after I was sworn into office.

Perhaps I should let the feeling go, because I wonder if other Nebraskans will feel I should not be spending my time on such things. I wonder, with some weariness, if anything can be done to reduce the level of violence in this country that I love so much.

I think of a woman I met recently by the name of Miss Fields, who is a wonderful substitute/grade teacher working at Walnut Hill Elementary, a school in Omaha, and other teachers, parents, and community leaders who are trying, with love and attention, to cut this chain of violence, and I press on.

A disproportionate number of today's young murder victims are black, but I do not believe this is primarily a problem of race. It is not merely a consequence of white racism or isolated black anger. It is a community problem which affects all of us. Mr. President, the glue which should be holding us together simply is not.

This is also a problem that I do not believe is going to be solved simply by passing gun control legislation or civil rights legislation. The case for these cannot be made with the belief that violence on our streets will end if they are enacted. It is a problem which will only be solved if we have a committed willingness to simply take care of the problems of poor blacks, the small segment of the economic problems faced by a growing number of Americans.

For an astonishing number of us, what is taken home in pay will not cover the costs of housing, health care, transportation and education. The problem we face is that in America, for many of us, hope is being eroded from within. Our school system is simply leaving too many people unprepared for a world changing, full of new technologies and new demands. The most difficult task facing our schools today in America is a rising number of children who are arriving unprepared for a world changing, full of new technologies and new demands. The most difficult task facing our schools today in America is a rising number of children who are arriving unprepared for a world changing, full of new technologies and new demands. The most difficult task facing our schools today in America is a rising number of children who are arriving unprepared for a world changing, full of new technologies and new demands. The most difficult task facing our schools today in America is a rising number of children who are arriving unprepared for a world changing, full of new technologies and new demands. The most difficult task facing our schools today in America is a rising number of children who are arriving unprepared for a world changing, full of new technologies and new demands.

Thus, the problem of street violence cannot be solved, unless we have a committed willingness to simply take better care of our children.

We have just finished the 1980's decade of increasing violence, much of which has been projected onto our youth through television, videos, and most recently the appalling commercial side of Operation Desert Storm.

Buried deep in Sunday's New York Times was a short story about a speech given last Friday by a young man. Addressing the Black Family Conference at Hampton University in Hampton, VA, the speaker, a middle-aged black man, dared to say what many are thinking:

"Every 100 hours on our streets we lose more young men than were killed in 100 hours of ground war in the Persian Gulf. Where are the yellow ribbons of hope and respect for our youth, and the streets? This is a war against ourselves, and it is devastating our communities."

He had just read, Mr. President, the study by the National Center for Health Statistics and Centers for Disease Control. The study found that 45 percent of black male Americans from 15 to 19 years of age who died in 1988 were killed by guns. In 1984 the percentage was 24 percent. In 1991 it was just 25. The number is three times the rate for white youths of the same age.

The speaker went on to personalize the numbers. He said:

"As a black man and a father of three, this really shakes me to the core of my being. What we need is a return to a culture of character."

A culture in which parents invest time and attention in their children and the children of their neighborhood, a culture in which children growing up without a father are a small minority, not the majority, and a culture in which neighborhoods become actively involved in making their neighborhoods a safe haven for children.

Mr. President, the speaker was Dr. Houlth, Stallman, Secretary of Health and Human Resources. I dearly wish that more of us were shaken to the core of our being by these numbers. Then maybe we would advance toward the culture of character envisioned by Dr. Houlth. Perhaps the numbers would make the public investments needed if this vision is to become a reality.

Mr. President, our black neighborhoods are simply too run down, personal income and job skills are too low, and families too shattered to expect a reversal without a major investment of capital in housing, health care, and education with a focus on the family unit and emphasis on personal responsibility.

We must invest by fully funding WIC and Head Start. In Nebraska we must come to the principals of Omaha schools like Marrs, Walnut Hill, Kelum, Fontenele, and Field Club to say: What can we do to help with your students? What do you need now? What do you need now to prevent the damage to these young people?

The investment is needed most in our urban or troubled neighborhoods, but, by any means, it is not the only
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case of neglect. If we continue drawing a boundary line around poverty, our re-
sponse will be inadequate. We will make the problem worse, and we will create more, not less, division among Americans. If we felt the intense anxiety of many working American families about the cost of health care, education, and the decreasing opportunity for their children, we would quit our haggling over the irrelevant and get to work on the things that matter to a child in America today. We would insist on solutions which affect all of us and not just a few.

We, who do not live in the environment where these young people are dying, can talk about the problem in a cold detached manner. We can blame the welfare system or wonder why they do not just work a little harder or, worse, we can merely look for ways to keep their violence away from us.

Poverty is not an accident. Those of us who have the power to do something about both the violence in America and we're not going to

"We're mad as hell about what is going on in America and we're not going to take it any more! We don't care what you say about us in your next newsletter or at our next election! We are going to pay attention to the children of this country before it is too late!"

To act, we must see a common agenda which includes a health care system which does not deny us care simply because we do not earn more than $100,000 a year as do Members of Congress, for example. It also includes a school system which takes responsibility for its failure to educate our children rather than merely blaming us for the failure. It includes a broad-based effort to stimulate our economy. We under-
stand the value of equity when we are trying to pay our own mortgages with salaries 20 times higher than 25 percent of America's children, who live in pov-
erty today.

Sometimes we understand, but do not act, when we face the problems faced by the poor because we fear being ac-
cused of making liberal expenditures. The political playing field has never been level for liberal and conservative expenditures. We constantly act upon the almost tragic absence of fear felt when we make conservative expendi-
tures. Thus, we are able to give away large amounts of money to wealthy people so they can continue to live unencumbered with excessive obsta-
cles. The feelings of Dr. Sullivan must guide us up to overcome the unlevel na-
ture of the political landscape, because even as we split between those who have and those who have not in America. The chasm which separates them from us widens every day.

And, unlike many things of this life, we are definitely not powerless about it. We could if we wanted to.

We will want to if we see this vio-

Mr. Kerrey. Mr. President, will the Senator yield?
Mr. McCAIN. I went with him to see these young men and women who served us in the desert, and I think it was one of the most uplifting experiences that I have had visiting the men and women who were there and the pride that they felt in themselves and in their country and the service that they performed in freeing oppressed and frankly inexcusably brutally treated people of Kuwait.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, as our troops were building up over in the desert and we did not know what length the war would be, there were a number of pieces of legislation that were introduced on both ends of the Capitol building to provide certain benefits to them, here in the Senate and over there in the House. Some of them did not amount to much. Some of them, I might add, were as much press releases as anything else. I hate to say that, but some of them were.

So we formed a task force under the leadership of the majority leader, Senator MITCHELL, who asked me to head up a task force on our side. We wound up on the Democratic side with 16 Senators. Senator McCAIN headed up a task force on the Republican side.

Mr. KERREY. Mr. President, I wonder if the Senator from Ohio would allow me to respond very briefly, to take only 2 minutes to respond to the Senator from Arizona?

Mr. GLENN. If the Senator can keep it short, I am glad to yield to that purpose without losing my right to the floor.

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

The Senator from Nebraska is recognized for 2 minutes.

Mr. KERREY. Mr. President, I appreciate that very much.

First of all, let me say to my friend from Arizona that at the start of my remarks I made it clear that I too am very proud, and that this was not intended to isolate as a consequence of the violence on the streets this pride that I feel from the concern that I also feel on what is going on in America.

I find that the statements the distinguished Senator from Arizona has made were not only provocative but incorrect. And I find as well that it is a sort of thing that tends to divide the country that says if you are not with the President, if you were not with the President, somehow you are on the wrong side, and somehow as a consequence you are not entitled to stand up and be concerned about the growing violence in America and propose some suggestions for it.

I regret very much the remarks that the distinguished Senator from Arizona made just recently and I would look forward to the opportunity when I have more time to engage more fully on the floor of the Senate to discuss them.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. McCAIN. Mr. President, will the Senator yield? I will be very brief, I promise.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. McCAIN. Will the Senator yield for 1 minute?

Mr. GLENN. I yield.

Mr. McCAIN. My remarks did not mean to intentionally denigrate the Senator from Nebraska. In fact, I said I associated myself with his remarks. I agree with him. I think this is a decision we should know that Americans are proud of their performance and very proud of the performance of many of those who are minorities and those minorities are role models to all of us in this country.

I am sorry that the Senator from Nebraska took this as some criticism. It certainly was not. I stood solely on the virtues of the men and women who participated in Desert Storm. I cannot account for any reason for that.

I thank my colleague from Ohio and yield.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, as the build up continued, there were many things that we had to consider off those, all of them. The task forces on both sides of the aisle, working together in a bipartisan fashion, put together a package that also had to pass each one of the committees of jurisdiction. We did not exempt them. That has been done and that is what S. 725 is.

I believe the bill we just passed, S. 725, is good legislation. It provides the authority our military services need to take care of expenses resulting from the Persian Gulf conflict.

Mr. President, it also provides certain authorities to the Department of Defense to make adjustments in fiscal year 1992 strength levels so that military personnel who were needed for Operation Desert Shield and Operation Desert Storm do not have to be involuntarily separated just to hit a strength limit that was established before they knew the extent of their involvement in the Persian Gulf. Most importantly, this bill provides a very good set of personnel benefits for our men and women in uniform and their families that can be used so well and so bravely throughout the crisis.

So, Mr. President, we have passed this bill. It will now be sent over to the House so they can take it up and pass it, we hope, before we go into our 2-week non-legislative work session. I think all of us want a very strong signal to our men and women in uniform and their families that we have not forgotten about them now that the bullets have stopped flying.

For example, I know there are survivors of military personnel out there who will be helped by the survivor benefits provisions in this bill; namely, the increase in death gratuity pay from $3,000 to $6,000 and the servicemen's group life insurance benefit from $50,000 to $100,000, both of which are retroactive to the start of Operations Desert Shield/Desert Storm, August 2, 1990.

Mr. President, I know that those who served us in the Persian Gulf and those who still serve us there deserve the increases in imminent danger pay and family separation allowances we have provided for in this bill.

We visited just a few days ago with Big Red One, the 1st Division, Army infantry, still deployed. Senator McCAIN here on the floor was with me when we visited the 1st and 2d Marine Divisions who are still deployed. Let me say that going out in the field with those divisions, particularly the 2d Division which is still deployed out there, battalions deployed, patrols out, they are still in a combat mode.

Mr. President, we heard just yesterday we were told that the Air Force still had authority to shoot down fixed-wing combat aircraft that were going to take off and were running combat air patrols over Iraq. Yet one of those Iraqi planes, contrary to the agreement, did try to take off and an Air Force pilot shot it down.

So that reemphasizes what I mean by they are still serving, still serving us there. So far as I am concerned, they certainly deserve the increases in imminent danger pay and family separation allowances that we have provided for in this bill.

Mr. President, I know that our National Guard and Reserve personnel, who were activated for Operations Desert Shield and Desert Storm deserve the pay adjustments we provide for in this bill so that they will be treated in the same manner as their active component peers. Then when they come home and are deactivated, we provide a safety net of benefits including transitional medical coverage, wartime veterans' benefits, and other readjustment benefits.

I know that some of our National Guard and Reserve personnel, who were farmers and students before they were activated, can use the relief that we provide in this bill for the repayment of loans and the relief from certain conservation requirements in the case of farmers and ranchers.

Mr. President, we have worked hard on the Armed Services Committee to reach agreement with the House on the companion bill they have passed with similar measures. As I understand it, there was only one provision in the final bill that we have in front of us that gives the House some concern. It is the provision that would increase...
the service group life insurance benefit.

Mr. President, in our bill, we increase the SGLI benefit from $50,000 to $100,000 to update the benefit to the average term life insurance coverage in this country.

The SGLI, however, is not a raid on the Treasury. The SGLI benefit is paid for by the military personnel themselves. They pay premiums every month on this insurance. The premium is currently 8 cents per $1,000 of coverage and they pay that every single month. So it is a self-liquidating program. It is not something that is a great raid on the Treasury. So this program is cost neutral to the Government in peacetime.

It seems to me this increase is eminently reasonable, especially since the House agreed to a provision in our bill that would in effect double the amount of benefit for survivors who died since August 2, 1990, in conjunction with or in support of Operation Desert Shield/Desert Storm or attributable to hostile action other than the Persian Gulf. So the survivors of such personnel would receive a $100,000 SGLI benefit.

The House has suggested the SGLI benefit in our bill be reduced to $75,000. Mr. President, frankly, I am a bit mystified by our friends over in the House. I hope some of them are watching this on television over there who are considering this legislation today, because I do not see the point in cutting this back to $75,000.

I heard through the grapevine that perhaps they have some other proposal they want to make. I guess they want to make this a halfway deal because they really have some other idea in mind.

But I want to stand here on the floor and say this package is ready to go. For those writing for our service publications that cover this sort of thing on the Senate floor, let it be known to our military personnel that this package is ready to go. It will be in effect if we pass it right now at least 2 weeks or 3 weeks after it is signed. It will not go otherwise, rather than having it held up by reasons we cannot even discern by talking to the people in the House.

Let us get this thing out. It is self-liquidating. It is not a raid on the Treasury.

If there are other proposals to be made with life insurance later, or whatever benefits, let us consider them later on. But let us not let this be a stumbling block to getting this benefits package passed.

The $100,000 coverage we provide in our bill approximates the average of term insurance in this country. I repeat, the average for all insurance. And it is provided at no cost to the Government. It is a self-liquidating program. How can we possibly be against something like that?

I hope our House counterparts understand this and do not think we are trying to raid the Treasury. This is putting into law an authorization for an increase in insurance that people self-insure themselves. So I hope this explanation will allay some of the concerns and set to rest those over in the House. I hope they will act this afternoon and pass this bill in its current form.

I want to conclude by thanking all Senators who worked so hard on the task force that I chaired on our side in developing these benefits for our men and women in uniform and their families. In particular, the staff has worked very hard on this. I know how particularly helpful to me Fred Pang was, and who is with me here on the floor this afternoon. He is the staff director for our Munrow Subcommittee on the Senate Armed Services Committee. John Hilley of the majority leader’s office, Kim Wallace, and Phil Upschulte of my staff, all worked on this and did yeomen’s service on this over the past several months. It has been a big, big job, putting this whole thing together and I want to give them full credit.

In particular, I want to thank Senator MCCAIN, the Republican task force leader, for his help and cooperation; and the majority leader and Republican leader for bringing our work to fruition. Our men and women in uniform and their families certainly deserve the result. I am glad we have passed it in the Senate. I urge our colleagues over in the House to pass it without change so it can go directly to the President and be signed without waiting over the next couple of weeks.

Mr. President, I yield the floor.

The PRESIDENTING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Before my friend from Ohio leaves the floor, I will briefly. I wish I could have talked with you when I accompanied him to visit Marine squadron VMA-311, a squadron that Senator GLENN was the operations officer of some 40 years ago during the Korean war.

He was greeted by the members of that squadron with what I describe as not only respect, but affection and adulation. The respect and esteem which are derived from H.R. 49-059 0-95

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1175 as passed by the House on March 13, and section 336 and part G of title III of S. 578, the proposed Persian Gulf War Veterans' Assistance Act of 1991, which, as an amendment to the text of H.R. 1175, passed the Senate on March 14.

The provisions of the compromise agreement include provisions derived from S. 386 as reported by the committee on February 26, which in turn were derived from S. 386 as introduced by the Senator from Massachusetts [Mr. KENNEDY] on January 31 and S. 386 as introduced for me by the Senator from Arizona [Mr. DECONCINI] on February 6.

Mr. President, as I indicated in my remarks regarding S. 578 on March 13, this measure reflects the Senate's deep concern that the Nation fully honor its obligations to the brave men and women in uniform who so brilliantly and effectively fought in and supported Operation Desert Storm. It is now our responsibility to ensure that we express in meaningful, tangible, and appropriate ways to those who served our Nation so well our gratitude and commitment. I believe that the Senate is doing just that, and I seek your support of these provisions as well.

As I pointed out in my March 13 statement, beginning on page S3166, however, this measure does not complete our efforts with regard to veterans' programs this year. Although this measure is a good step forward, there is much more on the veterans' agenda this year to be accomplished for Persian Gulf veterans and all other veterans. For example, the agenda must include adequate funding for VA health care and benefits administration services for fiscal year 1992—with both areas requiring increases above the President's request. Other important matters include the reform of the disability and indemnity compensation for survivors of those who die from service-connected causes, an updating of the Veterans Reemployment Rights law, and a further review of the Sol­diers' and Sailors' Civil Relief Act of 1940, attention to the needs of veterans with post traumatic stress disorder, and the plight of homeless veterans. These and other issues will command our attention this year as we seek to ensure that the Nation fulfills its obligations to the new veterans of the Persian Gulf period and to the veterans who have fought earlier wars and kept America free and strong over the past decades.

In this spirit, I am very pleased to bring before the Senate today the veterans' benefits provisions in part C of title III of the pending measure.

Today of the provisions of the compromise agreement is described authoritatively in the explanatory statement accompanying the compromise agreement, and because I elaborated on many of the provisions being considered today in my statement in the March 13 RECORD—as corrected on March 17 in my statement beginning on page S3340—I will provide only a summary of those provisions at this point and then discuss certain key elements of this measure.

SUMMARY OF VETERANS' PROVISIONS

Mr. President, this measure contains provisions which would extend to veterans of service during the Persian Gulf conflict the same eligibility for benefits and services as are available to the veterans of other periods of war; increase the amounts of Montgomery GI bill education assistance benefits; improve laws related to the reemployment rights of reservists called to active duty; and increase the maximum amount of servicemen's group life insurance.

Specifically, Mr. President, title III, C contains substantive provisions that would:

First, add to defined periods of war for title 38 purposes the Persian Gulf war, which would be defined as the period beginning August 2, 1990, the date that Iraq invaded Kuwait, and ending on a date to be determined by Presidential proclamation or by law.

Second, provide that service during the Persian Gulf period satisfies the service requirements for eligibility for the VA pension program—a needs based benefit for wartime veterans who have non-service-connected disabilities rated totally disabling and the needy survivors of wartime veterans.

Third, make applicable to Persian Gulf period veterans the presumption, for VA medical care purposes, that an active psychosis occurring within 2 years after a veteran's discharge or release from active military service that included service during a period of war is service connected.

Fourth, for Persian Gulf period veterans, reduce from 180 days to 90 days the minimum active duty service requirement for eligibility for outpatient dental services for treatment of a dental condition or disability which is service connected but not compensable in degree.

Fifth, provide Persian Gulf period veterans with the same eligibility for medicines for VA that veterans of other periods of war have when they are receiving additional VA service-connected disability compensation, or increased VA non-service-connected disability pension, by reason of being permanently housebound or in need of regular aid and attendance.

Sixth, extend entitlement to VA readjustment counseling to post-Vietnam era veterans who served on active duty in a war area in which, as determined by the Secretary of Veterans Affairs in consultation with the Secretary of Defense, members of the Armed Forces are subjected to danger from armed conflicts comparable to the dangers of combat with enemy armed forces during a period of war.

Seventh, require that the Secretary of Defense and the Secretary of Veterans Affairs each submit to the Congress two reports containing an assessment of the need for rehabilitative services for members of the Armed Forces who served in the Persian Gulf conflict and experience post traumatic stress disorder and the furnishing of treatment to those individuals.

Eighth, increase from $50,000 to $100,000 the maximum amount of service-connected group life insurance for veterans and reservists.

Ninth, provide for an increase in Montgomery GI bill educational assistance benefits for active duty servicemen and for reservists.

Tenth, provide for VA's Veterans' Advisory Committee on Education to include a representative of Persian Gulf veterans.

Eleventh, require employers to take affirmative steps to provide necessary retraining for persons being reinstalled to employment under the veterans' reemployment rights (VRR) law, codified in chapter 49 of title 38, as amended.

Twelfth, generally require employers to make reasonable accommodations for disabled persons being reinstalled under the VRR law.

Thirteenth, provide eligibility for VA housing loan benefits to veterans who served on active duty at any time during the Persian Gulf conflict and whose total service was for 90 days or more (which is the same period required for veterans of other war periods), provided that those veterans meet the minimum active duty service requirements in section 3102A of title 38.

INCREASE IN MONTGOMERY GI BILL BENEFITS

Mr. President, most active duty servicemen and reservists who participated in Operation Desert Storm are entitled to educational benefits under the Montgomery GI bill. There has been no increase in the MGIB rates since the program was enacted in 1984. The cost of attending a 4-year public college has increased by 45.2 percent over the last 6 years and overall inflation as measured by the Consumer Price Index has been 36.5 percent.

On March 14 of this year, I introduced legislation, S. 633, to provide an increase of approximately 40 percent in these benefits. Those who have worn the uniform in recent years and those who served in the Persian Gulf certainly deserve to have a GI bill rate increase so that their benefits are not so seriously eroded by inflation as they are becoming.

Due to budgetary constraints, the Senate leadership amendment to H.R. 1175 that passed the Senate on March 14 would have increased the MGIB benefits by only 3.4 percent.

I am pleased, Mr. President, that the compromise agreement contains a provision that will bring the 1984 educational assistance closer to the level in current dollars that was originally intended by Congress. To help address...
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the diminished purchasing power of MGIB benefits, the compromise agreement would, effective October 1, 1991, increase from $300 to $350 the monthly MGIB benefit for full-time study for those serving on active duty for 3 years or more (or on active duty and 4 years in the reserves) and from $250 to $275 for full-time study for those who serve just 2 years on active duty. A comparable benefit increase would be provided in the rates for GI bill benefits under chapter 106 of title 10 for reservists. This legislation would increase the monthly rate from $140 to $170 for full-time study under chapter 106.

The increases for both active duty members and reservists would be for fiscal years 1992 and 1993, would be subject to appropriations from the defense cooperation account. In subsequent years, the Secretary of Veterans Affairs would have the authority to continue the increased rates and to provide for cost-of-living increases. Funding for any increased rates in those years would come from the traditional sources.

ADDITION OF PERSIAN GULF WAR TO DEFINITION OF PERIOD OF WAR

Mr. President, the compromise agreement would establish the Persian Gulf war as a period of war for the purpose of determining a veteran's eligibility for various VA benefits. These benefits include need-based pensions, the presumption relating to psychosis, the furnishing of drugs and medicines to certain veterans, outpatient dental services, and certain home loan and burial benefits. As I noted in my remarks in the RECORD on March 13, the brave men and women who served during the Persian Gulf period deserve all of the benefits and services that this grateful Nation has extended to the veterans of other wars. Defining the Persian Gulf period for the purposes of the above-mentioned title 38 purposes is an essential part of recognizing the sacrifices made by these veterans.

The definition of period of war does not constitute a declaration of war on the part of the Congress. It is used to determine eligibility for the VA programs described above.

READJUSTMENT COUNSELING

Mr. President, I am very pleased that the compromise agreement contains the Senate provision, which I authored, to expand eligibility for readjustment counseling to veterans of the Persian Gulf war and other post-Vietnam era combat area veterans, such as those who served in Beirut, Grenada, Libya, and Panama. I have long sought to expand eligibility for readjustment counseling to veterans of the Persian Gulf war and other post-Vietnam era combat area veterans, such as those who served in Beirut, Grenada, Libya, and Panama. I have long sought to expand eligibility for readjustment counseling to veterans of the Persian Gulf war and other post-Vietnam era combat area veterans, such as those who served in Beirut, Grenada, Libya, and Panama.

Section 364(c) of the Senate amendment is similar to legislation that I introduced and which the Senate passed in the last two Congresses—in section 605 of S. 2011 as reported by the committee in August 1, 1988, and passed by the Senate on October 18, 1988, in H.R. 4741, and section 202 of S. 13 as reported by the Senate on September 13, 1989, and passed by the Senate on October 3, 1989, in H.R. 901. The administration had also requested legislation on such legislation in a January 29, 1991, letter from Secretary Derwinski. I am very pleased that the administration has recognized both the need among combat veterans for readjustment counseling and the value of the services provided at vet centers.

Readjustment counseling is provided primarily in 195 community based vet centers, which are small, easily accessible, and staffed to a great extent by combat veterans. The vet center model of easy accessibility and peer counseling has proven highly effective in attracting veterans who may need some psychological counseling but who would be reluctant to go the route of a mental hygiene clinic or psychiatric care at a VA hospital.

Though some have questioned the appropriateness or usefulness of opening up the vet centers to veterans of wars or eras other than Vietnam on the basis that the centers are a unique response to a unique, unpopular war, I strongly believe that the need for readjustment counseling exists among many veterans of other conflicts and that the vet centers provide an appropriate setting for them. The fact that approximately 7,000 World War II and Korean war veterans per year come to vet centers seeking help, as I am advised by VA is the case, certainly indicates that there is an unmet need among those veterans for the services provided at the vet centers. I believe that it would be most misguided, based on differences between Vietnam and other wars, to fail to recognize the basic value of vet centers and readjustment counseling to combat veterans.

Providing easy access to mental health care is particularly important in light of the current understanding, as noted in VA's testimony at the Veterans' Affairs Committee's July 14, 1988, oversight hearing on issues relating to post traumatic stress disorder (PTSD), that early intervention can ameliorate the severity and persistence of PTSD symptoms in an individual following exposure to a traumatic event. The vet centers provide the best VA opportunity for outreach and early intervention.

Mr. President, Secretary Derwinski, in his January 30, 1991, letter transmitting the administration's proposed legislation stated:

"The effectiveness of these unique [counseling and outreach] services, provided in community based "vet centers" is reflected in the high regard for them that has been expressed by veterans, family members, local community institutions, and the media.

Also, as the Secretary noted, vet centers—

Are expert in assisting veterans in finding the services they need, whether in the vet center itself, at another VA health care facility elsewhere in the community.

Secretary Derwinski also noted that readjustment counseling had been provided to over a million veterans and family members.

In VA's press release accompanying the Secretary's request for expanded readjustment counseling eligibility, Deputy Secretary Tony Principi, a Vietnam combat veteran, pointed out an additional advantage to Persian Gulf veterans of the expansion:

"Many of the vet center counselors are themselves combat veterans. They have the experience, compassion, and dedication to help these veterans early on during the sometimes difficult readjustment to civilian life."

Mr. President, the views offered by the leadership of VA regarding this issue are very much in line with my own and those of the Senate, which, as I mentioned, has passed similar legislation twice before. I look forward to the enactment of this provision.

IMPROVED REEMPLOYMENT RIGHTS FOR DISABLED VETERANS

Mr. President, the Veterans Reemployment Rights [VRR] law (chapter 45 of title 38, United States Code) provides that men and women who leave their civilian jobs to serve on active duty generally have the right to be rehired by their former employers. Under current law, if a veteran is no longer qualified to perform the duties of his or her previous position by reason of a disability sustained during reserve training or active duty service, he or she must be offered any other position in the employ of the employer for which he or she is qualified and which will provide like seniority, status, and pay, or the nearest approximation of the previous position.

To improve protections for disabled veterans, the Senate Committee on Veterans' Affairs adopted a provision—originally proposed by the Senator from Massachusetts [Mr. KENNEDY] and included in the Senate passed bill—to require employers to make "reasonable accommodation" for the reemployment of such veterans. For purposes of this provision, the term "reasonable accommodation" would have the meaning provided in the Americans with Disabilities Act of 1990 [ADA].

In House-Senate negotiations regarding this provision, the House was willing to accept it with two amendments. The first would clarify, as under the ADA, that an employer would not be required to make accommodations that would impose an "undue hardship" on the operation of the employer's business.

The second amendment would exempt, in the same way that the ADA does, certain small employers, Federal
agencies, and tax-exempt membership organizations. I would prefer not to have these exemptions. I believe that the "undue hardship" exception deals adequately with the concerns of small employers because it requires employer size and resources to be taken into account in determining whether the making of reasonable accommodation to an employee's disability would cause an undue hardship. However, the House was adamant and I was unable to convince the House to yield on this point. Ultimately, in order to have the reasonable accommodation provision enacted in this measure, we had to incorporate the limitations of the ADA on the scope of this provision.

As under the ADA, until July 26, 1994, the requirement of reasonable accommodation would apply only to employers who have 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year. After that the requirement would apply to those who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

Mr. President, by including this provision in the compromise agreement, even with these limitations, we are now obtaining for many disabled Persian Gulf veterans and others covered by VEBR the right to reasonable accommodation, which does not go into effect under the ADA for 16 more months—until July 1992.

Nevertheless, Mr. President, I am concerned that disabled veterans seeking to return to jobs with small employers will not have the clear right to reasonable accommodation even where it would not result in an undue hardship. It is my intention to revisit this issue in the development of VEBR revisions this spring. I have scheduled Veterans Affairs Committee hearings on this subject for April 16, 1991.

LIFE INSURANCE BENEFITS

Mr. President, the compromise agreement provides, in the Senate bill, the maximum amount of coverage under the service- men's group life insurance and veterans' group life insurance—the SGLI and VGLI Programs. These programs provide low-cost group life insurance to active duty servicemen and veterans, and well over 90 percent of active duty servicemen participate in the SGLI Program. These programs are generally self-supporting. In times of peace, the premiums paid by insured servicemen, which are based on actuarial calculations, cover the cost of benefits. In times of war, the Department of Defense bears the cost of death benefits that are due to the extra hazards of conflict.

Mr. President, the Senate bill would have increased this insurance. The House bill contained no such increase. The program is clearly within the jurisdiction of the Veterans' Affairs Committees.

A related provision, in the jurisdiction of the Armed Services Committee, would provide for a retroactive death gratuity payable by the Department of Defense to the survivors of certain servicemen who died between August 1, 1990, and the date of enactment. The amount of the gratuity would equal the amount of the individual's insurance coverage at the time of death. Thus, the maximum gratuity would be $50,000.

In the bill now before the Senate there is symmetry in that, regardless of the date of the servicemember's death, the maximum total payment will be $100,000.

There is, however, one regrettable aspect of this outcome. It breaches an agreement that the Veterans' Affairs Committees of the House and Senate reached in negotiations regarding the programs within our committees' jurisdiction. The Veterans' Affairs Committees had split the difference between the $50,000 insurance increase in the Senate bill and the absence of an increase in the House. Thus, our proposed compromise increase was $25,000—from $50,000 to $75,000. The pending measure does not reflect that agreement; rather, it increases the maximum to $100,000.

Mr. President, in our negotiations with the House, we worked out a fair compromise on a range of issues. Although not totally pleased with all outcomes, I am satisfied that the overall result vindicated the Senate's position.

However, this one issue is being taken out of the Veterans' Affairs Committee control and the agreement we reached with the House is not being honored. I understand the leadership's reason for doing this—which is to make the two related benefits consistent. But, I am concerned about eroding our committee's jurisdiction and our agreement with our House counterpart. Moreover, Mr. President, I sincerely hope that this process does not imperil the swift enactment of this measure, which we all desire. Failure of the Congress to send this bill to the President before the 2-week recess begins would be a travesty.

CONCLUSION

Mr. President, in closing I express my deep appreciation to the distinguished chairman and ranking minority member of the House Committee on Veterans' Affairs, Mr. Montgomery and Mr. Stump, as well as the ranking minority member of the Senate committees, Mr. Glenn and Senator McCain, for their cooperation on this measure.

I also extend congratulations to Senators Glenn and McCain for their leadership of the bipartisan task force on Persian Gulf servicemen and veterans benefits, on which I was pleased to serve.

Mr. President, I also note the very fine work of the staff of the House Committee on Veterans' Affairs—Jill Cochran, Greg Matton, Ralph Ibsen, John Brizzi, Kingston Smith, Pat Rodgers, and Mack Fleming—on this measure.

I am also grateful for the contributions of the Senate Veterans' Affairs Committee staff members who have worked on this legislation—on the minority staff, Todd Mullins, Carrie Gavora, Scott Waittlevetch and Doug Loon; and on the majority staff, Janet Coffman, Brett Hansard, Kim Morin, Shannon Phillips, Michael Cogan, Chuck Lee, Susan Thaul, Thomas Tighe, Michael Burns, Bill Brew, and Ed Scott.

Our two committees received excellent assistance from staff of the offices of legislative counsel—Charlie Armstrong and Gregg Scott in the Senate and Joe Womack and Bob Cover in the House.

Mr. President, it is important to our dedicated men and women in uniform, many of whom now are serving their country and are being recently activated as reservists, that we show our support and that we do all we can to provide them with benefits equal to those provided service personnel in other periods of war and appropriate to the circumstances of the Persian Gulf conflict. Thus, I urge the Senate to give its unanimous approval to the pending measure.

Mr. President, the Armed Services Committee leadership has developed an overall explanatory statement on the compromise measure, which includes materials on the veterans provisions that were derived from material developed by the two Veterans' Affairs Committees. However, so that the record will include the specific views of the two Veterans' Affairs Committees, I ask unanimous consent that an explanatory statement on the provisions in title III-C that was developed by the two Veterans' Affairs Committees appear at this point in the RECORD.

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

EXPLANATORY STATEMENT ON TITLE III-C: VETERANS PROGRAMS

The Committees on Veterans' Affairs of the Senate and the House of Representatives have agreed on the following version of title III-C of the compromise agreement reflected in S. 725. Differences between the provisions contained in title III-C (hereinafter referred to as the "Senate amendment") and the related provisions in the House-passed version of H.R. 1175 (hereinafter referred to as the "House bill"), and the related provisions in the Senate amendments of H.R. 1175 (hereinafter referred to as the "Senate amendment") are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.
DEFINITION OF PERIOD OF WAR
Current law: Section 101(11) of title 38, United States Code, defines the term "period of war" as including the Spanish-American War, the war against Mexico in 1914, World War I, World War II, the Korean conflict, the Viet­nam era, and the period beginning on the date of any future declaration of war by Congress and ending on the date prescribed by Presiden­tial proclamation or concurrent resolu­tion of Congress.

House bill: Section 301(a) would add to the definition of "period of war" the "Persian Gulf War"; the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

Senate amendment: Section 302 is substanc­ially identical to the House provision.

Compromise agreement: Section 332 con­tains this provision.

RETENTION ELIGIBILITY
Current law: Section 233(b) of title 38, as amended, provides that the Secretary of Vets­erans Affairs may authorize the retention of a veteran in the reserve component for 180 days following release from active duty service, if he or she is determined to be essential to the effective treat­ment and readjustment of the veteran. In ad­dition, VA has authority to provide the counselling and related mental health servic­es needed as a result of the veteran's service­related disability.

Section 612B of title 38 authorizes the Sec­retary to establish a program to furnish VA counselling to veterans who are former pris­oners of war or who served in a theater of combat (as defined by the Secretary of Defense) after August 2, 1990, to assist the veteran in overcoming any psychological problems of the veteran associated with such service.

Senate amendment: Section 364(c) would amend section 612A so as to expand eligibility for readjustment coun­seling and other services under that section to include veterans who served on active duty after May 7, 1975, in areas that were subject to danger from armed conflict comparable to that occurring in battle with an enemy during a period of war as determined by the Secretary of Veterans Affairs in consultation with the Secretary of Defense.

Compromise agreement: Section 334(d) fol­lows the Senate amendment.

REPORTS BY SECRETARY OF DEFENSE AND SECRETARY OF VETERANS AFFAIRS CONCERNING SERVICES TO TREAT POST-TRAUMATIC STRESS DISORDER
House bill: Section 303(g) would require the Secretary of Defense and the Secretary of Veterans Affairs each to submit to the Con­gress two reports providing (1) an assessment of the need for rehabilitative services for members of the Armed Forces who partici­pated in the Persian Gulf conflict who expe­rience PTSD; (2) a description of the avail­able programs and resources to meet those needs; (3) the specific plans of each Secretary to provide treatment for PTSD, particularly with respect to any specific needs of mem­bers of reserve components; (4) an assess­ment of the need for additional resources in order to carry out such plans; and (5) a de­scription of any plans of either Secretary for PTSD services with the other Depart­ment.

The first reports would be due not later than 90 days after enactment of this measure and the second, a year later.

Senate amendment: No provision.

Compromise agreement: Section 338 fol­lows the House bill.

INCREASE IN SERVICEMEN'S GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE MAXIMUMS
Current law: Subchapter III of chapter 19 of title 38 sets forth the Servicemen's Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) programs. Under that subchapter, the Secretary of Veterans Af­fairs is authorized to purchase from commer­cial life insurance companies a policy or policies of group life insurance to insure against death any active-duty service­men and veterans of war. SGLI provides coverage to active-duty service­men and veterans of war and VGLI provides coverage to veterans and reservists. Eligible service­men and reservists are automatically covered in the amount of $50,000 but United States personnel were subjected to non-participation in the program at all. Pre­mium payments for SGLI are deducted each month from the basic pay of service­men and are calculated without regard to the extra hazards of active duty service. SGLI
coverage is provided free of charge for 120 days following separation from active duty. After separation from active duty, veterans who participate in the Veterans Group Life Insurance (VGLI) program under the five-year term program may obtain individual life insurance at the standard rate. At the end of the five-year term, the veteran has the right to continue the individual life insurance policy at a cost determined by VA. Veterans may continue the individual life insurance policy under the SGLI program.

Section 366(b) would increase the amount of monthly chapter 106 payments by $200 for full-time study, $100 for three-quarter-time study, and $50 for half-time study. Effective Date: The increase would be effective October 1, 1991.

Availability of Appropriations: No provision.

Senate amendment: Section 336 would require employers to make reasonable accommodations to qualified individuals with disabilities. The amendment would authorize the Secretary of Labor to make grants to employers for training programs to train employees to perform the duties of their previous positions. The amendment would also authorize grants to individuals who are disabled and who are no longer qualified to perform the duties of their previous positions.

Enrollment for VA-Guaranteed Loans: No provision.

Current law: Under section 1823(a)(2) of title 38, VA guarantees loans to veterans. Veterans are authorized to use the VA-guaranteed loan to purchase a home, to obtain a home improvement loan, or to obtain a mortgage for a home. Veterans are also authorized to use the VA-guaranteed loan to purchase a home for their own use, to purchase a home for their family members, or to purchase a home for a non-family member.

Reasonable Accommodations for Disabled Veterans: Current law: Section 2021 of title 38 provides for reasonable accommodations for disabled veterans. The section authorizes VA to make grants to employers to train disabled veterans and to make reasonable accommodations for disabled veterans in the workplace. The section also authorizes VA to provide training to disabled veterans and to make reasonable accommodations for disabled veterans in the workplace.

Compromise agreement: Section 372 would require employers to make reasonable accommodations for disabled veterans in the workplace. The agreement would authorize VA to make grants to employers to train disabled veterans and to make reasonable accommodations for disabled veterans in the workplace. The agreement would also authorize VA to provide training to disabled veterans and to make reasonable accommodations for disabled veterans in the workplace.

Entitlement for VA-Guaranteed Loans: Current law: Under section 1823(a)(2) of title 38, VA guarantees loans to veterans. Veterans are authorized to use the VA-guaranteed loan to purchase a home, to obtain a home improvement loan, or to obtain a mortgage for a home. Veterans are also authorized to use the VA-guaranteed loan to purchase a home for their own use, to purchase a home for their family members, or to purchase a home for a non-family member.

Reasonable Accommodations for Disabled Veterans: Current law: Section 2021 of title 38 provides for reasonable accommodations for disabled veterans. The section authorizes VA to make grants to employers to train disabled veterans and to make reasonable accommodations for disabled veterans in the workplace. The section also authorizes VA to provide training to disabled veterans and to make reasonable accommodations for disabled veterans in the workplace.

Compromise agreement: Section 372 would require employers to make reasonable accommodations for disabled veterans in the workplace. The agreement would authorize VA to make grants to employers to train disabled veterans and to make reasonable accommodations for disabled veterans in the workplace. The agreement would also authorize VA to provide training to disabled veterans and to make reasonable accommodations for disabled veterans in the workplace.
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House bill: Section 306 would extend eligibility for home loan benefits to Persian Gulf War veterans whose total service is for 90 days or more and because of orders issued in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, the payment of chapter 36 benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance.

Senate amendment: Section 306(a) is substantially identical to the House provision.

Compromise agreement: No provision.

Chapter 32 Educational Assistance Program

Current law: Section 1671 of title 38 provides that eligible reservists are entitled for the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP) under chapter 32 are entitled to part-time educational assistance (or the equivalent in part-time assistance). Section 1795 limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

House bill: Section 306(b) would provide, in the case of a reservist or service member who, as a result of having to discontinue the pursuit of a course because of orders issued in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, that (1) the payment of VEAP benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance under VEAP Account for that individual would be restored to the amount that would have been in the fund for him or her if the payment had not been made.

Senate amendment: Section 306(b) is substantially identical to the House provision.

Compromise agreement: No provision.

Chapter 35 Educational Assistance Program

Current law: Section 1711 of title 38 provides that individuals who are eligible for the Survivors' and Dependents' Educational Assistance Program under chapter 35 are entitled to 45 months of full-time educational assistance (or the equivalent in part-time assistance). Section 1795 limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

House bill: Section 306(c) would provide that, in the case of a reservist or service member who, as a result of having to discontinue the pursuit of a course because of being called to active duty in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, the payment of chapter 36 benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance.

Senate amendment: Section 306(c) is substantially identical to the House provision.

Compromise agreement: No provision.

Chapter 106 Program for Reservists

Current law: Section 2133 of title 10 provides that individuals who are eligible for the chapter 106 MIIB program for members of the Selected Reserve are entitled to 36 months of full-time educational assistance (or the equivalent in part-time assistance), and (b) by reference to section 1795 of title 38, limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

House bill: Section 306(d) would provide that, in the case of a reservist who, as a result of having to discontinue the pursuit of a course because of orders issued in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, the payment of chapter 106 benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance.

Senate amendment: Section 306(d) is substantially identical to the House provision.

Compromise agreement: No provision.

IMPROVED EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE WHO SERVE ON ACTIVE DUTY DURING THE PERSIAN GULF WAR

Current law: Section 2131 of title 10 establishes the amounts of monthly educational assistance under the chapter 106 MIIB program as follows: (1) $140 for full-time study, (2) $105 for three-quarter-time study, and (3) $70 for part-time study.

Senate amendment: Section 367 would provide for payment to each member of the Selected Reserve who serves on active duty during the Persian Gulf War and who is entitled to chapter 106 benefits a monthly educational assistance allowance in the amount of (1) $270 for each month of active-duty service required by their call or order to active duty, (2) $250 for each month of service for three-quarter-time study, and (3) $135 for each month of service for part-time study.

Compromise agreement: No provision.

EXTENSION OF DELINQUENT DATE FOR EDUCATIONAL ASSISTANCE ENTITLEMENT

Current law: Section 2133 of title 10 provides that an individual's entitlement to the chapter 106 MIIB program of educational assistance for members of the Selected Reserve expires (1) at the end of the 10-year period beginning on the date of entitlement, or (2) on the date of separation from the Selected Reserve, whichever occurs first.

House bill: Section 307 would provide that any period of active duty served by a reservist in connection with the Persian Gulf War would not be considered as either a part of the 10-year eligibility period or a separation from the Selected Reserve for eligibility purposes.

Senate amendment: Section 368 is substantially identical to the House provision.

Compromise agreement: No provision.
tions involving a direct threat to life or property or other unusual circumstances.

House bill: No provision.

Section 375 would (a) permit the Secretary of Veterans Affairs to waive the requirements in sections 8344 and 8468 of title 5 of reductions in annuity payments to the Secretary of Veterans Affairs to waive provisions involving a direct threat to life or property or other unusual circumstances.

House bill: No provision. Senate amendment: Section 375 would replace the outdated reference in section 5011(b)(2)(A) with a reference to the correct provision, section 612(a).

Compromise agreement: No provision.

AUTHORITY TO CONTRACT FOR INPATIENT CARE UNAVAILABLE BECAUSE OF EMERGENCY CARE REQUIREMENT

Current law: During a period in which the Secretary of Veterans Affairs is furnishing medical care under section 1811 of title 38, during a period in which the Secretary of Veterans Affairs is furnishing medical care and services to members of the Armed Forces to meet emergency requirements, section 5011(b)(2)(B) of title 38 authorizes the Secretary to contract with private facilities for the provision of hospital care for a veteran who is receiving VA hospital care, or is eligible for VA hospital care and requires care in a medical emergency posing a serious threat to the veteran’s life and health. If VA facilities are not capable of furnishing the care the veteran requires because they are furnishing care to members of the Armed Forces.

House bill: Section 303(a) would authorize the Secretary to contract with private facilities for hospital care for all veterans entitled to hospital care under section 612(a)(1) of title 38 (known as “Category A” veterans).

Senate amendment: No provision.

Compromise agreement: No provision.

DIRECT LOAN BENEFITS

Current law: Section 1811 of title 38, the Secretary of Veterans Affairs is authorized to make direct loans to veterans living in areas where housing credit is not generally available to veterans for financing home loans which may be guaranteed under VA’s home-loan guaranty program.

House bill: Section 302 would (1) revise the basis on which DIC is paid so as to base the rates on the age of the veteran at the time of the veteran’s death, with the amount paid decreasing with the veteran’s age, and (2) in three increments, on October 1 of 1992, 1993, and 1994, increase from $68 to $200 the amount paid to surviving spouse for each dependent child.

Senate amendment: No provision.

Compromise agreement: No provision.

CONGRESSIONAL RECORD—SENATE

March 21, 1991

Mr. MURkowski. Mr. President, I am pleased to support S. 725, the House-Senate compromise on the benefits package for troops who served in the Persian Gulf. This benefits package will assist our military personnel who sacrificed a great deal in support of U.S. action in the Persian Gulf.

Mr. President, I do wish to express my concerns about certain provisions contained in the veterans' portion of the bill which relate to the Montgomery GI bill. Let me explain my concern.

This bill will increase monthly educational benefit payments under the Montgomery GI bill for active duty from $300 to $350 per month. This increase is provided to all participants in the program, not just those who served in the Persian Gulf. Therefore, I fail to see how this increase is related to the Persian Gulf war.

Further, under this program the beneficiaries are currently receiving exactly what they expected to receive and it's a pretty good deal. Under current law, a service member participating in the program has his/her pay reduced by $100 for 12 months. The Government then pays $300 per month for 36 months in educational benefits. This program was established in 1985 as a recruitment tool. No hearings have been held on the proposed increase and there is no evidence to indicate that such an increase is necessary to help recruitment efforts.

In addition, the bill increases the Montgomery GI bill benefit for reservists who serve for 6 years in the Reserves. Currently reservists receive $140 per month for full-time study if they elected to participate in the program and under this bill they will receive $170 per month for full-time study.
Again, with respect to reservists the same arguments apply. In order to receive the increase the reservist did not have to serve in the gulf nor even be called to active duty during the gulf crisis.

Mr. President, I am further troubled by these provisions because in order to pay for them certain other provisions which are specifically designed to help troops who served in the gulf are not included in the bill. For example, the House and Senate had passed provisions which provide that if a reservist was in a VA-paid educational program and was called to active duty in midsemester, that the semester would not be counted against the number of months the individual was eligible to receive the benefit. This seems to me a fair and just provision which would help those directly affected by Desert Storm. However, these provisions were dropped because we could not afford to pay for them due to the increase in the Montgomery GI bill benefit mentioned above.

I also object to the process by which this compromise was reached. I am disappointed that this agreement was reached without input from the Republican members of the Senate Veterans' Committee. I intend to work with my Democratic colleagues in the House and Senate as well as officials at the Office of Management and Budget to ensure that this does not occur again in the future.

Thank you, Mr. President.

Mr. SPECTER. Mr. President, as ranking minority member of the Committee on Veterans' Affairs and as a member of the Appropriations Committee, I would like to lend my full support to S. 725, a bill authorizing supplemental appropriations for Operation Desert Storm. This legislation is the result of a bipartisan effort of both the House and Senate. Congress has worked diligently to address the many issues brought to our attention during this remarkable time in history. This comprehensive legislation deals with these wide-ranging issues in a thoughtful and thorough manner.

Veterans' programs make up a significant portion of S. 578; $265 million of the total $655 million of this bill are allocated for veterans' benefits and programs. Included in the veterans portion of S. 578 is an increase in the benefits provided by the Montgomery GI bill Education Program, eligibility for VA pension, home loan benefits, certain VA medications, and readjustment services. These are but some of the benefits provided to veterans. I am greatly encouraged to see this legislation move forward and am proud to have played a part in its passage. I congratulate our President, Armed Forces, and the American people for their sacrifices and participation in a successful campaign to stop a very dangerous individual. Freedom is once again alive in Kuwait and America has played the leading role in seeing that this freedom was reborn.

S. 594—AWARDING OF CONGRESSIONAL GOLD MEDAL TO GEN. H. NORMAN SCHWARZKOPF

Mr. NUNN. Mr. President, on behalf of members and ranking minority member of the Appropriations Committee, I am pleased to inform the Senate that I am supported by the distinguished chairman and the leaders of both the Appropriations and Armed Services Committees in my efforts this year to support our returning service men and women. Not only will this bill provide benefits administered by VA, but it will increase the maximum amount of servicemen's group life insurance available to future service men and women. In addition, the survivors of service men and women serving in connection with Operation Desert Storm will receive increased compensation similar to the increases in life insurance. The new level of SGLI available to our men and women in uniform is $100,000.00, up from the previous level of $50,000. I feel this increased level of SGLI is very important given the current cost of living in America. This increased level of life insurance will bring our military community up to a more equitable level of coverage, and I believe the increased compensation to survivors will help ease the tremendous burden these individuals must bear.

Another significant portion of S. 578 is improved reemployment rights for service members returning from active duty to their former jobs. Among these strengthened reemployment rights is a provision protecting disabled service members and requiring employers to retrain employees if it does not present a significant burden to the employer. By protecting the jobs of returning military personnel and providing adequate adaptations for disabled employees, this portion of S. 578 is an important step toward providing equality for our returning service members.

I am greatly encouraged to see this legislation move forward and am proud to have played a part in its passage. I congratulate our President, Armed Forces, and the American people for their sacrifices and participation in a successful campaign to stop a very dangerous individual. Freedom is once again alive in Kuwait and America has played the leading role in seeing that this freedom was reborn.

S. 565—AWARDING OF CONGRESSIONAL GOLD MEDAL TO GEN. COLIN L. POWELL

Mr. McCAIN. Mr. President, I would ask if the distinguished chairman would allow statements of Senator WARNER and the Senator from Arizona to be printed in the RECORD.

Mr. NUNN. Mr. President, as such time as appropriate, the Senator from Virginia desires to give his statement from the floor of the Senate in full, and I shall define to the leadership of the Senate to determine at what time would be most convenient. But I do not intend to insert it in the RECORD as if read. I look forward to the opportunity of reading it, every single word.

The PRESIDING OFFICER. The Senator has that right.

Mr. WARNER. Mr. President, at such time as appropriate, the Senator from Virginia desires to give his statement from the floor of the Senate in full, and I shall define to the leadership of the Senate to determine at what time would be most convenient. But I do not intend to insert it in the RECORD as if read. I look forward to the opportunity of reading it, every single word.

The PRESIDING OFFICER. The Chair would inform Senators that what we have pending is a unanimous-consent request by the distinguished chairman of the Armed Services Committee, Mr. NUNN.

Is there objection? Without objection, the request is agreed to.

The bills, deemed read a third time and passed en bloc are as follows:

AWARDING OF CONGRESSIONAL GOLD MEDAL TO GEN. H. NORMAN SCHWARZKOPF

The bill (S. 594) to authorize the President to award a gold medal on behalf of the Congress to Gen. H. Norman Schwarzkopf, and to provide for the production of bronze duplicates of such medal for sale to the public, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 534

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

SECTION 1. FINDINGS.

The Congress finds that—
(1) General H. Norman Schwarzkopf, Commander-in-Chief, United States Central Command, has valiantly directed United States and coalition armed forces in Operation Desert Storm, culminating in the successful liberation of the nation of Kuwait pursuant to United Nations resolutions;
(2) The United States and coalition forces under the command of General Schwarzkopf quickly, decisively, and completely defeated
the fourth largest ground army in the world, while minimizing coalition casualties and collateral civilian damage;

(3) the United States and coalition forces under the command of General Schwarzkopf achieved the expected and justified objectives established by the President and the heads of State and governments of coalition forces;

(4) the victor of the Persian Gulf war and coalition forces successfully liberated the people of Kuwait, leading to greater stability and order in the region;

(5) the logistics train established to support Operation Desert Storm was fundamental to the success of the coalition effort; and

(6) General Schwarzkopf, together with his able staff and subordinate commanders, has led the men and women of the Armed Forces of the United States in an achievement unparalleled in United States military history.

SEC. 2. CONGRESSIONAL GOLD MEDAL

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to General H. Norman Schwarzkopf a gold medal of appropriate design in recognition of his exemplary performance as a military leader in coordinating the planning, strategy, and execution of the United States combat action and his invaluable contributions to the United States and to the liberation of Kuwait as Commander-in-Chief, United States Central Command.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter referred to in this Act as the “Secretary”) shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike bronze duplicates of the gold medal struck pursuant to section 2, under such regulations as the Secretary may prescribe, and may sell such bronze duplicates at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.

Medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS; EXPENDITURE OF PROCEEDS OF SALE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not to exceed $30,000 to carry out section 2.

(b) PROCEEDS OF SALE.—Amounts received from sales of duplicate bronze medals under section 3 shall be credited to the appropriation made pursuant to the authorization provided in subsection (a).

Mr. NUNN. Mr. President, this is a bipartisan effort. I think almost every member of the Armed Services Committee either cosponsored or sponsored this legislation giving the Banking Committee, really, in effect, a petition in theтем, to go to the Banking Committee to consider these bills to authorize the awarding of gold medals to outstanding Americans, to outstanding generals, General Schwarzkopf and General Powell.

The Banking Committee acted very promptly on this and these bills came out of the Banking Committee. So we really have cleared this with the Banking Committee, the Armed Services Committee as well as the Budget Committee.

I think it is a very special award. It is the highest award Congress can bestow on any individual. Very seldom in our history have we had these awards bestowed on any individual, and these are very deserving recipients, outstanding individuals and outstanding military leaders.

Mr. President, I am delighted to support these two bills, S. 534 and S. 555, that would award Congressional Gold Medals to the Chairman of the Joint Chiefs of Staff, and Gen. H. Norman Schwarzkopf, the commander in chief of the U.S. Central Command. I am pleased to have been an original cosponsor of both bills.

During the past few weeks, we have heard a great deal of well-deserved praise for the courage, skill, and professionalism of the men and women in our military services who served in Operation Desert Storm. I would like to take just a few minutes at this time to commend the leadership of General Powell and General Schwarzkopf—the two senior military officers most responsible for leading our Armed Forces during the Persian Gulf war.

The entire nation recognizes that General Powell and General Schwarzkopf made decisive contributions to the stunning success of Operation Desert Shield and Storm.

As the Chairman of the Joint Chiefs of Staff, General Powell serves as the principal military adviser to the President, the National Security Council, and the Secretary of Defense. On many occasions during the last 7 months, President Bush and Secretary Cheney have praised General Powell for his outstanding service in this demanding role. The same qualities of professionalism, integrity, and good judgment that have been evident to the President and the Secretary of Defense have been appreciated by Members of Congress.

Gen. Norman Schwarzkopf, the commander in chief of the U.S. Central Command, also deserves our deepest thanks and admiration for his service in the Persian Gulf. He and his subordinate commanders were responsible for planning and leading the execution of an extremely demanding operation. With the benefit of his experience in the Middle East and his personal determination to achieve the coalition's objectives, General Schwarzkopf and forces quickly and completely defeated Iraq with minimal coalition casualties and collateral civilian damage.

Mr. President, I would like to point out that both General Powell and General Schwarzkopf have served in significant leadership positions in the State of Georgia. Prior to becoming Chairman of the Joint Chiefs, General Powell served as commander in chief of the U.S. Forces Command, which is headquartered at Fort McPherson in Atlanta.

Earlier in his Army career, General Schwarzkopf commanded the 24th Mechanized Infantry Division at Fort Stewart, GA. Of course, that unit just played a significant role in Operation Desert Storm.

When the Armed Services Committee met to consider the Desert Storm supplemental authorization bill, the committee unanimously adopted a resolution urging the Senate Banking Committee to authorize Congressional Gold Medals for General Powell and General Schwarzkopf. Mr. President, I am very pleased that the Banking Committee and the full Senate have decided to take this action.

Since 1776, the Congress has authorized Congressional Gold Medals for more than 100 individuals and the American Red Cross. Many of these recipients have been military officers, including Gen. Matthew Ridgway, Adm. Hyman Rickover, Gen. Douglas MacArthur, and Gen. George C. Marshall. I believe that it is most appropriate that General Powell and General Schwarzkopf join this distinguished list of military heroes.

Mr. President, in authorizing these medals for General Powell and General Schwarzkopf, the Congress intends that these officers accept them on behalf of the thousands of military men and women who, under their leadership, planned and carried out Operation Desert Shield and Storm so successfully.

AWARDING THE CONGRESSIONAL GOLD MEDAL TO GENERAL NORMAN SCHWARZKOPF

Mr. WARNER. Mr. President, I enthusiastically join with Senator LOTT and my other colleagues in support of this bill to award the Congressional Gold Medal to Gen. H. Norman Schwarzkopf, the commander of our forces in the Persian Gulf and the architect of Operation Desert Shield and Desert Storm.

I believe that all my colleagues in the Senate agree that General Schwarzkopf's exemplary performance as our theater commander in the Persian Gulf merits special recognition. I have had the opportunity to meet with General Schwarzkopf on three trips to the Persian Gulf.

Despite the intensity of his responsibilities, General Schwarzkopf always found time to carefully and fully brief Members of Congress, who, designated by the leadership of the Senate and House, made trips to the Persian Gulf. This is an important added reason that Congress initiates this recognition.

These briefings, together with those held in Washington, set a new precedent for the consultative process between the executive and legislative branches that Congress has been seeking in furtherance of its constitutional responsibilities with the men and women of the Armed Forces.
After thorough research, I am convinced that the Congressional Gold Medal provided for in this bill is the most appropriate and fitting tribute we can bestow on this outstanding military commander.

General Schwarzkopf conceived a strategy, devised a plan and, through the extraordinary execution of his subordinate commanders and the troops under his command, achieved all the military objectives outlined by the military victory, endeared himself to the American people. His genuine and sincere concern for the welfare and safety for the troops under his command and their families at home was continually evident throughout the campaign.

His wife, Brenda, should be recognized also for her efforts in assisting the military families back home, in the finest traditions of the military community.

General Schwarzkopf’s ability to deal with our allied forces was also exceptional and contributed greatly to the extraordinary allied victory. In fact, we had better be careful. Based on some of their comments, I believe the British would like to steal our “Stormin’ Norman” from us.

So heartily concur in this bill to award the Congressional Gold Medal to Gen. Colin Powell and Gen. Norman Schwarzkopf, in particular.

Through the tragedy of Vietnam and the misdirected blame placed upon them, our military professionals fulfilled their duty. Through the years of budget cuts, and when many did not care, the brave men and women of our officer and noncommissioned officer corps kept the faith. The victory in the gulf is a testament to each and every one of them. For those of us that knew them, and knew what they were capable of, this victory, that has stunned the world, did not surprise us. All they ever needed was the freedom to do their duty.

Today, we honor the two men who led our forces to this stunning victory. They are representatives of the best of our Nation, and examples of the highest traditions of honor. They kept their sense of duty through the years when few in this country cared. They kept their people well trained and cared for when funds were scarce. Through the years they worked long hours, and accepted heavy responsibility, without recognition or added compensation. It was not status, or money that motivated General Powell and General Schwarzkopf; it was their sense of honor, and the fulfillment of their oath of office. General Powell and General Schwarzkopf were heroes long before Desert Storm.

As history records the genius of our Armed Forces in Desert Storm, many testbooks on strategy will be rewritten. The experience of General Powell to General Marshall and General Schwarzkopf to General Eisenhower. The brilliance of the tactics in Desert Storm and the deft handling of the most intricate diplomacy that kept a fragile coalition together will be discussed and dissected. That is right and proper. Generals Powell and Schwarzkopf have indeed showed the world how to win a war with incredible speed, and an incredibly low casualty figures. These generals have shown the world how to combine the most modern technology with the most ancient of leadership principles. They have shown the world how to defeat an enemy while under the watchful eye of an often suspicious world. They have shown the importance of the art of diplomacy and how to combine it with the art of war in the modern world. General Powell and General Schwarzkopf are well deserving of the honor we do them today, not just for this short event. We thank them today for courage and their duty to their Nation. We honor them today for the long years of work and sacrifice they have endured to be here when the United States needed them.

AWARDING OF CONGRESSIONAL GOLD MEDAL TO GEN. COLIN L. POWELL

The bill (S. 565) to authorize the President to award a gold medal on behalf of the Congress to Gen. Colin L. Powell, and to provide for the production of bronze duplicates of such medal for sale to the public, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

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

SECTION 1. FINDINGS.
The Congress finds that:

(1) General Colin L. Powell, the Chairman of the Joint Chiefs, the principal military adviser to the President, the National Security Council, and the Secretary of Defense has displayed an extraordinary degree of leadership, competence and professionalism fulfilling his statutory responsibilities throughout Operation Desert Shield and Operation Desert Storm.

(2) The leadership, competence and professionalism of General Powell and his subordinates, officers and noncommissioned officers, have instilled great confidence and pride in the Armed Forces of the United States which contributed significantly to the successful prosecution of the Persian Gulf War.

(3) General Powell and his subordinates brilliantly planned and coordinated at the national level the highly rapid and successful mobilization and deployment of more than one-half million men and women of the
Armed Forces of the United States to the Persian Gulf region.

(4) General Powell's leadership and foresight were directly responsible for insuring that sufficient military forces and logistics were committed to the foregoing operations in a timely manner to bring about a swift and decisive military victory with casualties and loss of life at levels so low as to be unprecedented in the annals of military operations by any nation.

(5) The superb coordination among allied forces and the unique and exceptional command arrangements which produced the highly effective chain of command within the unified coalition is directly responsible to the military competence, and extraordinary leadership of General Powell.

(6) As the principal military advisor to the President of the United States, the National Security Council, and the Secretary of Defense, General Powell's clear and foresighted assessments, judgments and recommendations were invaluable and instrumental in the timely and decisive military actions directed by the President which resulted in Iraqi compliance with all United Nations resolutions regarding the Iraqi invasion and occupation of Kuwait.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress to General Colin L. Powell a gold medal of appropriate design in recognition of his exemplary performance as a military leader and advisor to the President in planning and coordinating the military response of the United States to the Iraqi invasion of Kuwait and the ultimate retreat and defeat of Iraqi forces and Iraqi acceptance of all United Nations Resolutions relating to Kuwait.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter referred to in this Act as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike bronze duplicates of the gold medal struck pursuant to section 2, under such regulations as the Secretary may prescribe, and may sell such bronze duplicates at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.

Medals struck pursuant to this Act are national medals of the form of chapter 51 of title 3, United States Code.

SEC. 5. AUTHORIZATIONS OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not to exceed $30,000 to carry out section 2.

(b) PROCEEDS OF SALES.—Amounts received from sales of duplicate bronze medals under section 3 shall be credited to the appropriation made pursuant to the authorization provided in subsection (a).

Mr. WARNER. Mr. President, I rise today to introduce, on behalf of General Powell, the Chairman of the Joint Chiefs of Staff, who will be awarded the Congressional Gold Medal.

There are now 51 cosponsors to the bill I was privileged—and I underline privileged—to introduce on behalf of these cosponsors, a truly bipartisan representation in the U.S. Senate.

A separate bill has been introduced by Senator Lott which I, indeed, was privileged to cosponsor and both bills now have been favorably reported by the Banking Committee, which, incidentally, is the most important committee to which a gold medal of appropriate design in recognition of these distinguished American military citizens, Generals Powell and Schwarzkopf.

Congress has awarded the gold medal in the past, Mr. President, beginning with the first going to Gen. George Washington and, subsequently, John Paul Jones, and in more recent times, Generals Pershing of World War I fame, Generals Marshall, Eisenhower, and MacArthur, just to name a few of the great Americans throughout the history of our country who have received this high recognition.

General Powell is an extraordinary soldier, one who earned the accolade paid to only a few of his predecessors. He is truly a soldier's soldier. He is a commander who has risen to his present position by displaying at every single level unique leadership, perseverance, and toughness.

By his side has been his most loyal and faithful wife, Alma. I remember her very well at the time the Senate Armed Services Committee held hearings in connection with his current post as Chairman of JCS.

Mr. President, General Powell was born in New York City on April 5, 1937, and was raised in the South Bronx section of New York City. He graduated from the City College of New York in 1958 and was commissioned a second lieutenant in the regular Army through the Reserve Officer Training Corps Program.

This is an interesting footnote in history. It indicates that the Army today gives full and equal opportunity to the entire officer corps. Their ability to rise through the ranks is predicated on their ability to lead and instill confidence in others and to otherwise meet the very high requirements of military professionalism.

I recall reminiscing once with General Powell about how proud he was of his parents, who had instilled in him the confidence that he could succeed, and indeed he has succeeded.

I remember his saying that when he became a second lieutenant in the Army his salary was higher than the salary his father was then earning. Nevertheless, he was very proud of his parents. He came from a very fine family background.

I have had the opportunity to work very closely with General Powell, particularly during this Persian Gulf operation. On several occasions, my distinguished colleague and friend, Senator Nunn, and I have had breakfast with General Powell and the Secretary of Defense. He has been present at a number of the briefings where the President has sent either the Secretary of Defense, General Powell, or others to brief the Senate.

As I have watched him, he is always very conscious of the family role in the military professional life—be it officer's or enlisted man's. It has been, throughout, in conflict in the gulf, the steadfast resolution and support of the families back here at home, and loved ones and others, which has meant so much to those who have been sent abroad in this military operation. I know that from firsthand experience, having visited with many of these young men and women during the course of my visits to the gulf in the past few months.

General Powell has had an illustrious military career. He chose the infantry, which in many respects is the most challenging of the specialties offered by a military career. He had two combat tours in Vietnam. He commanded units from the company level all the way up to U.S. Forces command. He is truly the kind of example we have long sought for the youth of our country to emulate.

He is a decorated combat soldier, very modest about his combat decorations, including the award of the Purple Heart. In addition, because of his calm but decisive manner, he has helped increase the confidence of the American people in our Armed Forces at this particularly critical time of the gulf operation.

Under the leadership of our President, we brought together 27 other nations who led the effort in the United Nations, so that this was truly a multinational defense force dedicated solely to liberating the Kuwaiti people who were attacked and oppressed by Sad­ dam Hussein, particularly only that their freedom be restored. This has been achieved. This man was the leader.

In many ways, it is almost providential that at the beginning of this conflict, we had in place—from the President to the Secretary of Defense, General Powell, General Schwarzkopf, and all the subordinate commanders—these fine, outstanding Americans to lead this combat force.

But, in addition to leading the combat force, they instilled a sense of confidence in the American people that if our military were given the opportunity to exercise their professional judgment, we would succeed. And, indeed, we did.

The President, in this operation—and I said this on the floor of the Senate early in the fall—made a key decision, a decision that was influenced by the passage of the Goldwater-Nichols Act, that he had in place the finest of mil­
military commanders. He relied on their professional skills and knowledge to a greater degree than any previous President. It was a new thing in the history of this country. Not that he surrendered, in any way his role as Commander in Chief, the traditional role of civilian control of the military. Throughout, that was maintained. I witnessed it firsthand in many meetings in the White House, and a number of meetings in the office of the Secretary of Defense throughout this conflict.

But the decision was made to let the commanders, from General Powell and Medal, the current head of Joint Chiefs, to the last corporal, to the seaman petty officer, to make those decisions, because they were well-trained and well-equipped. And in the end, it was that professionalism, together with the support at home, that carried the day.

General Powell has said of himself: "I just try to do my job, and that is all I ever tried to do from the day I was commissioned until the day I became Chairman of the Joint Chiefs of Staff.

One of my principal aides, former military officer, a combat decorated officer from Vietnam, had a son who served in the gulf in the enlisted ranks. He once said to me: "I have less concern because General Powell is the Chairman of the Joint Chiefs—less concern about my son." And I think that feeling was instilled in many military families.

An award of the Congressional Gold Medal is most appropriate because it is unprecedented in history: the relationship between the executive branch and the legislative branch; the cooperation that we have had at all times during this conflict; the consultative process instituted by the President; the briefings instituted by the Secretary of Defense and General Powell for the Congress. So, in part, this is a recognition by Congress of their establishing new precedents in terms of relationships of the two branches.

In drafting this legislation and in working with Senator Lott on the companion bill for General Schwarzkopf, we were very careful to point out that these two officers accepted these recognitions on behalf of everyone: The Department of the Army, the Department of the Air Force, the Marine Corps, the Coast Guard, and all others who served under their command.


One of the last heroic moments of the Gulf War was the story of Fusilier Gus Pagonis, who displayed an extraordinary brilliance, together with his subordinates, in providing for the logistics.

But I mention this because this is an award that will be accepted by these two outstanding Americans on behalf of all who served in the gulf under their command.

Mr. President, I ask unanimous consent to have printed in the Record General Powell's biographical resume and an article from the Washington Post of February 25, 1991, entitled "Colin Powell, Before History Tapped." There being no objection, the material was ordered to be printed in the Record.

GENERAL COLIN L. POWELL, CHAIRMAN OF THE JOINT CHIEFS OF STAFF

General Colin L. Powell was appointed the twelfth Chairman of the Joint Chiefs of Staff, Department of Defense, by President George Bush on October 1, 1989. In this capacity, he serves as the principal military advisor to the President, the Secretary of Defense, and the National Security Council. Prior to his current assignment, General Powell served as Commander in Chief, Forces Command, headquartered in Atlanta, Georgia. He also served as Assistant to the President for National Security Affairs from December 1987 to January 1989.

General Powell was born in New York City on April 5, 1937, and was raised in the South Bronx section of New York. He graduated from the City College of New York in 1958, and was commissioned a Second Lieutenant in the Regular Army through the Reserve Officer Training Corps program.

After finishing Infantry Officer's Basic Training, and Ranger and Ranger Schools, he was assigned to Germany, where he served as a Platoon Leader, Executive Officer and Rifle Company Commander. General Powell went to Vietnam in late 1962, and served as an Advisor to a Vietnamese Infantry Battalion.

General Powell returned to Vietnam in 1965, serving as an Infantry Battalion Executive Officer and Assistant Chief of Staff, G-2, 23rd Infantry Division (Americal). In 1971, he earned a Master of Business Administration Degree from George Washington University. In 1972, General Powell was selected to be a White House Fellow, and served his fellowship year as Special Assistant to the Deputy Director of the Office of the President.

In 1973, he assumed command of the 1st Battalion, 5th Infantry, 1st Infantry Division. Upon completion of the National War College in 1976, he assumed command of the 2d Brigade, 101st Airborne Division (Air Assault) at Fort Campbell, Kentucky.

In 1977, General Powell returned to Washington to serve in the Immediate Office of the Secretary of Defense. For a brief period in 1979, he served as Executive Assistant to the Secretary of Energy.

In 1981, General Powell became the Assistant to the Chairman of the Joint Chiefs of Staff, and the Joint Forces Command, 4th Infantry Division (Mechanized), Fort Carson, Colorado. In 1983, he returned to Washington to serve as Senior Military Assistant to the Secretary of Defense, Caspar W. Weinberger. In July 1986, he assumed command of the U.S. Corps in Frankfurt, Federal Republic of Germany.

Army awards and decorations include the Defense Distinguished Service Medal with two Oak Leaf Clusters, the Distinguished Service Medal (Army), the Defense Superior Service Medal, the Legion of Merit with Oak Leaf Cluster, the Soldier's Medal, the Bronze Star Medal, the Air Medal casually on their sides. They were just another group of second lieutenants going through a rite of military manhood, untested in real battle. But in their ranks were two future three-star generals and two future four-star generals. And standing in the rear row was Colin L. Powell, now chairman of the Joint Chiefs of Staff and the country's highest-ranking military officer. Then he was looking around a .50-caliber machine gun because he was one of the biggest guns in the room.

Gen. Powell is part of our collective psyche now, a looming figure in medals or fatigues, a constant and authoritative voice in the news. The Gulf War, the first Gulf War, in 1990—later, in an infantry course in 1994—are scattered around the country in retirement or posted around the world on active duty. They watch their old colleagues on television and recall when they huddled in their ponchos with only a candle for warmth in the Chahhoochee National Forest.

These men remember those years with fondness. They speak of the Powell they knew as an outstanding leader who still had a regular guy, yet, with a healthy quotient of intelligence, charisma and spunk. He was a friendly, smiling, easygoing man to be around for you can never call him an easy man, but he was a man who could have a good time. Colin looked in the door, introduced himself and we have been friends ever since," says Romney.

Many of these medals and decorations would be their lives. Not so Powell. A native of New York City, he was 21 years old in August 1968 when he reported to Fort Benning. He had a
Bachelor's degree in geology from the City University of New York and joined the Reserve Officer Training Corps (ROTC) when the New York Rifles Club caught his attention. "At that time I never even thought seriously about staying in the Army. My parents expected that, like most young men going into college, I would serve them about two years... and then come home and get a real job," he has said.

In July before the buildup for the Vietnam War, Fort Benning was a massive, hectic place. And there was a universal look and look among the 186 soldiers reporting for basic. "They had a white name tag, black and yellow "U.S. Army" over our heart, the golden cross rifles and second lieutenant's commission. And we threatened him -'this is our Ranger unit', you have to serve him. We could not give the bumper sticker and New York license plate," says McCaffrey, a retired lieutenant colonel and chairman of an insurance brokerage firm in Gaithersburg, was assigned to Fort Benning in 1959.

In the infantry group, people stood out for their character to accept those gold medals on behalf of all those who served. Mr. LOFT. Mr. President, I am proud today to say that I have 56 cosponsors of this legislation. We moved it in less than 2 weeks.

There is no question that men and women in the continental United States, throughout the world, and particularly in the Persian Gulf, all did an outstanding job in Desert Storm. We had outstanding leadership, but the success really reaches down to the lowest enlisted man or woman. We cannot award every one of those men and women properly with the Congression Gold Medal, but on their behalf we can recognize the leadership that did such a magnificent job.

There is a counterpart bill sponsored by the distinguished Senator from Virginia regarding General Powell, and certainly General Schwarzkopf, two outstanding Americans. It is in character, if not context, to this legislation. We moved it in less than 2 weeks. It has very strong bipartisan support.

The infantry career course required long distances, tough competition. Powell belonged to a study group with three other men and finished the course in the honors section. He is remembered, not as a star, but the man who didn't show up. "He wasn't a springbok, the one who always wanted to jump up and answer the question. Or, when the instructor didn't show up, he would ask a question," remembers retired Col. Kenneth Montgomery, a defense industry analyst in Huntsville, Ala.

In the infantry career course, Powell was caught up with one another in the Pentagon. Powell was military assistant to the secretary of defense; Dawkins was deputy director of the Army's strategy, plans and policy unit. "And it was a big organization like that, Colin could and did speak for the secretary in some areas. I would meet him in his office or in his grandmother's house, been to the schoolmaster," says Dawkins. "He displayed the kind of virtuosic mastery of the political complexities of the Pentagon that is rare.

In other ways, as he has risen to the top, Powell has demonstrated that Benning ties are still important. Just a couple of years ago William McCaffrey attended a speech Powell gave to the Detroit Economic Club. "Afterwards, there was a brick wall of folks; 1,000 people were at the lunch. He hugged me and said, 'Mac, how are you?' It made me feel good. Then we started talking about his Ranger days and how the two of us always had to carry the machine gun because we were 6-3 and 6-4."

\[CONGRESSIONAL RECORD-SENATE\]

March 21, 1991

Mr. SMITH. I would like to associate myself with the remarks of the Senator from Virginia regarding General Powell, and certainly General Schwarzkopf, two outstanding Americans. It is in character, if not context, to this legislation. We moved it in less than 2 weeks. It has very strong bipartisan support.

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In other ways, as he has risen to the top, Powell has demonstrated that Benning ties are still important. Just a couple of years ago William McCaffrey attended a speech Powell gave to the Detroit Economic Club. "Afterwards, there was a brick wall of folks; 1,000 people were at the lunch. He hugged me and said, 'Mac, how are you?' It made me feel good. Then we started talking about his Ranger days and how the two of us always had to carry the machine gun because we were 6-3 and 6-4."

\[CONGRESSIONAL RECORD-SENATE\]

March 21, 1991

Mr. SMITH. I would like to associate myself with the remarks of the Senator from Virginia regarding General Powell, and certainly General Schwarzkopf, two outstanding Americans. It is in character, if not context, to this legislation. We moved it in less than 2 weeks. It has very strong bipartisan support.

There is no question that men and women in the continental United States, throughout the world, and particularly in the Persian Gulf, all did an outstanding job in Desert Storm. We had outstanding leadership, but the success really reaches down to the lowest enlisted man or woman. We cannot award every one of those men and women properly with the Congressional Gold Medal, but on their behalf we can recognize the leadership that did such a magnificent job.

There is a counterpart bill sponsored by the distinguished Senator from Virginia regarding General Powell, and certainly General Schwarzkopf, two outstanding Americans. It is in character, if not context, to this legislation. We moved it in less than 2 weeks. It has very strong bipartisan support.

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CONSULTING SERVICES

Mr. PRYOR. Mr. President, it is spring, finally, and it is that time of the year when we in Washington once again begin turning our attention to the subject of the Federal budget.

The Appropriations Committee and subcommittees are meeting to begin working with administration officials on what the spending levels will be for the next fiscal year. The Budget Committee is crunching numbers. Economists from everywhere are coming out of the woodwork, appearing before the proper committees, to prognosticate on what the federal situation is going to be in the coming year.

Mr. President, I urge my colleagues this afternoon to consider one component of the Federal budget that I think receives far too little attention; namely, how much is our Government spending on consulting services?

Mr. President, for 12 years, I have asked myself this question. I have gotten the answer: We do not know. The Office of Management and Budget does not know that figure. The Congressional Budget Office does not know that figure. And yet agencies go on spending and spending and spending on private consultants and consulting firms from a seemingly open money sack.

Mr. President, let me give you one example, just one of the type of activity that is going on every day throughout the entirety of the Federal Government.

Last summer, the Peace Corps, a fine institution, and the Agency for International Development, decided they really needed to begin cooperating more in their efforts, since they both worked in the less developed countries and other similar jobs, similar missions. And it only makes sense, they decided, for them to better cooperate.

Mr. President, did the Director of the Peace Corps and the Administrator of the Agency for International Development pick up the phone and call each other to set up a meeting to see how this new spirit of cooperation might be implemented? The answer is "no." Did anyone from either staff of the Agency for International Development or the Peace Corps, Mr. President, decide maybe we should get together and at least talk by phone to see how we might best coordinate our efforts? That answer, Mr. President, is "no."

What actually happened and what actually happened is very simple, and it is what a lot of agencies in our Government really need to sit down with one another and talk, and plan their objectives, and coordinate their efforts. And they do not need to hire consultants to tell them what to do. They do not need to hire consultants to tell them what to do. They do not need to hire consultants to tell them what to do. They do not need to hire consultants to tell them what to do.

The cost of that contract, Mr. President, to get these two agencies talking to each other was $100,000. Was there any competition in that bid? We do not know. But we do know that the Agency for International Development and the Peace Corps had never even thought of hiring a consulting firm to perform this liaison or go-between service until this private consulting firm.

Mr. President, for $100,000, and today I assume that the Peace Corps and the Agency for International Development are now talking to each other. But I find it impossible to understand why the American taxpayer had to fork over $100,000 to a private consultant so that two Federal agencies committed to the same tasks could talk to each other. It is beyond this Senator's comprehension.

Mr. President, we went a little further into this contract. This is just a $100,000 contract. In fact, there are hundreds and hundreds and perhaps thousands of contracts that are worse than this. But we decided we would take this contract and look at it. They decided to have some meetings between the Agency for International Development and the Peace Corps officials. Who prepared all of those meetings? The answer is simple. The consulting firm.

Mr. President, we found some interesting memos to high-ranking agency officials going back and forth between these two agencies to tell them what to say to their counterparts at the other agency. Who prepared all of those memoranda that were circulated between these two agencies? The answer is simple. The consulting firm.

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I am convinced that the best way to avoid these potential conflicts of interest and to avoid the contracting out of work that can and should be performed by Government employees is for all of us to use common sense.

Mr. President, the cycle is about to begin—the authorization committees and the appropriations committees, the budget resolutions and reconciliation. I am only hoping, before we appropriate money for any agency or any department or any function of Federal Government, we will exercise the good judgment to simply ask how much they are spending on consultants, why do they need to hire consultants in the first place, and is this contract really necessary. Before agency officials call down to the contract office and order a consulting contract to be written, they could and should ask: Is this a job we can do ourselves?

Mr. President, some contracting out may save money for the taxpayer, and that is good. However, I am not convinced that contracting out like this AID-Peace Corporation type of contract ultimately saves money or is a good idea at all. Today I am urging agency officials and the proper committees in the Senate and the House involved with contracting to ask: Is this contract really necessary? This simple step may well save the taxpayers some dollars, and I think it will save our Government some additional embarrassment.

UNITED STATES-JAPAN TRADE RELATIONS

Mr. Pryor. Mr. President, I have heard two eloquent statements this afternoon in this chamber relative to the recent decisions in Japan to remove American-produced rice from a food fair in Japan. This was an official position taken by officials of the Japanese Government, to remove American rice from any fair.

Mr. President, this is not the first time this has happened. If my memory serves me correctly, about 18 months or 2 years ago, Japan removed American-produced rice from a food exhibit in Tokyo. In my opinion, this whole situation has reached the point of such absurdity that our Government, I truly believe, should transmit in the strongest terminology our total revulsion to what has happened with this particular episode.

Mr. President, I am proud to state, as I have stated several times, along with my colleagues, Senator Bumpers, and Senator Levin of Michigan, that our State of Arkansas leads this country and other States in rice production. I see my friend from the State of Mississippi, Senator Lott, my distinguished colleague, on the other side of the aisle. I might state, Mr. President, that Mississippi is one of those great five States leading our country to a fulfilled crop of rice production in America that supplies much of the world population. We are proud of the fact that this crop is exported. We are proud of the fact that rice has helped in the overall balance-of-payments deficit. As I know all of us know, is sent abroad.

Mr. President, in recent days, since this episode in Tokyo, there has been an outstanding editorial in the Washington Post on that issue as of this morning. I want to quote that other article, including the Post editorial of this morning, an Arkansas Gazette story of March 18, an Arkansas Democrat story of March 17, a New York Times story of March 18, a Washington Post story of March 18, a New York Times story of March 13, and a Journal of Commerce story of March 13 be printed in the RECORD.

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

[From the Washington Post, Mar. 21, 1991]

THE GREAT TOKYO FOOD FIGHT

As outrages go, the Japanese government’s prohibition against imported rice is a familiar one. But Japanese officialdom outdid itself last weekend when it forced Americans—under the threat of arrest, they charge—to remove several small bags of their rice from a food exhibition in Tokyo. This incident is an unpleasantly clear illustration of what’s going wrong in the politics of world trade and what’s happening to the world trade negotiations.

Japan’s case for banning foreign rice begins with a lot of dubious anthropology about the mystical role of rice in Japanese culture, and goes on to allege a national yearning to be self-sufficient in basic foodstuffs. In the event its enemies surround the country with a naval blockade, intellectually, that is roughly on the same level as the case for, say, the American quotas on sugar from the Caribbean. Both are merely devices by which governments, for internal political reasons, transfer money from the pockets of consumers to those of certain well-organized and influential farmers.

Perhaps the Japanese government would prefer not to have the public even reminded of rice. It might lead people to brood about the fact that it costs one-seventh the domestic Japanese price. In any event, a squad of Japanese policemen arrived to inspect and photograph the American rice exhibit, an embassy official swept the offending bags out of sight.

In the world trade talks, the rich countries want trade concessions and patent protection in the Third World. In return, Third World governments have said that their people would be willing to sell what they produce, mainly agricultural products, in the markets of the rich countries—otherwise no deal. Japan’s rice ban is a good example. If Japan banned rice, most of the new sales would go not to American growers but to the producers of Southeast Asia.

Because it is politically inconvenient for them, the European Community and Japan have shown little willingness to open up their agricultural trade more widely to foreigners. As a result the world trade talks—down and down and down—have broken down, possibly beyond rescue. Because Japan has grown wealthy as one of the world’s leading creditor nations, its trade policy has become increasingly offensive. By calling the cops at the Tokyo exhibition, Japan has given a clear signal of resistance to the open and forthcoming give-and-take that will be required for progress in trade in the 1990s.

[From the Arkansas Gazette, Mar. 18, 1991]

JAPAN MOVE ANGERS RICE COUNCIL MEMBER

U.S. FORCED TO PULL ENTRY FROM FOOD EXHIBITION

(BY LISA PFEIFER)

TOkyo—A U.S. rice trade group removed a display of American rice from a food exhi-
bition Saturday after officials threatened to arrest the exhibitors for violating Japan’s nationwide restrictions on rice imports.

The U.S. Rice Millers’ Association removed the rice after Japan’s Foreign Ministry warned the U.S. Embassy that the display violated Japan’s federal Food Control Law and the exhibitors would be jailed unless they removed it.

"Having now been threatened with arrest, we will remove the rice . . . to help publicize this very regrettable behavior by the Japanese government," said David Graves, president of the United States Rice Millers Association, said Saturday. "It is ridiculous that Japan’s single-million-ton rice industry should feel threatened by 10 pounds of American rice. I hope the Japanese feel pretty foolish.

Parts of the Japanese bureaucracy are likely to feel that way. For months Japanese politicians have been trying to come up with ways to relax the ban without angering Japan’s weekend farmers, who make up a key constituency for the ruling Liberal Democratic Party.

These famous tax benefits from growing rice—even on small, inefficient plots in the middle of some of Japan’s most overcrowded cities—have become particularly intense in recent weeks because Japan is afraid it will receive part of the blame if efforts to restructure the American rice market collapse.

Those talks broke off in December, deadlocked by a dispute between food-exporting nations, led by the United States, Australia and New Zealand and the European Community. The food exporters wanted to slash farm subsidies, saying they led to closed markets and inefficiency; the Europeans refused, saying they needed to protect farmers.

JAPAN’S JUSTIFICATION

Japan came in for its share of criticism as well, and Japanese trade negotiators acknowledged that the nation’s justification for the trade-barrier—that its security would be imperiled if it did not produce all its own rice—was convincing no one.

So a senior official of the Ministry of International Trade and Industry Noboru Hatakeyama, suggested Japan would be wise to ignore the Rice Council’s exhibit. "It would be strange to remove something which is not dangerous to national security," he said.

But the Food Agency, which is responsible for distributing the nation’s rice at fixed prices, found the exhibit too much, especially after the removal. The Food Agency, which is responsible for distributing the nation’s rice at fixed prices, found the exhibit too much, especially after the removal. The Food Agency, which is responsible for distributing the nation’s rice at fixed prices, found the exhibit too much, especially after the removal. The Food Agency, which is responsible for distributing the nation’s rice at fixed prices, found the exhibit too much, especially after the removal. The Food Agency, which is responsible for distributing the nation’s rice at fixed prices, found the exhibit too much, especially after the removal. The Food Agency, which is responsible for distributing the nation’s rice at fixed prices, found the exhibit too much, especially after the removal.

At noon, the Americans reluctantly removed the rice. Each day the agents from Japan’s Food Agency demanded that the Americans remove the rice. Each day, the Rice Council removed its exhibit here and there with a perfunctory bow and the look of highway patrolmen who had a speeder where they wanted him, studied the conditions, and backed out of town. The Americans were able to keep the rice off display for only a few hours.

Not only was the American view, but the United States Rice Council also had something stronger to say. It issued a press release carrying the headline "U.S. Rice Industry Officials Threatened With Jail by Japanese Gov’t." It released the minutes of the Rice Council’s meeting with the Japanese government officials, indicating that they had not considered arresting or prosecuting the rice promoters for exhibiting the "ugly grain to the Japanese—and the powerful political clout of rice farmers."

The confrontation appears to be a small but revealing sign of rising tension in the U.S.-Japan trade relationship in the wake of the gulf war.

Today, as dozens of Japanese television cameramen and photographers swarmed around U.S. Deputy Agricul­ture Minister David Hargrove, who was accustomed to the attention of the Rice Council. The American rice millers removed it under threat of arrest, but according to rice industry representatives, the Japanese authorities had threatened to "prosecute and arrest" the people associated with the exhibit.

But before the alleged arrest threats had been made, James Parker, the U.S. Embassy’s top agricultural affairs official, declaring that the rice—which had been removed since Tuesday, when the fair opened—would remain there until the fair closed this afternoon.

"We would see it, the samples of uncooked rice being displayed were for "educational purposes" and for sale, and therefore legal under Japanese law.

Japanese officials, however, didn’t accept the American view and the Agriculture Ministry demanded that the rice be removed, reflecting the near-mystical importance of the rice grain to the Japanese—and the political clout of rice farmers.

"This is not in our mind at all," said one Agriculture Ministry official. A Foreign Ministry official agreed: "It would be in­conceivable that the Japanese government would order anybody’s arrest.

However, U.S. Embassy officials said that on Saturday morning, the fair had still been closed for the day, four members of the local police came to inspect the exhibit and asked Brabant who he was and whether he planned to stay in Tokyo for a while. The police, who also took photographs and measured the exhibit, were evidently acting in response to a complaint filed by a local rice farmers’ organization against the U.S. exhibit.

The fact that the rice remained on display for so long in defiance of the Agriculture Ministry is a symbol of what many Japanese fear postwar America will be like. The Japanese press has been full of predictions that, in the aftermath of the successful U.S.-led forces over Iraq, Washington will become more strident especially in its trade battles with Tokyo.

In an article in the current monthly Hoseki magazine, for example, Sakui Yoshimura, an assistant professor at Waseda University, warned that the United States would use pressure in a post-Cold War world, the Associated Press re­ported. "After Iraq, Japan. Make no mistake about it, for the United States and Japan is the hateful eyesore," Hoseki wrote.

In the pantheon of bold U.S. foreign policy initiatives, the statement "The rice will stay
on exhibit" hardly ranks with, say, "This aggression will not stand," or "First we're going to surround it, then we're going to kill it."

But the posture on the rice exhibit this year seems to contrast markedly with last year, when U.S. rice promoters and embassy officials removed Japanese rice samples from the exhibit—as a "courtesy," they said—following Japanese insistence that the display violated the law.

Since last year, not only has American pride been bolstered as a result of the war, but rice has become a more emotionally charged symbol. Americans are acutely aware of having contributed to the breakdown of global trade negotiations late last year by insisting on keeping its prohibition on imported rice.

As the rice battle was unfolding in Tokyo, the National Association of Manufacturers urged President Bush this week to undertake "a reassessment of America's relationships with Japan," contending that the framework that has existed since the end of World War II is removed.

The group proposed a "comprehensive rethinking" of the relationship because "Japan, more than any other major ally, calls the shots in the long-term, long-stemmed policies governing America's postwar economic policies," NAM President Jerry Jasnoch said in a letter to President Bush.

Earlier last week, Richard L. Lesher, chairman of the U.S. Chamber of Commerce, told a Tokyo audience that he has "never been more concerned about U.S.-Japan trade relations than I am today."

Furthermore, he said, the United States "sees the world through an economic prism" and will no longer pushaside economic issues in favor of Cold War geopolitical concerns.

Yesterday, the U.S. Embassy's Parker had sought to dispel any suggestion that Washington was trying to be confrontational over the rice. "This is a couple of mid-level bureaucrats in the food agency who say it's illegal if we refuse to do it," he said. "If we refuse to do it, we are thinking of going to third parties."

Parker acknowledged that he had heard about a statement by Agriculture Minister Motoji Kindo, who told a press conference yesterday that the samples were illegal and should be removed. But the farm minister had not contacted the embassy, Parker said.

"We felt that we had to act," he said, "and we have." The embassy was asked yesterday if the United States would have asked Washington for instructions, but nothing had been heard on the subject from any senior Japanese official.

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But there also have been several shortcomings. We need to put more emphasis on preventing water pollution in the first place. We need better control of toxic water pollutants and pollution from nonpoint sources. And we need improved incentives and better pollution prevention research.

The bill I will introduce will have initiatives in each of those areas.

RCRA

Some 15 years ago we passed the first Resource Conservation and Recovery Act. Since then, the focus of the program has been on managing our waste. It sounds responsible. And it is. It has helped us rid the land of open garbage dumps. But that act misses a larger point. If we simply continue to manage our waste, we will never solve our waste problems.

The Resource Conservation Recovery Act bill that I will submit after the recess will establish new priorities for the program.

First, to reduce the generation of waste. Second, to recycle and compost as much as possible.

It also will include authority for States to impose restrictions on out-of-State waste shipments, an issue that I know is of great concern to a number of my colleagues.

Taken together, the provisions of this bill will initiate a comprehensive redirection of the solid waste program.

**ENERGY**

A major priority for the Congress this year is a comprehensive energy policy. And we need one.

The Environmental Protection Subcommittee has already held two hearings to explore the implications of various energy strategies. These hearings have provided a basic wisdom.

Energy and environmental policy must be complimentary. To ignore one, is to court disaster with the other. A wise energy policy will protect the environment and, thus, can be sustained.

A specific example of such complimentary action is the waste reduction and recycling provisions in the RCRA bill. The energy savings from recycling can be as much as 95 to 98 percent in some industries, compared to the use of virgin materials.

And those savings contribute directly to increased efficiency which, in turn, leads to greater competitiveness for our industries.

Mr. President, adding a new vision to our environmental agenda will require creativity and innovation. And it will require determination not to fall back on the easy way out when the going gets tough.

I ask my colleagues on the subcommittee and in the Senate to join me in this endeavor.

And I ask the President to join us, too. So far, the administration has seemed unwilling to engage in our efforts with their help on the Clean Air Act. I hope they will help in in our efforts with the Clean Water Act.

Next month we will celebrate the 21st anniversary of the original Earth Day. So it is an appropriate time to renew our commitment to the environment and to our children's future.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL, can you sit down?

Mr. PELL. Mr. President, in considering the future of the Seawolf submarine program—and the broader question of the future of the submarine industrial base in my State—I urge all who are concerned to take special note of the unique national asset which exists in the facilities of the Electric Boat Division of General Dynamics, and of the critical importance of this facility to the economy of the State of Rhode Island.

At Quonset Point, RI, Electric Boat operates an automated frame and cylinder manufacturing facility which is the only one of its kind. This $287 million facility has the capability of fabricating sections of steel cylinders up to 42 feet in diameter which become the basic building blocks of a nuclear submarine hull.

The machinery used to mold these sections is not duplicated anywhere in the world, and the skills needed to weld and fabricate the sections reflect the special training and experience needed to operate this unique facility.

The sectional construction process made possible by this facility has been developed in the Trident Program and will be used to its fullest advantage in the Seawolf program. This process permits installation of prefabricated modules of machinery, piping and structural components into the open cylindrical sections before they are joined to form the submarine hull. Substantially improved productivity results since much complicated installation work does not have to be performed within the limited confines of the completed hull.

More than 4,000 Rhode Islanders work at this facility and the annual payroll is some $353 million. Another 3,000 residents of our State cross into Connecticut each day to work at Electric Boat's Groton facility, where the cylindrical sections are joined to completed submarine hulls. So all told, Electric Boat employs over 7,000 Rhode Islanders, making it the largest private sector employer of Rhode Island workers.

I cannot emphasize too strongly the importance of Electric Boat to the Rhode Island economy, which is already reeling under the effects of a regional recession and a State banking crisis. In addition to the total Electric Boat payroll of $248 million to Rhode Island workers at Quonset Point and Groton, Electric Boat does business with some 500 suppliers in the State and purchases goods and services amounting to $25 million annually. The Quonset Point facility generates State income taxes of $3.5 million and sales taxes of over $60 million. In a State as small as Rhode Island, such an enterprise is a giant presence indeed.

But I come back to the point that, in addition to these drastically important local considerations, there is a factor of urgency and importance for the national interest, and that is whether this unique manufacturing facility is to continue to operate or gradually fall into disuse. The loss of the next Seawolf contract, and the resultant competition for minimal submarine production in the future could well lead to the latter result.

To my mind, the logic is inescapably in favor of keeping Electric Boat in business, and that means designating it as the Navy's sole source for the foreseeable future. I hope the Navy will reach the same conclusion.

I yield the floor.

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. WIRTH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. Mikulski). Without objection, it is so ordered.

The Senator from Colorado is recognized.

Mr. WIRTH. Madam President, I thank the Chair.

(Re the remarks of Mr. Wirth pertaining to the introduction of S. 741 and 742, Mr. Wirth addressed the Chair. The PRESIDING OFFICER (Ms. Mikulski). Without objection, it is so ordered.)

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The PRESIDING OFFICER (Ms. Mikulski). Without objection, it is so ordered.

The Senator from Colorado is recognized.

Mr. WIRTH. Madam President, yesterday, this body passed a dire emergency supplemental appropriations bill that, should it become law, will spend more than $1 billion over the amount requested by the President, George Bush. Was all this additional funding for dire emergencies? Of course it was not. All of us in this body know it was not.

Page 9 of that very bill included $351,000 for the Library of Congress, for furniture and furnishings. I have a little difficulty explaining how that might be described as a dire emergency, unless there is no furniture there to sit on.

There is no language in the legislation specifying how that money is
going to be spent, or what those furnishings will be if they are furnishings. The bill also authorized $5 million to be spent on an unauthorized teacher certification study, which Senator Helms of North Carolina spent a great deal of time talking about yesterday on the floor.

Are these isolated examples? I wish they were. But my colleagues know they are not. The American people, I believe, know they are not. These projects are common examples of business as usual, the attitude that today prevails in Washington.

The amount of pork barrel spending enacted even in the face of supposedly bare-bones budget agreements is virtually incomprehensible. This wasteful spending seriously undermines the public confidence in the elected officials who serve here, and calls into question the effectiveness of the whole congressional budget process.

And last year's budget agreement focused so much on taxes, while even the most rudimentary calls for spending austerity went totally unnoticed.

The American people were told last year that the budget deal was the best that could be had. They were told that Congress was cutting spending to the bone. They were told the changes in the budget rules would achieve real results.

We need a substantive debate on the merits of a budget process that allows billions of tax dollars to be wasted on these items while we run up a $3.5 trillion national debt. This debate should begin with a definition which would achieve real reform.

First, the President needs a line-item veto. At the very least, this body should take up legislation such as S. 196, the Legislative Line-Item Veto Act introduced by Senators Coats and McCain. That bill would give the President enhanced rescission power. It would force this body to vote up or down on some of these projects that mysteriously find their way into appropriations bills. Is that too much to ask on behalf of the people who pay the taxes in this country? I do not think so. If we spend millions of dollars on a project, we ought to be willing to vote for it. If we cannot, we should not spend the money. It is pure and simple.

Madam President, these proposals will not be enacted overnight. So while we continue to work for more far-reaching change, I have decided to supplement these efforts with a more immediate campaign to curtail pork barrel spending. My approach would take an objective look at this issue. There is a natural tendency to view pork barrel spending subjectively. I know it when I see it, and I am sick of it. I am sick of seeing our hard-earned dollars squandered on projects that would never see the light of day if they were debated in a public forum. It is embarrassing and shameful. It has to stop. How do we look our constituents in the eye, a senior citizen who is looking for an increase in Social Security, or a homeless person, or any other person who might be in need, how can we look them in the eye and say apple quality research and all of the other things are more important to you, much more important than you?

My intention today is not to single out individual Members—I have not done that—or their projects. There is a tendency among Members of Congress to apply the out-of-State rule to pork projects. That is, if it is in my State, it is a great project; if it is in your State, it is pork. That philosophy is clearly hypocritical. The examples I have cited are symptoms of a larger, more serious problem, and that problem is with the congressional budget process.

Contrary to the proponents of last year's budget deal, I do not believe that Congress has the tools to curb pork. We need a substantive debate on the merits of a budget process that allows billions of tax dollars to be wasted on these items while we run up a $3.5 trillion national debt. This debate should begin with a definition which would achieve real reform.
Let me take a moment to put that into proper perspective. We are borrowing this $3.5 trillion, remember, are in debt.

So when we fund apple quality research we are borrowing the money to do it. And the Government pays roughly, give or take a quarter of a percent, 8 percent interest on that debt. In one year, the interest alone on $1 billion of pork projects, just the $1 billion in pork, is $80 million. Would any Senator like to have $80 million in interest in his State to save? This is a non-trivial change. That would look real nice saved on the debt and deficit in his country.

I wish to serve notice to my colleagues there is a real problem with Government waste. There are serious problems with the congressional budget process, and I intend to pursue this problem on the next appropriate legislative vehicle.

The American people are fair and decent, Madam President. They have common sense. They often put the good of the many ahead of the good of the few, and they do it more often than we think. They often place national concerns ahead of their local or parochial concerns. If Members of Congress decided to forego pork projects for just 1 year, their constituents would understand.

I would like to provide an example, a personal one. A few years ago, when I was a Member of the House of Representatives, Congress created a commission—that is what we do when we cannot face a tough situation, we create a commission and have them do it—to determine which military bases in America should be closed.

Why did we need a commission? Because nobody would close any base in their State. To those colleagues, I say the following: Come to me with your constructive criticism. If it is helpful, it will be welcomed. Certainly there is no simple solution. I have consulted with the Congressional Budget Office, the General Accounting Office, and the Office of Management and Budget. No one has any easy answers.

Madam President, my staff is currently in the process of finalizing a list of projects included in the 1991 appropriations act that fail the pork litmus test. It is my purpose to rescind the funding for each and every one of these projects. The list will not make distinctions between Democrat and Republican projects. It will not make distinctions between New Hampshire and West Virginia projects. If a given project fails the test, it will be placed on the list. It is as simple as that. We are talking about large sums of money where I come from. I anticipate that the sum total will be near $1 billion on just these projects I have identified.

Let me reiterate what the 1991 appropriations act that fail the pork litmus test. It is my purpose to rescind the funding for each and every one of these projects. The list will not make distinctions between Democrat and Republican projects. It will not make distinctions between New Hampshire and West Virginia projects. If a given project fails the test, it will be placed on the list. It is as simple as that. We are talking about large sums of money where I come from. I anticipate that the sum total will be near $1 billion on just these projects I have identified.
to a joint session on the 9th of Feb­
uary 1989. He had this to say, having had a long interest in the subject him­
self, which I can personally attest to, having been a member of his delega­
tion to the General Assembly in 1971. He said:

There is another issue I decided to mention here tonight. I have long believed that the people of Puerto Rico should have the right to determine their own political future. Per­
sonally, I favor statehood but I ask the Congress to take the necessary steps to let the people decide.

With that, U.S. Congress began once again to discuss the question of status.

These discussions go back a long way. They had a happy beginning, you could say, in 1952 when the present commonwealth status was established after a series of congressional enact­ments and two popular referendums and a conference held in Puerto Rico to establish and ratify a Puerto Rican Constitution. The commonwealth sta­
tus...
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WHEREAS, on February 21, we learned in the press—those who had not been present at the committee session—that the legislation appeared to be in very serious trouble. The committee which in the previous Congress had reported a bill now seemed ready to refuse to do so. One week later the committee in fact declined to do so, voted not to do so.

But we had promised. We promised two or three generations of Puerto Ricans that they would have their choice. The President asked us, to do this and now we said, no, we think not. The press reports were grim. Martin Tolchin, one of the most experienced and able observers of this body, wrote in the New York Times of February 21, with the headlines "Hope's Wane on Bill for Puerto Rico Referendum. A Roadblock to Resolving the Island's Status."

When the legislation failed, the Washington Post, in an article by Mr. Bill McAllister, headed "Puerto Rico Referendum Killed; Senate Panel Rejects Plan To Let Islanders Vote on Political Status."

I, for one, read those stories and was shaken. I could not believe we would have so casual an understanding of the commitment we have made before the world, as well as to the people of Puerto Rico, that we would give them their choice. And I do not mean to describe an attitude which is often unconscious. When I hear people talking about welfare benefits and poverty, I get nervous. That may be hypersensitivity on my part. I apologize, as I say, once again. I would also like to say it is typical of George Will that he wrote that Puerto Rico's religious and political values represent no obstacles to statehood. That is the man. Choose your politics. That is what it means to be part of this country.

However, he continued, language which is the carrier and conditioner of all culture is another matter.

He is clearly of the view a State can only be a State in this country if it is committed to English as its official language. He notes bilingualism is being institutionalized in our own country as in other places. He could not forget that the New York City Council has voted to print the ballot in Spanish as well as English. He is not encouraged by this development and he says so, as is not only his right but his reason for being as a political commentator.

I would have to acknowledge that if I had a disposition, if I were forced to choose, I would side with George Will. But I would not be in any great hurry to join in his vision.

I was raised in a city in which probably a third of the population did not speak English as a native tongue. That is to say, New York City. That will not have changed that much today. It has never changed. Around 1600 a French Jesuit counted some 18 language groups spoken within a mile of Fort Amsterdam. Today in the archdiocese of New York, as I again recall, Mass is said in 26 different languages. When I was young, Mass was said in one language, which I language, however, I did not understand, so I cannot take great umbrage at the advent of a liturgy which I can follow. But this is a permanent condition of people who arrive in our country speaking a native language and acquiring English.

The press has always been multilingual. In 1900, there were more newspapers published in the language of our country and city than were published in central Europe. Today El Diario is one of the great papers of our city, a Spanish language paper. Many of the old Yiddish papers have gone. The Italian language papers are fewer than they once were. But I believe at least two Korean papers have been added. And the Chinese, and so it goes.

The plain fact is we are multilingual. But I acknowledge that becoming English-speaking has always been part of the terms of full participation in American public life.

My friend, Norman Podhoretz, an editor and commentator for these last 30 years, has spoken to this issue. There is no thing people value quite so much as their language. The Marxists never understood this. The 19th century liberals never understood it. People will die for language before they will die for just about any other abstract purpose. They are attached to their language. We watch the Czechs and the Slovaks in tense difficulties today. The instant the cold war, the Russian dominance, was over, that issue rose. We see in the Caucasus the rise of suppressed nationalities in say Georgia, asserting their independence in Moscow, only to assert the dominance of the yet smaller minority, the Ossetians.

But Podhoretz wrote of the "brutal bargain" Americans make. You can be anything you want in this country but you had best speak the English language. Indeed, you could only be that if you speak the language, even if you don't speak it idiomatically.

From Sam Goldwyn to Yogi Berra, our language has been enriched by colloquialisms that are derived from other languages. But it is still English. I acknowledge that. On the other hand, I do not find the subject in the Constitution. The Constitution is written in English. The Federalist Papers are written in English. Not to have that language is not to have the political tradition that ought to be part of citizenship.

But I do not know how institutionalized this cultural reality has been. As a matter of fact, if you are disturbed about the bilingual ballot, give a moment's thought that our present ballot was once known as the Australian ballot. It is about a century old in experience. The secret ballot was imported largely for the purposes of seeing that the immigrant masses of the time were not voted by their political machines.

I do not know when literacy became a requirement for voting. I would doubt that the ballots were printed until well into the 19th century. Previously, people simply announced their vote as they went to a poll.

Literacy, printing, they came, and secret ballots came much later, as did the bilingual ballot. But Mr. Will deserves to be heard on this matter, and deserves to be heard carefully. It would be a great mistake to discount his views.

Still, Mr. President, it would be a far greater mistake to allow this question, or other such questions as widespread poverty—I do not recall that the State
of Oklahoma was flourishing at the time it became a State, nor yet that English was the language of its native inhabitants—to prevent these questions from being addressed as they can only be addressed, in a referendum. This was not Mr. Will’s purpose at all: I want to make that clear. But it begins to seem to be our unstated intent.

That I believe raises the question of the honor of this body, which I wish I could describe the letters I have received from Puerto Rico in the aftermath of my remarks in February, albeit they may have been more emotional than was useful. Puerto Ricans wrote to say that they thought they were Americans, in that they were going to have a choice in these matters, that they were born understanding this.

It is the case that most persons, Mr. President, are younger than you and I. And it would not be hard to be a fully mature citizen and have been born during the Presidency of Harry S. Truman, to have known no other United States, and say that it was the President who asserted before the world, to the island, and the Congress, that Puerto Rico was free to choose.

To deny this choice would be an ominous event. It puts at risk the honor of this institution. I say that with great reservation, but equal conviction.

I would close by asking two things with one prefatory remark. We must act quickly. If we do not get this matter done by the Fourth of July, it is not likely to happen in this Congress. And then the President’s undertaking, and the undertaking of the 101st Congress, will all be for naught. And for the first time, we will have specifically failed to keep our promise. In the past, we have not gotten around to it; now we will have said no to free choice.

I hope, Mr. President, that President Bush, who brought the issue to us in good faith, would resume his effort, and tell us what he thinks of us and what he has a right to expect from us. I hope that the leaders of the two parties in the Senate, will speak to the matter.

Silence is assent. Silence is assent to the denial of a right which we have for decades, asserted belongs to, inheres in the citizenry of Puerto Rico. We can say to them: If you want this, you will have to give that. I do not object to that. We can set out issues such as language in greater or lesser detail. There is also the question of whether one Congress can bind a future Congress; I know all that. But we have to act. If we fail, we fall in one of the most solemn of constitutional purposes, one which at this address, in this country, unattended, and apparently unheeded.

I hope this will not be the case. I respectfully yield the floor.

Mr. President, I ask unanimous consent that Mr. Wills’ article be printed in the Record, as well as the debate on the 1979 resolution.

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

[From the Washington Post, Mar. 17, 1991]

PUERTO RICO’S DIFFERENCE

By George F. Will

Sen. Pat Moynihan (D-N.Y.) thinks he has spotted an old serpent in today’s political garden. “Nativism!” he exclaimed when a Senate committee killed a bill that would have allowed a Puerto Rican referendum on that island’s political future.

Every president since Truman has affirmed Puerto Rico’s right to choose to retain commonwealth status or opt for independence or statehood. The 1988 Republican platform endorsed statehood.

Mr. Bush’s purpose at all; I want to make that clear. But it be­

But not all resistance should be so stigmatized. Nativism sees “nativism, the close-associate of racism.” But not all resistance should be so stigmatized.

Nativism is, with reason, an epithet. Na­
tivist movements proliferated in reaction against the waves of immigration in the late 1840s and 1850s. Most immigrants then were Germans and Irish and Catholic (Moynihan’s ancestors). Xenophobia and religious bigotry (many Protestant immigrants quickly became violent nativists) fueled the growth of the Know-Nothing Party. (Mem­bers were supposedly sworn to answer all po­litical questions by saying, “I know not about it.”) They always have had uneasy consciences in this nation of immi­grants.) In 1854, several governors and 75 con­gressmen were elected with Know-Nothing affiliation.

There were anti-immigrant urban riots and attempts to legislate a 21-year residency re­quirement for naturalization. Liquor, thun­dering horde of immigrants, great waves. But from the 1850s to 1854, several governors and 75 con­gressmen were elected with Know-Nothing affiliation.

It was thrilling to read recent Census re­ports that by 1990 one in four Americans had an African, Asian, Hispanic or American In­dian ancestry. That is up from one in five in 1980. It marks the most pronounced change in American racial composition in this cen­tury.

Furthermore, because 19th-century immi­gration was overwhelmingly European, whereas today’s immigrants come primarily from Latin American and Asian nations (the Asian component of America’s population soared 107.8 percent in the 1990s), the 1980s brought much more cultural diversity than any other decade in American history. America stills welcomes invigorating infusions of immi­grants who are eager to become Ameri­cans.

American citizenship is a citizenship of ideas. For immigrants, it flows from an act of self-determination. Immigration requires both a citizenship and a culture. Already we have gone too far, even to bilingual ballots, which proclaim that people can exercise the most public of rights while being apart from public life.

Americans should say diverse things, but should say them in a common language that allows universal participation in the conver­sation. Most immigrants want to learn Eng­lish. Nativists have generally been wrong: Immigrants want to become as American as possible as quickly as possible. But would an English-speaking second-gen­eration Spanish language that is central to their 400 years of experience as a Spanish and Caribbean community inevitably be institutionalized to a new degree and in new ways within this nation. Bilingualism denies the

Puerto Rico's per capita income is $5,825, half of the poorest state (Mississippi, $11,724) and a quarter that of the richest (Connecticut, $22,900). Perhaps half—the poorest half—of Puerto Rico’s population would gain from statehood because of en­hanced access to federal welfare services. But immigrant-influenced United States would subsidize many U.S. corporations that operate there. Such considerations matter, but let this issue come to a vote, and you will see that the hands raised for or against state­hood should not hold calculators on which the material benefits have been finely com­puted. The important calculations are of cul­tural costs and benefits.

[From the CONGRESSIONAL RECORD, July 26, 1991]

SENATE CONCURRENT RESOLUTION 35—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO SELF-DETERMINATION FOR PUERTO RICO

Mr. MOYNIHAN (for himself, Mr. Jackson, Mr. Hatfield, and Mr. McGovern) submitted the following concurrent resolution, which was referred to the Committee on Energy and Natural Resources:

"S. CON. RES. 35

"Whereas, the people of Puerto Rico freely chose the present form of their association with the United States in a popular referen­dum in 1952; and

"Whereas, successive United States admin­istrations since that time have continued to be publicly committed to the fundamental principle of self-determination for the people of Puerto Rico; and

"Whereas, certain other governments lack­ing in a clear understanding of the U.S. rela­tionship with Puerto Rico have questioned the status of Puerto Rico; and the extent to which its citizens enjoy the right to self-de­termination; Now, therefore, be it

Resolved by the Senate (the House of Rep­resentatives concurring), That the Congress takes this opportunity to reaffirm its com­mitment to respect and support the right of the people of Puerto Rico to determine their
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own political future and to change their relation with the United States, and to determine their own political future through peaceful, open and democratic processes.

Mr. MOYNIHAN. Mr. President, I am submitting today a concurrent resolution which would reaffirm what is to us an obvious point, that the Congress continues to respect and will respect, such decisions as Puerto Ricans properly make about their own political future.

Mr. MOYNIHAN subsequently said: Mr. President, earlier today I submitted for myself, Senator Jackson, Senator McGovern, and Senator Hatfield a concurrent resolution calling attention to the fact that once again this year the United Nations Committee on Decolonization, as it is called, will take up a resolution to be introduced by the Government of Tanzania and the United States of America to try to condemn the relationships between the free peoples of Puerto Rico and the United States, then Tanzania should get its aid from Cuba.

Cuba seems to have an excess of resources, sending its armies here and there around the world to do the bidding of the Soviet Union. Perhaps if it saved on its military activities in Africa, it could provide the deficit which Tanzania needs so desperately to be made up.

The governments of the United Nations should understand that we take democracy seriously; and because they perhaps do not, because perhaps they do not understand it, perhaps they are violently opposed to it, they should not be allowed to do so. We consider this resolution anything but an affront to our honor and that we will act accordingly.

The Department of State is capable of doing this, as it demonstrated in 1975, and if the honor of the American people means anything, it will do so again this year.

Mr. President, I ask unanimous consent that I be permitted to include in the Record statements from the National Democratic Platform of 1976 and the National Republican Platform of 1976, and statements by President Carter and Ambassador Young concerning the American commitment to self-determination for Puerto Rico.

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

APPENDIX

The proposed concurrent resolution on Puerto Rican self-determination is based upon the following excerpts:

National Democratic Party Platform, 1976:

"We are committed to Puerto Rico's right to enjoy full self-determination and a relationship that can evolve in ways that will more benefit U.S. citizens in Puerto Rico."

National Republican Party Platform, 1976:

"We support Puerto Rico's right to self-determination and to govern our positions . . . on Puerto Rico . . . as it has in past platforms. We again support statehood for Puerto Rico, if that is the people's choice in a referendum, with full recognition within the concept of a multicultural society of the citizens' right to retain their Spanish language and traditions . . . ."

Question and Answer, Press Conference of President Carter, September 17, 1977:

"Q. Mr. President, I'm from San Juan, Puerto Rico. This is the first time in my life that the President of the United States?

"The President. Muchas gracias.

"Q. Would you object to a U.N. fact-finding team going to Puerto Rico to look into the idea, the charges that have been raised, that we are a colony of the United States?

"The President. Yes, I would object to that. Let me explain it this way: if I were going to leave the United States, and I didn't get a chance to appear before the United Nations, I would object to that. But I think my own statement and the statement of all the leaders of our country that whatever Puerto Rico wants to do, it can do it."

If the Puerto Rican people want to be a commonwealth, I will support it. If the Puerto Rican people want to be a State, I will support it.
port it. If the Puerto Rican people want to be an independent nation, I would support it.

"Q. But the U.N. has no jurisdiction?

A. Mr. President, it really doesn't. The U.N. has no jurisdiction. And particularly when this question is raised by Cuba, a government that has no respect for individual freedom or independence and permits no vote of any kind in their own country, to accuse us of trying to subjugate the people of Puerto Rico, to me, is absolutely and patently ridiculous.

Proclamation of President Carter, on the 80th Anniversary of Puerto Rico's association with the United States: Commonwealth of Puerto Rico, July 25, 1978:

"... I would like to emphasize that the United States remains fully committed to the principle of self-determination for the people of Puerto Rico. President Eisenhower made that commitment in 1953, and this has been the position of all U.S. administrations since that time. We continue to regard it as the fundamental principle in deciding Puerto Rico's future.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the resolution offered by Senator Moynihan, which once again will seek to mislead the people of Puerto Rico, be stricken from the record.

The PRESIDING OFFICER. Mr. President, I see that my distinguished friend, the junior Senator from Hawaii (Mr. Matsu­naga)—with whom I have worked closely and whom I admire greatly—is in the Chamber. I know he wishes to address himself to this subject, a matter on which he has made himself an expert. I look to him with respect and regard in this area, and I am happy to yield him such time as he may wish.

Mr. Matsu­naga. I thank the Senator from New York for yielding.

Mr. President, I congratulate the Senator from New York for the leading role he has taken in the peaceful and just cause. I wish to add that the peace movement has, in the past, been the most effective weapon of the oppressed people of the world. And I am very grateful to the Senator from New York for having pushed this resolution through the Congress.

In anticipation of this meeting and the renewed Cuban effort to denounce our policy toward Puerto Rico, I think it is especially important to have Congress on record in support of the resolution offered by Senator Moynihan. I am hopeful that strong congressional support for this resolution will undercut Cuba's determination to obtain U.N. action on this issue.

The United States, at this time, deserves our strong condemnation and one way of expressing that is by quick and decisive action on Senate Concurrent Resolution 35. Congress should give this resolution its overwhelming endorsement.

[From the Congressional Record, Aug. 2, 1979]

SELF-DETERMINATION FOR PUERTO RICO

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 30.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

"A concurrent resolution (S. Con. Res. 35) reaffirming the commitment of Congress to the right of the people of Puerto Rico to determine their own political future.

The Senate proceeded to consider the concurrent resolution which had been reported from the Committee on Energy and Natural Resources, an amendment on page 2 of the resolution, by quick and decisive action on Senate Concurrent Resolution 35. Congress should give this resolution its overwhelming endorsement.

[From the Congressional Record, July 31, 1979]

PUERTO RICO AND DEMOCRACY

Mr. McGovern. Mr. President, a few days ago, the distinguished Senator from New York, Mr. Moynihan, introduced Senate Concurrent Resolution 35, which calls upon the U.S. Congress: "to reaffirm its commitment to respect and support the right of the people of Puerto Rico to determine again their political future through a free and democratic referendum. It calls for close and constant consultation with the United States, through peaceful, open and democratic processes.

At the time Senator Moynihan came forward with this resolution, I asked that my name be added as a cosponsor. Briefly, I was saying that I thought this was a matter for the people of Puerto Rico to decide openly, honestly, and fairly. It is their choice and well it should be, for they are the ones who will have to live with it for better or worse. In other words, Mr. President, whether the people of Puerto Rico choose to point down the road the course of statehood, independence, or commonwealth, this is a decision that must be prepared to accept their judgment.

The democratic imperative requires it. And this is the standard we honor.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the name of the Senator from Hawaii (Mr. Inouye) be added as an original cosponsor of the concurrent resolution.

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

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

The PRESIDING OFFICER. The roll shall now be called.

Mr. MOYNIHAN. Mr. President, so ordered.

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

Mr. MOYNIHAN. Mr. President, this is a concurrent resolution which reaffirms the commitment of Congress to the right of the people of Puerto Rico to determine their own political future. It comes before us in the context of the pending debate and consideration by the so-called Committee on Education and Labor to reconsider the request by the United Nations, on a resolution that will be introduced there by the Cuban Government, which once again will seek to mislead the people of Puerto Rico and of the United States. This is a matter, in our judgment, of the internal affairs of the United States, and it is no way appropriate for consideration by the United Nations, much less for interference by the totalitarian Government of Cuba.

Mr. President, I see that my distinguished friend, the junior Senator from Hawaii (Mr. Matsunaga) —with whom I have worked closely and whom I admire greatly—is in the Chamber. I know he wishes to address himself to this subject, a matter on which he has made himself an expert. I look to him with respect and regard in this area, and I am happy to yield him such time as he may wish.

Mr. MATSU­NAGA. I thank the Senator from New York for yielding.

Mr. President, I congratulate the Senator from New York for the leading role he has taken in this peaceful and just cause. I wish to add that the peace movement has, in the past, been the most effective weapon of the oppressed people of the world. And I am very grateful to the Senator from New York for having pushed this resolution through the Energy and Natural Resources Committee with incredible expediency.

The feat is even more amazing in view of the fact that the Senator from New York is not even a member of the Committee on Energy and Natural Resources.

Mr. President, this resolution merely restates our basic and long-standing policy of self-determination. We recognize that a society of people has a right to determine for itself how it should be governed and under what form of government it should be governed—no more than that.

It is my hope to express my unequivocal support for the resolution introduced by the distinguished Senator from New York (Mr. Moynihan), Senate Concurrent Resolution 35, which is designed to reaffirm the commitment of the U.S. Congress to self-determination for the people of Puerto Rico.

Mr. President, as the Senator from New York has so eloquently stated, it has been the position of the U.S. Government since 1953 that the people of Puerto Rico have the right to determine their own political future. Every Presidential administration since that
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We are going to expect the nonalined to stay nonalined. We think it is necessary to do so. The chairman of the Committee on Decolonization continues to be held by the Government of Tanzania. That government is ably represented in the United Nations by Mr. Salim-Salim. It will be the Government of Tanzania which will give the lead to the response of the nonalined nations to this resolution. As it considers what it might do, I hope it will not be considered offensive to say that this is also the moment when the Government of Tanzania is looking to the matter before us. The U.S. Senate has some questions which it wishes to ask the nonalined nations, and those with whom we are in very considerable portion, to pay for the cost of that invasion.

Mr. JOHNSTON. Mr. President, will the Senator yield for an unanimous-consent request?

Mr. MOYNIHAN. Mr. President, I am reluctant to raise this point, but I think it is necessary to do so. The chairman of the Committee on Decolonization continues to be held by the Government of Tanzania. That government is ably represented in the United Nations by Mr. Salim-Salim. It will be the Government of Tanzania which will give the lead to the response of the nonalined nations to this resolution. As it considers what it might do, I hope it will not be considered offensive to say that this is also the moment when the Government of Tanzania is looking to the matter before us. The U.S. Senate has some questions which it wishes to ask the nonalined nations, and those with whom we are in very considerable portion, to pay for the cost of that invasion.

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Mr. MOYNIHAN. Mr. President, I am reluctant to raise this point, but I think it is necessary to do so. The chairman of the Committee on Decolonization continues to be held by the Government of Tanzania. That government is ably represented in the United Nations by Mr. Salim-Salim. It will be the Government of Tanzania which will give the lead to the response of the nonalined nations to this resolution. As it considers what it might do, I hope it will not be considered offensive to say that this is also the moment when the Government of Tanzania is looking to the matter before us. The U.S. Senate has some questions which it wishes to ask the nonalined nations, and those with whom we are in very considerable portion, to pay for the cost of that invasion.

Mr. JOHNSTON. Mr. President, will the Senator yield for an unanimous-consent request?

Mr. MOYNIHAN. Mr. President, I am reluctant to raise this point, but I think it is necessary to do so. The chairman of the Committee on Decolonization continues to be held by the Government of Tanzania. That government is ably represented in the United Nations by Mr. Salim-Salim. It will be the Government of Tanzania which will give the lead to the response of the nonalined nations to this resolution. As it considers what it might do, I hope it will not be considered offensive to say that this is also the moment when the Government of Tanzania is looking to the matter before us. The U.S. Senate has some questions which it wishes to ask the nonalined nations, and those with whom we are in very considerable portion, to pay for the cost of that invasion.

Mr. JOHNSTON. Mr. President, will the Senator yield for an unanimous-consent request?

Mr. MOYNIHAN. Mr. President, I am reluctant to raise this point, but I think it is necessary to do so. The chairman of the Committee on Decolonization continues to be held by the Government of Tanzania. That government is ably represented in the United Nations by Mr. Salim-Salim. It will be the Government of Tanzania which will give the lead to the response of the nonalined nations to this resolution. As it considers what it might do, I hope it will not be considered offensive to say that this is also the moment when the Government of Tanzania is looking to the matter before us. The U.S. Senate has some questions which it wishes to ask the nonalined nations, and those with whom we are in very considerable portion, to pay for the cost of that invasion.

Mr. JOHNSTON. Mr. President, will the Senator yield for an unanimous-consent request?

Mr. MOYNIHAN. Mr. President, I am reluctant to raise this point, but I think it is necessary to do so. The chairman of the Committee on Decolonization continues to be held by the Government of Tanzania. That government is ably represented in the United Nations by Mr. Salim-Salim. It will be the Government of Tanzania which will give the lead to the response of the nonalined nations to this resolution. As it considers what it might do, I hope it will not be considered offensive to say that this is also the moment when the Government of Tanzania is looking to the matter before us. The U.S. Senate has some questions which it wishes to ask the nonalined nations, and those with whom we are in very considerable portion, to pay for the cost of that invasion.

Mr. JOHNSTON. Mr. President, will the Senator yield for an unanimous-consent request?
United States" was stricken. The committee report was then written to reflect the meaning and implications of that change. Questions which I will shortly ask will, I think, place in proper perspective what the meaning of this resolution is. I hope that the answers to the questions which I will shortly ask will show that there is a lack of support for the principle of self-determination. Not at all. Indeed, as the distinguished Senator from New York pointed out, we worked over a period of months, holding hearings in Puerto Rico, having meetings with distinguished representatives of the government and the Legislature of Puerto Rico, as well as statehood would be put to the people of Puerto Rico.

Mr. President, I wish to make clear that this resolution if passed in no way takes away from the constitutional right and constitutionality of Congress to any course of action, and cannot be considered to have in any way weakened, whereby the national defense of this country would not be weakened, whereby American property, including material, roads and buildings, would be provided for. All of those are not just mere details. Mr. President, they are major issues which the Congress of the United States should not be called upon to say, or refuse to say, or refuse to give full life and viability to that expression of the wishes of the people of Puerto Rico.

When Hawaii first became a territory of the United States, it was annexed as an incorporated territory, with an implicit promise that Hawaii, if the people so decided, would be admitted as a State into the Union of States. That was in the year 1898. The citizens of Hawaii, Americans all, my self included, journeyed to Washington and knocked at the doors of Congress for 59 years before we were finally admitted to statehood.

I do hope Puerto Rico will not suffer the same fate. Neither will the Puerto Ricans decide they would want to become a State of the Union, that it will not take them 59 years as it took the people of Hawaii to gain the full status of Statehood.

Mr. President, I hope that whatever changes a plebiscite should indicate are the wishes of the people of Puerto Rico would not take a similar 59 years to fully fill.

At the same time, I think what the Senator from New York is saying is that this insistence on self-determination is an implicit promise that Puerto Rico would be admitted as a State simply because a plebiscite might so state.

Mr. MATSUAGA. That is precisely the point I was trying to make by stating Hawaii's experience may give some indication as to what might make a further point, which I am sure the Senator would agree with, and that is that we refer to the powers of self-determination for the people of Puerto Rico that extends, of course, to the power to leave the present arrangements in place. It was the thought of many members of the committee that to have the word independence or implicitly to pass any particular form of statehood legislation or, indeed, to pass any legislation at all.

Mr. MOYNIHAN. As a matter of fact, the record of the United States, Mr. President, with respect to Puerto Rico and its citizens, is that when we refer to the powers of self-determination, as being that status which they wished.

So I ask my distinguished friend from New York, Mr. President, will the Senator from New York's Bill?

Mr. MATSUAGA. I would like to add to my remarks in response to the question of the Senator from Louisiana, because Hawaii's experience is the unique experience of the United States.

The citizens of Hawaii, Americans all, my self included, journeyed to Washington and knocked at the doors of Congress for 59 years before we were finally admitted to statehood.

Mr. Johnston. Would the Senator's response be similar with respect to a revised form of commonwealth?

Mr. MOYNIHAN. Precisely.

Mr. Johnston. So what this resolution is saying is that whatever the people of Puerto Rico decide in their plebiscite in 1961, we will take that as being an expression of the wishes of the people of Puerto Rico, where that initiative should begin. Based upon that choice we will negotiate in good faith to try to give full life and viability to that expression consistent with the fact that the law of the land is in effect. That is to accept a particular status. We have the obligation to perform as we have in the past, to negotiate in absolute good faith to try to give full life and viability to that expression of the wishes of the people of Puerto Rico.
March 21, 1991

CONGRESSIONAL RECORD—SENATE 7189

CAT. TSONGAS assumed the chair.)

Mr. JOHNSTON. Mr. President, based upon these discussions, even though I continued to have misgivings, I will not object to this resolution.

I want to make it perfectly clear that my reservations and my misgivings have nothing to do with any objection to any particular form of status that the people of Puerto Rico have chosen. I do not question in any way the self-determination because Cuba or any other country makes absurd comments in the U.N. On the contrary, I want to pay tribute of time in even acknowledging the carving of demagogic regimes, much less elevating their ill-informed hypocrisy to the level of cogent arguments. This would be extremely mischievous. I hate to resort to the grim sardonic irony that such a movement existed. If we were really bothered by the inane comments of Cuba, the so-called nonaligned nations, and the Soviet dominated bloc, then let us pass a resolution indicating I would approve a proposal. Without that knowledge, it would be dishonest on my part to vote for a resolution indicating I would approve a proposal. I am willing to devote as much time and effort as necessary to frame alternatives before the Congress. I am willing to devote as much time and effort as necessary to frame alternatives before the Congress. If this resolution indicating I would approve independence or not. I do not know whether the Congress would approve the "New Thesis" or not. I do not know whether the Congress would approve independence or not. I am

Mr. President, in the history of this country, we have admitted 37 new States into the Union, and provided independence to the Northern Mariana Islands and Puerto Rico, and offered local autonomy to the Virgin Islands, which rejected their locally developed constitution in referendum, and Guam. American Samoa has been the subject of exhaustive effort to reconcile over a century, without that knowledge, it would be dishonest on my part to vote for a resolution indicating I would approve a proposal. Without that knowledge, it would be dishonest on my part to vote for a resolution indicating I would approve a proposal. If this resolution indicating I would approve independence or not. I do not know and have not requested any change, we do not know but seem to be agreeing to some change, which assumes some authority and responsibility or any other forum. I reject the waste of time in even acknowledging the carving of demagogic regimes, much less elevating their ill-informed hypocrisy to the level of cogent arguments. This would be extremely mischievous. I hate to resort to the grim sardonic irony that such a movement existed. If we were really bothered by the inane comments of Cuba, the so-called nonaligned nations, and the Soviet dominated bloc, then let us pass a resolution indicating I would approve a proposal. Without that knowledge, it would be dishonest on my part to vote for a resolution indicating I would approve independence or not. I do not know whether the Congress would approve the "New Thesis" or not. I do not know whether the Congress would approve independence or not. I am
studies by the Congressional Research Service and a comprehensive study by the GAO of the implications specifically of statehood, but also of the other two alternatives. The information that the Congress and the people of Puerto Rico can present the people of Puerto Rico with real and viable options...In 1971, Cuba requested inclusion in the agenda of the 26th General Assembly of an item entitled “The Colonial Case of Puerto Rico.” Its request was not approved and subsequently was included in a similar item on subsequent Assembly agendas, and have also been unsuccessful. Mostly recently in 1978, Cuba was successful in having the Special Committee adopt the following resolution:

**The Special Committee**

Having heard and considered the statement of the petitioners, whose views reflect the major trends of political opinion in Puerto Rico. Recalling its resolutions of 28 August 1972 and 30 August 1973, as well as its decision of 7 September 1976, concerning Puerto Rico. Bearing in mind the decision, on Puerto Rico, of the Conference of Foreign Ministers of the Co-ordinating Bureau of Non-Aligned Countries, held at Belgrade in 1978, and by the Fifth Conference of Heads of State or Government of Independent Countries, held at Colombo from 16 to 19 August 1978. Conscious of the right of the people of Puerto Rico to modify the status, and aware that proposals for such modification have been made in the past by the Governments of Puerto Rico. Bearing in mind the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV), of 14 December 1960. Conscious also that all peoples have an inalienable right to self-determination and independence, to the exercise of their national sovereignty, to respect for their national territory and to the exercise of complete control over their natural wealth and resources in the interest of their development and well-being. Bearing in mind the fact that in their statement the petitioners have demonstrated that the major parties in Puerto Rico favor a change in the present status of Puerto Rico or modification of aspects thereof. Recalling the statement on Puerto Rico made on behalf of the President of the United States of America by the Permanent Representative of the United States to the United Nations at the eighth session of the General Assembly on 27 November 1955. Noting the public statements on Puerto Rico made by the President of the United States on 25 July 1978 and by the Permanent Representative of the United States to the United Nations on 28 August 1978.

1. Reaffirms the inalienable right of the people of Puerto Rico to self-determination and independence in accordance with General Assembly resolution 1514 (XV).

2. Reaffirms that by virtue of that right the people of Puerto Rico should freely determine their political status and pursue their economic, social, and cultural development;

3. Affirms that self-determination by the people of Puerto Rico is a prerequisite for the exercise of the inalienable right to complete and full sovereignty, in accordance with General Assembly resolution 1514 (XV); that the United States, in exercising its responsibilities with respect to Puerto Rico, shall provide for the full transfer of all powers to the people of the Territory, and that all determinations concerning status should have the approval of the Puerto Rican people.

4. Considers that the persecutions, harassments, arrests, and restrictions imposed upon the organizations and persons struggling for independence have been continuously subversive of the principle of the national right of the Puerto Rican people of self-determination and independence;

5. Deems that, in the event the Puerto Rican people determine to exercise such independence, they have the right to recover the totality of their territory, including all lands now used by the authorities of the Government of the United States of America.

6. Deems also that any form of free association between Puerto Rico and the United States must be in terms of political equality in order to comply fully with the provisions of the relevant resolutions and decisions of the General Assembly and of applicable international law, and must recognize the sovereignty of the people of Puerto Rico;

7. Urges the Government of the United States to release unconditionally the four Puerto Rican political personalities who have been incarcerated for more than 24 years, and immediately to abide by the principles of resol

8. Urges the Government of the United States to abide by the principles of resolution 1514 (XV) with respect to Puerto Rico; Decides to keep under review the question of Puerto Rico and requests the Rapporteur, with the assistance of the Secretariat, to update information on this question and to facilitate consideration of appropriate follow-up steps by the Special Committee in 1979.

Resolutions 1514 (XV) and 1514 (XV) state: “In the Charter of the United Nations and in the Declaration on the granting of independence to colonial countries and peoples, the General Assembly, Mindful of the determination proclaimed by the peoples of the world in the Charter of the United Nations to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small and to promote social progress and better standards of living for all mankind, conscious of the need for the creation of conditions of stability and well-being and peaceful and friendly relations based on respect for the principles of equal rights and of equal treatment of all peoples, and the establishment of an international economic system of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion, recognizing the passionate yearning for freedom in all dependent peoples and the decisive role of such peoples in the attainment of their independence, aware of the increasing conflicts resulting from the denial of or impediments in the way of the freedom of such peoples, which constitute a serious threat to world peace, considering the important role of the United Nations in assisting the movement for independence and non-self-governing Territories, recognizing that the peoples of the world ardently desire the end of colonialism in all its forms, while lacking the effective and genuine development of dependent peoples and militates against the United Nations ideal of universal peace, affirms that peoples may, for their own ends, freely dispose of their natural wealth.
Welcoming the emergence in recent years of the movement for the complete independence of dependent territories into freedom and independence, and recognizing the increasingly powerful trends towards freedom in such territories which have not yet attained independence,

Convinced that all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory,

Solemnly proclaims the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations:

And to this end

Declares that:

1. The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion and development of international co-operation, based upon the principle of mutual benefit, and international law.

2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

3. Inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence.

4. All armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected.

5. Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any discrimination of any kind, and in order to enable them to enjoy complete independence and freedom.

6. All steps aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the present Declaration in determining whether or not an obligation exists to transmit the information called for in article 73e of the Charter of the United Nations.

7. All States shall observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the present Declaration, on the basis of equality, noninterference in the internal affairs of all States, and respect for the sovereign rights of all peoples and their territorial integrity.

947th plenary meeting, 14 December 1960.

Principle I

The obligation to transmit information of economic, social and cultural characteristics of the territory concerned expressed through informed and democratic processes. It should be consistent with the purposes and principles of the Charter and with the principles which should guide Members in determining whether or not an obligation exists to transmit the information called for in Article 73e of the Charter and to report on the results of its study to the Assembly at its fifteen session.

1. Expresses its appreciation of the work of Special Committee of Six on the Transmission of Information under Article 73e of the Charter of the United Nations, and its achievement of the aims for which it was established.

2. Approves the principles set out in section V. Part B, of the report of the Committee, as amended and as they appear in the annex to the present resolution.

3. Decides that these principles should be applied in the light of the facts and the circumstances of each case to determine whether or not an obligation exists to transmit information under Article 73e of the Charter.

ANNEX

Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for in Article 73e of the Charter of the United Nations.

Principle I

The obligation to transmit information under Article 73e of the Charter constitutes an international obligation and should be carried out with due regard to the fulfillment of international law.

Principle II

The obligation to transmit information under Article 73e of the Charter embodies the concept of Non-Self-Governing Territories in a dynamic state of evolution and progress towards a "full measure of self-government". As soon as a territory and its peoples attain a full measure of self-government, the obligation ceases. Until this comes about, the obligation to transmit information under Article 73e continues.

Principle III

Prima facie there is an obligation to transmit information in respect of a territory which is geographically separate and is distinct ethnically and/or culturally from the country administering it.

Principle V

Once it has been established that such a prima facie case of geographical and ethnical or cultural distinctness of a territory exists, other elements may then be brought into consideration. These additional elements may be: territorial integrity, political, juridical, economic or historical nature. If they affect the relationship between the metropolitan State and the territory concerned in a manner which arbitrarily places the latter in a position or status of subordination, then support the presumption that there is an obligation to transmit information under Article 73e of the Charter.

Principle VI

A Non-Self-Governing Territory can be said to have reached a full measure of self-government by:

(a) Emergence as a sovereign independent State;

(b) Free association with an independent State; or

(c) Integration with an independent State.

Principle VII

An obligation should be the result of a free and voluntary choice by the peoples of the territory concerned expressed through informed and democratic processes. It should be consistent with the purposes and principles of the Charter and with the principles which should guide Members in determining whether or not an obligation exists to transmit the information called for in Article 73e of the Charter and to report on the results of its study to the Assembly at its fifteen session.

(b) The associated territory should have the right to determine its internal constitution without outside interference, in accordance with due constitutional processes and the freely expressed wishes of the people. This does not preclude consultations as appropriate or necessary under the terms of the free association agreed upon.

Integration with an Independent State should be on the basis of complete equality between the peoples of the erstwhile Non-Self-Governing Territory and those of the independent country with which it is integrated. The peoples of both territories should have equal status and rights of citizenship in the integrated country, and equal guarantees of their rights and freedoms without any distinction or discrimination; both should have equal rights of representation and take part in the administration of the country, and participating in the legislative, executive and judicial organs of government.

Principle IX

Integration should have come about in the following circumstances:

(a) The integrative territory should have attained an advanced stage of self-government with free political institutions, so that its peoples would have the capacity to make a responsible choice through informed and democratic processes;

(b) The integration should be the result of the freely expressed wishes of the territory's peoples acting with full knowledge of the change in their status, their wishes having been expressed through informed and democratic processes, impartially conducted and based on universal adult suffrage. The United Nations could, therefore, if it deems it necessary, supervise these processes.

Principle X

The transmission of information in respect of Non-Self-Governing Territories under Article 73e of the Charter refers to the transmission of information of economic, social and educational nature to be transmitted.

Principle XI

The only constitutional considerations to which Article 73e of the Charter refers are those arising from constitutional relations of the territory with the administering Member. They refer to a situation in which the constitution of the territory gives it self-government in economic, social and educational matters through freely elected institutions. Nevertheless, the right to transmit information under Article 73e continues, unless these constitutional relations...
The principle of self-determination has been an integral and inviolable element of U.S. policy since the Declaration of Independence. The first measure adopted for the western lands to be ceded by the original States to the United States was a resolution adopted in 1780 by the Congress that such lands be set aside and formed into distinct Republican States, which shall then become members of the Federal Union and have the same rights of sovereignty, freedom, and independence, as the other States.

The principle was explicitly stated and incorporated in the Northwest Ordinance of 1787 which set forth its provisions "as articles of compact, between the original States and the people and States in the said territory, and forever remain unalterable, unless by common consent." In recognition of the fact that the inhabitants of the Northwest Territory were inhabited almost exclusively by people of French descent, Congress specifically provided that French and Canadian inhabitants who had professed allegiance to Virginia from 1781—whence it could be governed by their own laws and customs relative to the conveyance and descent of property and thus be exempt from the provisions of the ordinance.

During the period from 1781 to 1898, when the western States were ceded to the United States, California, Oregon, and Washington were organized under the Organic Act of 1850 as the Territory of Oregon. The Organic Act of 1850 provided for the establishment of self-government, with an elected territorial legislature, and the right to an appeal to Congress. The Organic Act of 1850 was the first formal act of Congress establishing a territorial government under its authority.

Recognition of the principle of self-determination and self-government has led to the creation of 37 new States, independence for the Philippines and the formation of the Commonwealth of the Philippines, and the North Mariana Islands—a commonwealth for both Puerto Rico and the Northern Mariana Islands—upon termination of the trusteeship. The constitution for the people of the Virgin Islands and Guam to develop and adopt constitutions for their self-governing territories has been an integral and inviolable element of the Constitution and the rights of sovereignty, freedom, and independence of the United States, as provided by the people of American Samoa, as a non-self-governing territory in the Pacific, and as a non-self-governing area in the Caribbean.

The principle of self-determination and self-government is also enshrined in the United Nations Charter, which provides that:

"The principle of self-determination has been an integral and inviolable element of U.S. policy since the Declaration of Independence. The first measure adopted for the western lands to be ceded by the original States to the United States was a resolution adopted in 1780 by the Congress that such lands be set aside and formed into distinct Republican States, which shall then become members of the Federal Union and have the same rights of sovereignty, freedom, and independence, as the other States. The principle was explicitly stated and incorporated in the Northwest Ordinance of 1787 which set forth its provisions "as articles of compact, between the original States and the people and States in the said territory, and forever remain unalterable, unless by common consent." In recognition of the fact that the inhabitants of the Northwest Territory were inhabited almost exclusively by people of French descent, Congress specifically provided that French and Canadian inhabitants..."
the scope of article 73(e) of the Charter. The 8th General Assembly, on November 27, 1953, adopted resolution 768 (VIII) which noted the conclusions of the Commission on Information from Non-Self-Governing Territories, recognized that the people of Puerto Rico had achieved a new constitutional status, that the Commission had recommended that the U.S. and Puerto Rico had effectively exercised their right to self-determination, considered that the declaration regarding Non-Self-Governing Territories and the provisions established under it in chapter XI of the Charter had achieved a new constitutional status, the right to self-determination, considered that it had been known that the people of Puerto Rico equal dignity with equality of status and of national citizenship. Any choice among them is to be made by the people of Puerto Rico, and the economic, social, cultural, and security arrangements which would need to be made under each of the three status alternatives will require the mutual agreement and full cooperation of the Government of the United States. A first step toward any change in political status must be taken in a way of life, and an aspiration for the future.

The committee adopted an amendment by Senator Bumpers to delete the phrase "and to change their relationship with the United States," in order to prevent any possible misinterpretation of the intent of the resolution. Puerto Rico, like the States of the Union, and the Federal Government is bound by the requirements and provisions of the Constitution of the United States. The Constitution IV, section 3 of the Constitution.

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On Wednesday, July 25, I did discuss the general issue with reference to the 27th anniversary of the birth of Puerto Rico. At that time I had the same reservations expressed by the distinguished Senator from Louisiana about some of the wording in the resolution. I declined at that time to cosponsor the concurrent resolution; but, having listened very carefully to the colloquy between the distinguished Senator from New York and the distinguished Senator from Louisiana, the reservation I had now, I think, been satisfied, and I ask that my name be added as a cosponsor of the resolution.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the name of the Senator from Kansas be added as an original cosponsor of the concurrent resolution.

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

Mr. Dole. Mr. President, I am proud to be an original cosponsor of the resolution, as amended and as clarified, which reaffirms the people of Puerto Rico to determine their own political future.

Mr. President, the consideration of this matter, which is a significant sense of the Congress comes 8 years after the 27th anniversary of the Commonwealth of Puerto Rico.

July 25, 1952, a Great Day for Puerto Rico

On July 25, 1952, the people of Puerto Rico adopted a new constitution and established a new relationship with the U.S. Congress, an imaginative experiment in democratic self-government; an experiment which over time has proven that a people committed to preserving their own particular cultural roots can yet maintain their relationship with a political entity differing in geographic scale, history, and power. In commemorating this event we pay tribute to the contributions and important roles that citizens of Puerto Rico have played in America's progress.

A Progressive Puerto Rico

The fruition of what may be called modern Puerto Rico has emerged over the last 40 years, as Puerto Ricans have made energetic progress in their efforts at improving health, education and job opportunities for all their citizens. Political ideals, as varied as they may be, have joined, through history, Puerto Rico's heritage, America's contributions, and Puerto Rico's own unique characteristics to achieve a balanced and successful means for enacting change and yet maintain continuity through democratic processes. We have a common commitment, as Americans, to individual freedom and the democratic tradition of representative government. Our common concern for economic growth and political development binds us in a unique relationship with our fellow Americans from Puerto Rico.

U.S. Commitment to the Principle of Self-Determination for the People of Puerto Rico

The nature of a commonwealth status carries with it the inherent obligation to line, and if necessary, re-interpret the political aspects of that relationship. The relationship between Puerto Rico and the United States is long overdue for a thorough evaluation and revision. The question of political status in Puerto Rico has sometimes been a source of confusion, yet we remain committed to the fundamental principle of self-determination for the people of Puerto Rico, whatever decision the people may make.

I recommend the distinguished Senator from New York and particularly the distinguished Senator from Louisiana, because we were in an area we did not have time to explore, and in bivocating with reference to the concurrent resolution, I found that some of the same questions raised by the leaders in Puerto Rico were raised by the Senator from Louisiana.

Mr. President, I urge my colleagues to support passage of this important resolution.

Mr. MOYNIHAN. Mr. President, I appreciate the statement of the Senator from Kansas, and who, with the minority leader, has stood for firm bipartisan support of the position we elucidated, as a matter of which both parties can be proud.

Mr. President, I do not believe there are other Senators who wish to speak. That being the case, I move the adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The concurrent resolution, as amended, was agreed to.

The preamble was agreed to.

SENERATOR MOYNIHAN'S FIRST GRANDCHILD

Mr. HEINZ. Mr. President, before I begin, I want to commend the Senator from New York on something that he can ultimately take responsibility for, and that is yesterday, as I understand it, the birth of his first grandchild, who I am sure will be at least as talented, at least as articulate, at least as intelligent—and that is saying quite a lot—as the senior Senator from New York.

Mr. MOYNIHAN. I do very much thank the distinguished Senator from Pennsylvania. The President pro tempore has done the same. May I say, I had very little to do with this epic event, but I am happy to congratulate.

CONGRESS AND DESERT STORM

Mr. HEINZ. Mr. President, I rise this afternoon because over the past few weeks there has been a lot of debate, a lot of discussion, and frankly I have heard, we all have heard, repeated efforts by many of my colleagues on the other side of the aisle to discuss, and I have to say to evade, the implications of their refusal, back on January 12 of this year, to grant the President's request that he be authorized to use force against Iraq.

Last week, the distinguished minority leader, Senator Dole, responded quite forcefully in the pages of the Wall Street Journal. But I am sorry to report those on the other side who refused to support the President, in my judgment, have done nothing but continue the campaign to obfuscate the issue.

Mr. President, I had not intended to make a statement on this subject today, but I cannot remain silent in the face of continuing attempts to rewrite history. Some of our Democratic colleagues have treated us to some genuine desperate explanations of their actions, including informal comments, I might add, that I have encountered, that many Senators were somehow misled: If only they had known, they say, that Iraq was so weak and that we had known about the devastating potential of allied air power. If only they had known about the instability and the incompetence of the Iraqi Army and its poor leadership.

All I can say is that the rest of us do not think we were misled. We took seriously the estimates of our intelligence services and our professional military planners and acted accordingly. Moreover, if there was a campaign to mislead anybody, including any Democrats, then it was a very efficient conspiracy indeed, for it would represent the first time that the Defense Department, the CIA, the State Department, and the White House all agreed on something.

We have been told that this war was the result of bungled diplomacy. In this view Saddam Hussein would never have had to be confronted with force, if only the United States had been diplomatically tougher in the few days or few weeks before he invaded Kuwait. And many of our colleagues have attempted to draw fire away from themselves and instead direct it at Ambassador April Glaspie, who many were led to believe had somehow given the go-ahead to Saddam Hussein's invasion.

The transcript that supposedly confirmed such a conversation between the Ambassador and Saddam has since been revealed as a Iraqi fabrication, and April Glaspie herself testified before the Senate yesterday to set the record straight. But if defense intelligence agencies make the Ambassador the scapegoat for the invasion of Kuwait has nonetheless revealed the extent to which so many in the Congress wish to shift the responsibility from themselves to the administration.

Some would say that these are diversions and, indeed, they are. For they are meant to draw our attention away from the flawed judgment of those who opposed the President, not only on January 12, but all along the way, in an effort to fix blame for the war itself on the President and his Ambassador. What I am saying, and I want to make this very clear indeed, has nothing to do with anybody's patriotism. I do not question that. But it is a plainly erroneous judgment of too many of my colleagues that I question now. I realize that the vote to authorize the President to use force against Iraq was an agonizing and searching choice for many of us, but a vote that request were no doubt as concerned and anxious as the rest of us, and I am cer-
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tain that the safety of our servicemen and women was uppermost in their minds as it was in ours.

However, the fact remains that Saddam's rampage in the Middle East was brought to a quick end by the foresight and determination of President Bush, and it is due to the President's decisiveness and courage that we are now in the midst of a national celebration of homecoming for our victorious men and women in uniform.

The consistency, the singular concentration of purposes, the determination in the President's policy towards the invasion of Kuwait are worth reflecting upon for a moment. Consider the immense task of building an international coalition to surround Iraq with economic sanctions enforced on land, at sea, and in the air. Consider the spectacular task of moving over half a million soldiers and thousands of tons of military equipment to the far reaches of the Saudi desert, and consider the final most difficult effort, to convince our allies to join in one of the largest and most successful multinational military actions since World War II.

We must also consider how difficult the President's tasks were made by the prophets of doom who dogged his steps at every turn. The Democratic leader, the spokesman for many of his colleagues on his side of the aisle, made the case against the President's request, and it is worth considering a moment several of his concerns as he stated them to us.

War, the majority leader told us, would result in the spending of billions of American dollars. In fact, the nations of the world have made large commitments to the funding of Desert Storm.

He told us it would cause a disrupted oil supply. In fact, even with the destruction of the Kuwaiti wells no such disruption has occurred.

He told us that military action would result in a wider war involving Israel and Turkey. In fact, Israeli restraint and Turkish firmness have amazed the world.

He told us that it would lead to the long-term occupation of Iraq. In fact, we are already bringing troops home from the region.

More ominously we were warned that a vote to support the President could result in longstanding Arab enmity to the United States and a return to American isolationism. In fact, America's defeat of Iraq has increased our prestige and authority, not only in the Middle East but throughout the world. And America, in 1991, stands not only as a great power but literally the only superpower on the planet. This is no exaggeration, Mr. President, because yesterday even the Minister of Defense of the Soviet Union himself praised General Schwarzkopf and paid due tribute to the abilities of the United States on the fields of both battle and diplomacy.

I said it before. I say it again, reiterating that I do not question the intentions, patriotism, the credentials of the distinguished majority leader or the clear majority of his party, who followed him in opposing the President's request. But it is precisely because those on the other side of the aisle exhibited what I can only describe as poor judgment in their estimation of the risk involved, of the efficacy of the means available, and the potential outcome of this crisis, that the American people are indeed worried about the poor judgment of those who opposed the President at every turn, they should in turn express that concern at the ballot box on the first Tuesday of November in 1992.

Although the predictions of many in the other party, many of the so-called experts, and most of the punditry were wrong, I have to tell you they weighed very heavily on those of us who voted to support the President's request. Those of us who voted to support the President knew we took a great risk, that we bore a great burden, that our decision carried for us a very high price if it failed to turn out well, or right. But whatever concerns about the risk of Desert Storm, those of us who supported the President felt even more strongly that it was simply imperative to support the principles of standing against aggression. The price of failure would be high, but it is clear that the price of inaction might have been even higher.

Many things gave us hope that America would succeed in her endeavor to stop this aggression. One was the outstanding talent and the qualities of the men and women of the U.S. Armed Forces. The performance of the U.S. military, from the privates in the field to the generals in the headquarters, has been outstanding, and beyond. But, even good soldiers need good weapons. Mr. President. If many of our colleagues had had their way in the past decade, our pilots would not have flown Stealth fighters or Apache helicopters, driven M1A1 tanks or manned Patriot batteries. These weapons, all of which performed beyond expectation, were the right tools in the right hands for the right job.

Many of us who had voted with the President on January 12 have been told we should refrain from bringing the votes of those who opposed the President to the attention of the Nation. When has there ever been a general amnesty extended to Senators for their votes? I recall no such courtesy extended to Republican Senators, or to any others for that matter. In any case, such an amnesty would be undemocratic.

The majority leader himself told us on January 12, "The essence of democracy is accountability, and those who voted with the President must share that accountability." I cannot believe that the Democratic leader would expect any less of those who voted against the President. If the war had gone badly, I am quite certain that those of us who supported the President's request would now stand in the Chamber after being called upon to explain ourselves and our votes. I, for one, would have felt compelled to account for my decision, in any case, and I fail to understand why so many of my colleagues on the other side do not feel a similar responsibility.

We have been told that we should now turn to the pressing domestic agenda that awaits the decision of the Congress. I heartily agree. But one agenda does not exclude the other. It would be a failure of our democratic system of government if other issues of national importance are merely used to camouflage previous votes on so paramount an issue as war and peace.

In any event, it is too early to curtail our celebration.

Our returning soldiers richly deserve the outpouring of affection and respect that was denied to so many of their colleagues after Vietnam. They have earned their place in the spotlight and the fact that the success of this war is a discomfiture to some whose judgment was lacking on January 12 should not serve to deny these young heroes the glory and the honor that is rightfully theirs.

Mr. President, I would like to close with an excerpt from a letter that I received from a constituent in Pennsylvania, a lifelong Democrat who told me he was deeply saddened by the turn in foreign policy taken by a party that had once been led by shining heroes such as Franklin Delano Roosevelt, Harry Truman and John Fitzgerald Kennedy. He suggested that President Kennedy's inaugural address, if given today, might be different, and I would like to read to my colleagues my constituent's revised version:

Let the word go forth to friend and foe alike, but especially to our foes, that the torch has been passed to a new generation of Democrats, born in this century but still living in the past, fearful of war but embittered by it, ashamed of our country, longing to watch the undoing of those rights to which our Nation has always been committed.

Let every nation know, whether it wishes us good or ill, that we are no longer willing to bear any burden, or to pay any price, to meet any hardships, to support any friend or nation else where, to assure the survival and success of liberty.

Mr. President, I hope that that is an unduly harsh judgment, but only time and history will tell.

Mr. President, I yield the floor.
Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I came over to speak on the Puerto Rican question when I heard my colleague from New York speaking, but I want to respond briefly to my colleague from Pennsylvania whose remarks I think are, frankly, inappropriate.

Let history judge who was right. Let history make that judgment, and I think we would all be wise. Those who were over in Saudi Arabia were Republicans and Democrats. That decision was made by the narrowest margin in the history of our country that we would use force, despite the advice of two immediate past Chairmen of the Joint Chiefs of Staff and despite the advice of eight of the nine living former Secretaries of Defense, and when my friend from Pennsylvania said we used poor judgment on the risk involved, I remember visiting with General Schwarzkopf on his estimate on the length of the war and the risks involved. They were appreciably different from what Senator Moynihan said. Let us think what we were going to have the kind of good fortune that we did. And I have to add, when I took my Army basic training, I remember one of the things I was told was a smokescreen. There is a smokescreen on what has happened in the Middle East, and our failure to attend to what is happening there.

My friend from Pennsylvania talked about the great courage it took to vote as he did. I think it took courage on both sides. I do not think there was a monopoly of courage on either side. But when he says the price of failure was high, let me tell my colleagues, the price of failure is high when we do not meet the needs of education in our country, and we are doing nothing about it, almost nothing.

The President of the United States said we want to be the education President. Let us put our money there. Let us do something about it. The price of failure is high. Right now I am trying to save the life of a man who needs a lung transplant. He has Blue Cross-Blue Shield insurance, but it does not cover it. If he lived in Canada, he could get that operation. He cannot get it here.

Mr. HEINZ. Will the Senator yield?

Mr. SIMON. We have health care needs; we have education needs. Let us not ignore these needs as we talk about this. I will yield just for purpose of a question.

Mr. HEINZ. Without losing the right to the floor.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. SIMON. I will yield for the purpose of a question, but I want to move on to a speech for 5 minutes.

Mr. HEINZ. Let me begin my question with an observation, if I may, which is I want to commend the Senator from Illinois for saying what I believe to be the truth. The truth is that we should not let the Middle East divert us from attending to the needs of this country domestically. The Senator from Illinois is absolutely correct. I hope I made it clear, indeed I think I did make it clear in my remarks, the one agenda does not exclude and should not exclude the other.

Just to make clear, I heartily agree that we have an enormous agenda in health care, in education, in crime, and in fighting drugs. My comment is, I hope the Senator from Illinois understands that I agree with him.

Mr. SIMON. I hope that we do agree, and I hope the Senator from Pennsylvania will join the Senator from Illinois in voting for programs that really move on this problem.

The Status of Puerto Rico

Mr. SIMON. Mr. President, let me address the question that Senator Moynihan was discussing, and that is the status of Puerto Rico. Frankly, the United States cannot say we favor self-determination for people in Eastern Europe and everywhere around the world, but we do not favor it for the people of Puerto Rico.

I refuse to authorize a plebiscite in Puerto Rico so the people of Puerto Rico could make a determination whether they should be independent, whether they should continue as a Commonwealth, or whether they should become a State. I think we ought to permit the people of Puerto Rico to have that plebiscite. They are American citizens.

They have had among the very highest rates of casualties of the top three or four States, if they were considered a State, in all the recent wars that we have been involved in. They want to be treated as first-class citizens, and we are not permitting them to do that.

We face the fact of three things: Independence—very few want independence—statehood or Commonwealth status, which is just old-fashioned colonialism; that is all it is.

Who opposes the plebiscite? This is very interesting. We have something called section 936 that costs the Government of the United States a great deal of money but gives a break to a lot of companies, particularly pharmaceutical companies and they are strongly opposed to changing the present status. They also, incidentally, oppose having Puerto Rico covered by the minimum wage law. We simply cannot continue this status indefinitely. Let me tell my colleagues, there is going to be an explosion down in Puerto Rico if we do not recognize the rights of these citizens. We simply cannot have second-class citizens.

On the question of language, when New Mexico was admitted as a State, the majority of the people of New Mexico did not have English as their mother tongue. I heard Senator Moynihan refer to Oklahoma in the same regard. But somehow or another, we are going to have to face up to this Puerto Rican question, and we should do it before there is an explosion down there. We should not have second-class citizens.

I might add, that applies to Washington, DC, too. The capital of every city that has a free election, free system, the capital of every city is represented in their Parliament, to my knowledge, with one exception and that is the United States of America. That should not continue.

Mr. President, I commend my colleague, Senator Moynihan, for his remarks. I think I have some colleagues now who wish to speak, so I will yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I earlier went into a colloquy on the floor with Senator Moynihan from Arizona after giving a speech talking about my feelings upon reading about a young army specialist who had come back to Detroit, who had been a hero in operating Patrick Henry hospital, the Operation Desert Storm, had come back to Detroit and was killed on the streets of Detroit before his mail even arrived home.

Not wishing to take away any of the pride I feel for anyone who participated in Operation Desert Storm and, in fact, not wishing to take away any of the due credit deserving President Bush for being very resolute throughout all of this, expressing only my concern for the way that I felt knowing that here is a young man who had fought in Operation Desert Storm, had come back and had died in the streets of Detroit.

I was responding as well to some statements Senator Moynihan was making asking whether or not we were going to be able to remember casualties that were being taken here at home.

I did not intend to come back. I am sorry the distinguished Senator from Pennsylvania has left the floor because whether it was the tone of his presentation or the detail of the presentation, I am provoked by the message that I received. Indeed, I have done a considerable amount of personal soul searching about the things that I have said and my attitude towards what the President was saying in the last 7 months. I am perfectly aware of how the people of Nebraska feel: 94 percent support what he has done; 54 percent support what I have done.

I still have the capacity to add and subtract, and I know that I need to spend a great deal of time talking to people in my State, and I have attempted to do that. But I must say...
that I am again alarmed by the tone that I heard and, in particular, the appearance of the delivery, an attitude that we are right, you are wrong, that suggests somehow that Republicans are right and the Democrats are wrong.

Mr. President, I ask unanimous consent to insert in the Record an article that was ordered to be printed in the Wall Street Journal by Mark Siegel.

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

(From The Wall Street Journal, Mar. 21, 1991)

SADDAM HUSSEIN'S OTHER REPUBLICAN GUARDS

(By Mark A. Siegel)

Sen. Robert Dole, writing in The Wall Street Journal of March 13, indicated that the Gulf war was fair game in political warfare between Republicans and Democrats. But the GOP may yet find some reasons to pause before making Gulf policy the 1992 election issue. At some point, the administration will have to explain its political support for, and arming of, Iraq throughout the 1980s.

Sen. Dole and his colleagues may be asked to explain repeated efforts by the GOP not to criticize Saddam Hussein's use of poison gas against Iraqi Kurds, and the Reagan-Bush policy of selling Iraq arms that aided the Commerce Department's approval of high-tech sales to buttress Saddam's chemical, biological and nuclear potential. The GOP might be called on to justify U.S. Ambassador April Glaspie's green light to Saddam's invasion of Kuwait.

A transcript of Sen. Dole's meeting with Saddam Hussein in Baghdad on April 12 of last year, reveals a minority leader on bended knee before Iraq's dictator. Sen. Dole assured the Iraqi president that George Bush was against the use of sanctions against Iraq, and would probably veto such an action by the U.S. Congress. (Mr. Bush does not come off looking so good here, either.) April Glaspie chimed in with "I can confirm this is the U.S. government policy."

Sen. Dole repeatedly stated that he was sympathetic to the plight of the second-largest country in the region: "I would like to say we know the importance of the second-largest country in the region, your country is the second-largest country in the region."

Sen. Dole gratuitously reminded Saddam that "we [the Republican administration] condemned the Israeli attack in 1981" on Iraq's Osirik nuclear station. That is, "we" condemned an event that prevented Saddam from entering the Gulf war with 120-kiloton nuclear warheads.

A bit later in the year came the unfortunate incident of Sen. PhilGramm, R. Texas, the GOP chairman of the politi­

calization of Operation Desert Storm, acting just six days before Saddam's invasion of Kuwait to lift U.S. credit and agricultural restrictions to Iraq. One of the chief co-spon­
sors and supporters of Sen. Gramm's amendment was the sanctimonious minority leader himself.

Sen. Gramm, chairman of the National Repub­
liean Senate Campaign Committee, sees the war as the GOP's big chance to recapture the White House. His thinking on Iraq is focused on working on negative research on incumbent Senate Democrats who voted against the "use of force" Gulf War resolution.

The Gramm hit list is led by Brock Adams (Wash.), Peter DeFazio (Ore.), Tom Daschle (S.D.), Kent Conrad (N.D.), and Fritz Hollings (S.C.). New Repub­
liean National Committee Chairman Clayton Yeutter, who has had influence in trade matters, was, like Sen. Gramm, a prime Saddam fan as late as last July, also believes Repub­
lieans can capitalize on the war at every level.

The great irony, of course, is that Sen. Gramm is the least credible Republican to lead a partisan charge against the Demo­
rats. Indeed, Saddam's troops massing on Kuwait's border, the Gramm amendment on agricultural trade with Iraq provoked fellow Republican Bill Cohen of Maine, a key bargainer in the resolution of the U.S. Senate, that Sen. Gramm's actions were like Neville Chamberlain's appease­ment of Hitler in the 1930s. Sen. Cohen's words—which were made minutes before the Gramm amendment was defeated—are so up­

lifting and prescient they deserve to be quoted in full:

"Mr. President, I have just a few seconds left and let me say that at one point in our history we heard the tap tap tap of Neville Chamberlain's telegram to Hitler in Munich. Now we are about to hear the rumble of the farm tractor on the bricks of Baghdad.

"Make no mistake about it, we are follow­ing a policy of appeasement and we are never going to lead in the fight against terrorism. It identifies missiles and bombs against the spread of chemical weapons, or that of high military technology, because of the arguments that our allies are unwilling to follow our example. Therefore, we are left with the argument that we must follow the herd, follow it right down the path of feeding Saddam Hussein while he continues to ter­

rorize, attack, gas or simply threaten to do so. This is a policy of appeasement that will go on unchallenged for years to come if we accept the arguments of the Senator from Texas."

Republicans voting along with Sen. Gramm to appease Saddam Hussein six days before his invasion of Kuwait were: Kit Bond (R. Mo.), Alan Simpson of Wyoming, Strom Thurmond of South Carolina, Alan Simpson of Wyoming, Strom Thurmond of South Carolina, and Alan Simpson of Wyoming.

Indeed Sen. Simpson, the wielder of the witty rapier into CNN's Peter Arnett, also comes off looking terrible in general. At least Mr. Arnett can never be accused of hav­ing just been in a war. Dick Lugar of Indiana, Thad Cochran of Mississippi, Jack Dan­

forth of Vermont, Pat Domenici of New Mexico, Slade Gorton of Washington, Chuck Grassley of Iowa, Mark Hatfield of Oregon, Trent Lott of Mississippi, Dick Lugar of Indiana, Jim McClure of Idaho (now retired), Mitch McConnell of Kentucky, Larry Press­

ler of South Dakota, William Roth of Dela­

aware, Steve Symes of Idaho, Strom Thur­

mond of South Carolina and Alan Simpson of Wyoming."

But I have also said that in the past 20 years many other events have hap­

pened in this world that have influ­

cenced my attitude towards foreign poli­

cy in many ways far more than the suc­

cess of Desert Storm, not the least of which is the phenomenal occurrence in Poland. We passed over, or rather, a resolution where every Member of the Senate is an original cosponsor, praising President Lech Walesa—remarkable events in Eastern Europe.
I had a great deal of skepticism about the cold war, Mr. President, as a consequence of my own experience, and it caused me as a result to underestimate the importance of American's resolve on behalf of freedom, freedom for people. I still have a great deal of reservation about the effort to deal with a cause of oil and economic gain and protection of economic interests. Indeed, I hope we make sure that this war is on behalf of the freedom of the Kuwaiti people and that we stand for democracy in Kuwait.

I hope we do the same thing in Iraq as well, that freedom is the cry of this country, not economic interest, as, indeed, we have discovered in Czechoslovakia, Poland, in East Germany of all places, and, I might point out to my friends not to return me if I choose to run for reelection in 1994. That is their judgment and their determination. That may happen. But I hope the division that occurred in foreign policy for too long in this country does not reoccur as a consequence of getting into the attempt to gain political advantage by coming to the fore saying Democrats are talking privately and admitting that they were wrong. No such thing has happened.

Mr. President, this country's policy toward Iraq was wrong prior to the invasion. It was moral relativism. It was a desire for economic gain. Blinded by the need for money, we sold them weapons. Blinded by the need for money, we did some things to encourage Saddam Hussein and we paid a terrible price for it.

I hope my country will remember how we got in this mess, I believe we will welcome the soldiers with great pride. I have enormous pride for those soldiers, enormous pride for General Schwarzkopf and General Powell and, indeed, for President Bush as well. But I am proud for this country because we stand for freedom and are willing to put our lives and our wealth and our children on the line for it. And this world is better as a consequence.

Mr. President, I hope that this Senate does not deteriorate into a "you're wrong," body, trying to figure out who holds the highest ground. If we do, our foreign policy will lead the people of the world that we will suffer. I pray that we come out of this war with the understanding of this Nation's greatness and its potential.

I yield the floor.

VOTES OF CONSCIENCE

Mr. SPECTER. Mr. President, I had come to the floor to make some comments on the 100th anniversary of the birth of former Chief Justice Earl Warren. In the meantime I listened intently to the speech by my distinguished colleague from Pennsylvania, Senator HEINZ, and the reply by the distinguished Senator from Nebraska, Senator KERREY. Senator KERREY commented that he wished Senator HEINZ had stayed to hear the response.

I believe that there will be a great deal of debate on this floor, as there will be a great deal of debate in many halls, on the subject matter of the vote on the use of force in the Persian Gulf. If I were to choose someone to debate on this subject, the last person to debate would be the distinguished Senator from Nebraska. Not that I am unduly concerned about any sort of debate but because of his record and because of his background.

Nevertheless, I do believe that it is not inappropriate for my colleague, Senator HEINZ, to have made a comment on the issue of judgment. Senator HEINZ was very explicit about the issue of judgment as opposed to patriotism. When some have said that the vote is out of bounds because it is a vote of conscience, the question which comes to my mind is, what votes in this Chamber are not votes of conscience?

The concern that this Senator had on January 12 when we voted on this subject was that had it been a secret ballot, the vote would have been 90 to 10 in favor of the resolution for the use of force.

I would say, however, that I know the distinguished Senator from Nebraska [Mr. KERREY] would have voted against the resolution under any circumstance, had it been secret or open. I would say the same for the Presiding Officer, Senator HARKIN of Iowa, whom I praised on the floor of this body for having stood up on January 3 raised the issue in a courageous way by calling for a vote.

The vote of the Senator from Iowa was different from the vote of this Senator. However, I wonder if Senator from Iowa was exactly right in saying the U.S. Senate and the U.S. Congress should take a position on the issue. This Senator was very concerned after a hearing from the Judiciary Committee that week which raised the question of an impeachment process against the President if he were to proceed to use force without a resolution by the Congress.

I was very concerned about the constitutional responsibility and constitutional authority of the Congress. If we were to sit back and allow the President to proceed to use force without the Congress having taken a position, the constitutional authority of the Congress would have been seriously eroded, if not eliminated, since we had been on notice for so many weeks that the President had an intention to proceed with the use of force pursuant to United Nations Security Council Resolution 678.

On the floor that the Senate should have taken up the issue earlier, as Senator LUGAR first suggested in early November. An unusual provision of the resolution of adjournment allowed the majority leader of the Senate, the Speaker of the House, the authority to call the Congress back into session. It is customarily a power that remains with the President and not the leaders of the two Houses.

Had there been reservations about the building up of U.S. forces in early November or reservations about the action of the United States in proceeding to get U.N. Security Council Resolution 678 adopted, the Congress had the responsibility and the authority to consider the matter of that time. The Congress was on notice, as the world was on notice that the President and the Secretary of State sought to get the United Nations to adopt a resolution authorizing the use of force on January 15.

So that when a political argument is made on the question of judgment, it seems to me that that is an argument that can be made on the street corner, can be made in the townhalls, and not an inappropriate argument for the floor of the U.S. Senate.

CHIEF JUSTICE EARL WARREN'S BIRTHDAY

Mr. SPECTER. Mr. President, now I wish to speak on the subject for which I came to the floor, that is, the commemoration of the 100th anniversary of Earl Warren's birth. I had the unique opportunity to work with Chief Justice Warren as one of the young lawyers on the Warren Commission.

On November 29, 1963, President Johnson appointed a commission to investigate the assassination of President John F. Kennedy. Chief Justice Warren agreed to serve as the chairman of that commission, and it immediately became known as the Warren Commission.

I believe that when the Chief Justice took on that job, he demonstrated the qualities of the quintessential public servant. He took on that job in addi-
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The Chief Justice replied that he could not take off that much time. "I have to serve on the court." Lee Rankin said, "Well, we can leave Friday after the court is over and get you back in Monday in time for the session [to reconvene]." The Chief Justice replied, "I want to do it on Sunday, cram it all into one day," Which he did.

I was one of the staff members assigned to go with Chief Justice Warren to explain to him the single bullet theory. It is now the single bullet conclusion. I think that is a fair categorization, its having withstood investigations too numerous to mention over the intervening 27 years.

At 7 a.m., the Chief having arisen around 5, we took off on a Jet Star and went to Dallas. We visited the Texas School Book Depository Building, retraced the alleged steps of Oswald, met with the attorney general of Texas, took the testimony of Jack Ruby, and then flew back late at night to arrive past midnight.

On the way back, Chief Justice Warren was going through papers, discussing the case, issuing instructions, working hard all the time. He possessed a phenomenal degree of energy and insight although he was in his mid-seventies at that time.

I was given 5 minutes with the Chief Justice at the sixth floor of the Texas School Book Depository Building to go over the evidence of the single bullet theory. I shall not do that now because my colleagues are waiting to speak.

The Chief Justice did not say a word during the presentation. When I finished, the Chief Justice agreed, I am pleased to say, with the single bullet theory.

Just one more vignette from what I saw of Chief Justice Warren on the Commission, and that was his compassion as a human being. Jack Ruby was convicted of murder in the first degree and sentenced to death. He went to Dallas jail when his testimony was taken. At one point Jack Ruby's lawyer handed Gerald Ford, then a Commissioner, a note. Ruby insisted on seeing the note.

"The note was handed to him, and he tried to read it but could not. The Chief Justice of the United States took off his glasses and handed them to the convicted murderer so Ruby could read the note. This certainly was a unique moment.

On the legal side, of course, the Chief Justice was extraordinary in Brown versus Board, the desegregation case. There was also Reynolds versus Symms, the one man, one vote case.

Others have spoken eloquently about his work as Chief Justice. He tackled questions of enormous importance and the single bullet controversy. Obviously, not all of us agreed with all of the decisions which he handed down, but they were done with a searching scope of inquiry and a tremendous integrity. His tenure on the Supreme Court, from 1953 to 1969, is a very extraordinary period in judicial history in this country.

I yield the floor.

Mr. HATFIELD. Mr. President, I want to thank the Senator from Pennsylvania for that fine review, and I want to thank each and every one of you for your comments about the former Chief Justice in whom we took great pride in having as Governor of the neighboring State of California, and who later served as Chief Justice.

I too, have warm memories of my days at the graduate school of the Stanford University and accompanying Gov. Earl Warren to a California gubernatorial conference on the problems facing the youth culture of that day, and getting acquainted with him, even in that very casual relationship at that conference, and later becoming friends with him, not only with the Chief Justice but with his wife, who is still living, and with a number of his daughters.

I appreciate very much the very rich experience the Senator had with the Chief Justice in serving on this Commission.

Mr. SPECTER. If the Senator will yield for a reply, I thank my colleague from Oregon for those very nice comments. I think it not inappropriate to say under these circumstances that several years ago I said he should be on the Supreme Court of the United States.

The Supreme Court consists of nine lawyers. It is not generally known, however, that there is no requirement that the Justices of the Supreme Court of the United States be a member of the bar or a lawyer. If you want to be a judge of most courts, I think perhaps all courts, certainly the common pleas courts of Pennsylvania, or the Supreme Court of Pennsylvania, or even U.S. district court, and courts of appeals, you must be a member of the bar. But the United States Court of Appeals for the Supreme Court of the United States.

Notwithstanding the fact that I am a lawyer, I think jurisprudence would be well served if some on the Supreme Court of the United States were not lawyers. Perhaps someone who had a background as a distinguished professor, or perhaps who had been a Governor, or someone who had been a distinguished U.S. Senator like Senator Hatfield.

COLUMBIA RIVER BASIN SALMON

Mr. HATFIELD. Mr. President, the Pacific Northwest continues to be the focal point for national environmental controversies. While people who live in the Northwest appreciate the benefits of our abundant natural resources, these resources can be both a blessing and a curse. Those of us from the Northwest who have served in the Congress over the last decade remember those years in terms of which natural
While opinions to saving the Columbia Basin's salmon runs vary, nearly everyone agrees on one point: That dams on the river system are almost single-handedly responsible for the decline in the salmon runs.

Mr. President, the Army Corps of Engineers plays a major role in managing the Columbia River system. In addition to its involvement in navigation and flood control efforts, the corps operates several of the hydroelectric dams that make up the Columbia River Federal Power System. In other words, the fate of the Columbia and Snake River salmon is, to an unusually large extent, in the hands of the Army Corps of Engineers.

As the former chairman and current ranking member of the Energy and Water Development Appropriations Subcommittee, I have had the pleasure of working with the corps for many years. I can attest to the fact that the corps is, to an extent greater than many other Federal agencies, a can-do operation. The corps is action-oriented, and often solves difficult and complex problems quickly and effectively. For example, the corps' quick action a decade ago in dealing with the eruption of Mount Saint Helens literally saved a major portion of the economy of my State by ensuring that the navigational channel in the Columbia River was dredged of volcanic ash and other debris. The corps' work during that crisis was nothing short of heroic.

Unfortunately, however, there is a flip side to the Corps of Engineers—a darker side that did not show its full colors until recent years when former Senator Jim McClure and I began insisting upon appropriations for fish bypass facilities for the federal Columbia and Snake River dams. While I am pleased that the corps' fiscal year 1992 budget does request $32 million for fish bypass facilities, it has taken several years of persistent arguments from Senator McClure, me, and other members from the Northwest delegation to get the message across to the corps that fish bypass facilities are critically important.

Moreover, when our Salmon summit convened last October, the corps was initially reluctant to acknowledge that it had any administrative flexibility to begin immediately addressing the problem of declining salmon runs. Although I hoped that the corps' position would modify during the course of the summit, recent events prove me wrong.

Last Friday in Portland, the corps announced a Snake River Reservoir drawdown test that was proposed during our summit. The corps' decision not to proceed with the test is very disturbing to me, and makes me wonder if the corps will ever modify during the course of the summit, recent events prove me wrong.

The filing of endangered species petitions on five runs of Columbia and Snake River salmon last spring signaled the beginning of yet another era in the Pacific Northwest's string of natural resource controversies. Having learned from past events that stubbornness, ignorance, bad faith bargaining, and just plain passing the buck do not lead to real and effective solutions to complex problems.

Imagine how these people feel when the key Federal agency—the Corps of Engineers—continues to hide behind a bureaucratic curtain and pretend that it has no responsibility to change the very operations which are killing these fish? They feel outraged and so do I.

Summit participants asked the corps to help design and implement a test drawdown of the Lower Granite Reservoir on the Snake River between March 26 and April 6 of this year. The purpose of this proposed drawdown was to compile data on how the mechanics of such an action would work, how the resulting increased river flows would change the operation of the river system, and how these flows would help migrating juvenile salmon. Furthermore, the dates suggested for this test were selected to coincide with existing corps plans to conduct maintenance activities on the Lower Granite lock. In short, the proposal was both useful and well timed. But, instead of proceeding with this experiment—an experiment which would have exhibited the corps' desire to bargain in good faith at a minimum—the agency dug in its heels and proved to people in the region that it is not a progressive, 1990's problem-solving agency.

Sadly, Mr. President, I must conclude from his episode that this can-do agency is becoming the don't know agency.

The Pacific Northwest has a long way to go before the salmon issue is resolved. Our salmon summit was established in the hope that we could find a new and better way of resolving contentious environmental issues. If the involved federal agencies cannot be induced to participate actively and creatively in the process, however, how can we expect others will come to the bargaining table in that spirit? It is my sincere hope that decision and policy makers in the Corps of Engineers and the other Federal agencies will wake up and realize that the time is at hand to begin seriously considering the initiative and help shape the future of the Pacific Northwest, or have the
March 21, 1991

MRS. WINT SMITH—1893-1991: RE-MEMBERING A VERY SPECIAL LADY FROM JEWELL COUNTY

Mr. DOLE. Mr. President, I join my colleagues today in a heartfelt salute to the late Mrs. Wint Smith and to those who knew and loved her. I also pay tribute to the hard-working men and women who comprise the largest and most remarkable industry in the country. As we welcome the first day of spring, we also welcome that time of the year when farmers return to their fields to perform their miraculous tasks, reaping Nature’s bounty for every man, woman, and child.

We celebrate today in order to increase public awareness and to express our gratitude for the achievements and the contributions that American agriculture has given to all of us. We also celebrate the fact that, as citizens of the United States of America, we are all beneficiaries of the most abundant, the safest, and the most diversified food supply ever—a food supply that is merely a utopian dream in most countries of the world. And the American consumer can take that food home at a cost—as a percent of disposable income—that is lower than in any other developed nation.

But this tribute would be incomplete if we just stopped with those facts. Agriculture is the dominant positive factor in the U.S. balance of trade, annually closing the trade deficit margin established by other sectors of the economy. Numerous industries and services are encompassed by the agricultural industry, as farmer dollars maintain and enhance the prosperity of people and businesses that provide energy and other inputs, as well as in the enormous marketing, transportation, and food handling concerns which put the food on our plates. One would naturally assume that in an agrarian society, the food industry plays a dominant role in providing jobs for American workers—in fact, more than 1 in 5 persons employed work as a part of this many-faceted industry.

Farmers and ranchers are also on the front line of efforts to conserve and enhance our natural resources. They are the pioneer environmentalists of the world, the ones who were committed to the task long before being “green” entered the public mainstream. And they will remain in the forefront long after the hysteria wears off. It is a day-to-day practice in farm country to reduce erosion, to protect the groundwater, and to conserve our other finite natural resources—their livelihoods and the safety of their families depend on it.

In return for what our farmers have given us and our country, we must in turn recognize their needs and priorities. In recent years, we have embarked upon a market-oriented course for agricultural policy. Allowing the market to direct managerial decisions is much preferable to bureaucratic control, but to make it work we must commit ourselves to provide access to the markets which will carry American agriculture into the future. It is equally important that we caution against saddling the producer with undue regulations and program-policing mechanisms that deny individual decisionmaking and hinder diversification. In short, knowing what agriculture doesn’t need can be as important as knowing what it does need. Farmers seem to have longer memories than most Congressmen, so it is important to listen and to be reminded of how our actions in Washington affect the people and the communities at the grassroots level.

Again, I would like to extend a personal note of gratitude to the American agriculture industry. To the men and women in the fields, to the rural communities and the businesses which they support, we all owe you our thanks.

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

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

EXECUTIVE SESSION

THE EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations Calendar Nos. 21, 22, 23, 33, 49, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, and all nominations reported today as follows: Patricia F. Saiki, to be Administrator of the Small Business Administration; Renato Beghe, to be a judge of the U.S. Tax Court; Robin J. Cauthron, to be a U.S. district judge; Richard W. Goldberg, to be a judge of the U.S. Court of International Trade; and Oliver W. Wanger, to be U.S. district judge; and all nominations placed on the Senate's desk in the Foreign Service. I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table en bloc, and that the Senate be immediately notified of the President’s action, and that the Senate return to legislative session.

Mr. DOLE. The nominations include Patricia F. Saiki, Renato Beghe, Robin

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,196th day that Terry Anderson has been held captive in Lebanon.

HONORING IMPACT SEVEN

Mr. KASTEN. Mr. President, I rise today to inform my colleagues about a real community-service success story.

For 21 years, Impact Seven, Inc., of Turtle Lake, WI, has been developing housing for low-income and special needs populations. One of their projects—the West Central Wisconsin Housing Renewal project—has been honored with an Award of Excellence by the Fannie Mae Foundation.

Impact Seven did a great job in finding housing sites that were both easily accessible and sheltered from harsh weather conditions. All Wisconsinites

ought to be proud of their accomplishment.

NATIONAL AGRICULTURE DAY, 1991

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In return for what our farmers have given us and our country, we must in turn recognize their needs and priorities. In recent years, we have embarked upon a market-oriented course for agricultural policy. Allowing the market to direct managerial decisions is much preferable to bureaucratic control, but to make it work we must commit ourselves to provide access to the markets which will carry American agriculture into the future. It is equally important that we caution against saddling the producer with undue regulations and program-policing mechanisms that deny individual decisionmaking and hinder diversification. In short, knowing what agriculture doesn’t need can be as important as knowing what it does need. Farmers seem to have longer memories than most Congressmen, so it is important to listen and to be reminded of how our actions in Washington affect the people and the communities at the grassroots level.

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

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

EXECUTIVE SESSION

THE EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations Calendar Nos. 21, 22, 23, 33, 49, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, and all nominations reported today as follows: Patricia F. Saiki, to be Administrator of the Small Business Administration; Renato Beghe, to be a judge of the U.S. Tax Court; Robin J. Cauthron, to be a U.S. district judge; Richard W. Goldberg, to be a judge of the U.S. Court of International Trade; and Oliver W. Wanger, to be U.S. district judge; and all nominations placed on the Senate’s desk in the Foreign Service. I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table en bloc, and that the Senate be immediately notified of the President’s action, and that the Senate return to legislative session.

Mr. DOLE. The nominations include Patricia F. Saiki, Renato Beghe, Robin
J. Cauthron, Richard W. Goldberg, and Oliver W. Wanger.

Mr. FORD. The Senator is correct. The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF STATE

Jon David Glucksman, of the District of Columbia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

EXECUTIVE OFFICE OF THE PRESIDENT

William A. Geoghegan, of Maryland, to be a member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 1992.

BOARD FOR INTERNATIONAL BROADCASTING

Kenneth Y. Tomlinson, of New York, to be a member of the Board for International Broadcasting for a term expiring April 23, 1993.

EXECUTIVE OFFICE OF THE PRESIDENT

Donald A. Henderson, of Maryland, to be an Associate Director of the Office of Science and Technology Policy.

DEFENSE BASE Closure and REALIGNMENT

Commission

The following named persons to be members of the Defense Base Closure and Realignment Commission for terms expiring at the end of the first session of the 102nd Congress:

James C. Smith II, of South Carolina.
Howard H. Callaway, of Colorado.
James A. Courter, of New Jersey.
James A. Courter, of New Jersey, to be Chairman of the Defense Base Closure and Realignment Commission.

DEPARTMENT OF STATE

Charles R. Baquet III, of Maryland, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti.

Katherine Shirley, of Illinois, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal.

Michael T. F. Piston, of Arizona, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malawi.

Jennifer C. Ward, of the District of Columbia, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Niger.

AFRICAN DEVELOPMENT FOUNDATION

Edward Johnson, of Michigan, to be a member of the Board of Directors of the African Development Foundation for a term expiring September 22, 1995, vice William F. Pickard, term expired.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Lewis W. Douglas, Jr., of California, to be a Member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1993, vice Hershey Gold, term expired.

CONGRESSIONAL RECORD—SENATE

March 21, 1991

NATIONAL COUNCIL ON DISABILITY

George H. Oberle, Jr., of Oklahoma, to be a member of the National Council on Disability for a term expiring September 17, 1992. (Reappointment.)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Mikiko Hane, of Illinois, to be a member of the National Council on the Humanities for a term expiring January 26, 1996, vice Leon Richard Kenyon, term expired.

Donald Hall, of New Hampshire, to be a member of the National Council on the Arts for a term expiring September 3, 1996, vice Jacob Nevin, term expired.

Catherine Yi-yu Cho Wo, of California, to be a member of the National Council on the Arts for the remainder of the term expiring September 3, 1994, vice Marvin Hamisch.

Marta Istomin, of the District of Columbia, to be a member of the National Council on the Arts for a term expiring September 3, 1996, vice Carlos Moseley, term expired.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Bernacliffe P. Healy, of Ohio, to be Director of the National Institutes of Health, vice James B. Wyngaarden, term expired.

DEFENSE BASE CLOSURE and REALIGNMENT COMMISSION

Duane H. Cassidy, of Virginia, to be a Member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 102nd Congress. (New position.)

William S. Taylor, of Georgia, to be a member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 102nd Congress. (New position.)

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 3790.

To be lieutenant general


NOMINATIONS REPORTED TODAY

Patricia F. Saihi, to be administrator of the Small Business Administration; James T. Beghe, to be a judge of the U.S. Tax Court; Robin J. Cauthron, to be U.S. district judge.

Richard W. Goldberg, to be a judge of the U.S. Court of International Trade; and Oliver W. Wangler, to be U.S. district judge.

NOMINATIONS PLACED ON THE SECRETARY’S DESK IN THE FOREIGN SERVICE

Foreign Service nominations beginning Henry H. Bassford, and ending Paul B. Thorp, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD for January 4, 1991.

Foreign Service nominations beginning William A. Rugh, and ending John Treacy, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD for January 4, 1991.

Foreign Service nominations beginning William Charles Montoney, and ending Dale Tasharski, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD for January 4, 1991.

Foreign Service nominations beginning James V. Parker, and ending Richard T. McDonnell, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD for January 4, 1991.

STATEMENTS ON THE NOMINATION OF PATRICIA F. SAIKI

Mr. BUMPERS. Mr. President, I am pleased to support the nomination of Mrs. Patricia F. Saihi of Hawaii, to be Administrator of the Small Business Administration. This nomination may set a record or near record for Senate consideration. She was nominated by the President on March 12, 1991. The Small Business Committee held a hearing on March 20, 1991, and immediately voted to approve her confirmation.

We have high hopes for Mrs. Saihi’s tenure at SBA. During her hearing, I made the point to her that the agency has suffered from the revolving door syndrome over the last decade—six administrators from 1980 to 1990. While I am impressed with Mrs. Saihi’s background both in business and especially in public service, it is only fair to point out that she is the third consecutive failed Senate candidate to be appointed by two successive Republican Presidents. The appearance is unfortunately developing that Republicans who lose Senate races can count on SBA as a consolation prize.

Mr. President, I am impressed with Pat Saihi’s positive attitude and her personal charm. She served 14 years in the Hawaii Legislature before being elected to serve 4 years in the U.S. House of Representatives—from a very heavily Democratic district in Honolulu, I might add. Moreover, she raised five children during this time, three of whom hold doctoral degrees. Additionally, she served on the boards of directors of Hawaiian Airlines and AMFAC, Inc., which is one of Hawaii’s oldest and largest corporations. Frankly, there was an outpouring of support for her by Republicans and Democrats alike.

SBA needs sustained and experienced leadership with vigor and common sense. I wrote to President Bush several weeks ago and asked that he make every effort to find someone with an impeccable record of accomplishment in business to manage SBA. For much too long, both Democratic and Republican Presidents have filled the agency’s important posts with political appointees who have little or no experience in business or government. If this trend is not reversed soon, the aim of those who wanted to abolish SBA a few years ago will be accomplished as surely as President Reagan had hoped.

I want to point out, Mr. President, that two important posts at SBA remain vacant. The job of Chief Counsel for Advocacy has been open for almost 2 years and small business groups are beginning to wonder if it will ever be filled. Also, the Deputy Administrator’s post was made subject to Senate approval last year, and it is also now
vacant. At the risk of stating the obvious, the counsel's job should be filled by a lawyer, and the No. 2 person in the Small Business Administration should be a business person. I simply cannot imagine a businessperson filling that job, and the No. 2 person in the Small Business Administration being vacuum. At the risk of stating the obvious, the counsel's job should be filled by a lawyer. And if the nominee does not have an impressive record in business, the prospects for that nomination will not be very good.

All of the members of the Senate Small Business Committee and I join in wishing her a successful tenure as Administrator. I hope she will be an active and aggressive manager for the agency. The SBA has many diverse and complex programs which, at times, are difficult to administer. The agency has gone from about 9,000 employees 10 years ago to about 4,000 today, with its responsibilities even larger now than they were then. The economy is in a recession, at least, and some parts of the country are quite depressed and getting worse. SBA can and should play an essential role in economic recovery. Mrs. Saiki has some large challenges facing her.

I urge my colleagues to support Pat Saiki's nomination.

Mr. Dole. Mr. President, it is a secret that Pat and I are old friends, and I am delighted that President Bush has nominated her to be Administrator of the Small Business Administration.

You mention Pat Saiki's name—whether outside the beltway or in her home town of Honolulu, HI, or for that matter anywhere in between—and all kinds of words jump to mind like dedication, experience, smart, insightful, and innovative.

And I think probably everyone in this Chamber will agree that the former Congresswoman's background makes her particularly well-suited to head up the SBA.

Having been a junior and high school teacher for 12 years and through her membership on a number of prominent committees and commissions focusing on education issues, Pat has gained a profound appreciation for the importance of education in preparing our youth for the workplace.

Certainly, a business is only as good and only as strong as the people it emplois. And that the Wholesaler-Distributors of this Nation's educational system and how its strengths and weaknesses affect the business community. With small business creating roughly two out of three new jobs and producing 40 percent of the nation's gross product, I believe that this insight and experience will serve her well in fulfilling her responsibilities at the SBA.

In addition, Pat's 14 years as a member of the Hawaii State Legislature and 4 years as a Member of the House of Representatives, where she served with distinction, have helped prepare her for the important job that lies ahead. While in Congress, Pat was a member of the Banking, Finance and Urban Affairs Committee handling a wide range of issues that concern small businesses, such as trade, financial institutions, and economic stability.

Indeed, during those years of public service Pat was an ardent supporter of partnerships between government and business. In addition, her voting record at the State and Federal levels shows a strong understanding of—and commitment to—those issues that really matter to small businesses.

Finally, Mr. President, Pat Saiki's 14 year membership on the board of directors of Amfac, Inc., and 13 years on the board of directors of Hawaiian Airlines have rounded out her public service experience with a private sector understanding of the realities of faces and the role that government can and should play in helping to solve those problems.

With the challenges that lie ahead for the Small Business Administration—and we know there are many with an economy in a recession, a credit crunch gripping our financial industry, bankruptcy filings hitting new records, and the many other issues and events which have made the last year a difficult one for small business men and women, we can rest assured that the helm is being put in the hands of a very skilled and very effective Administrator.

I hope all of my colleagues will join me in supporting this nomination, and I will forward to working with Pat Saiki in the near future on promoting a bright and prosperous future for this Nation's small businesses which are the backbone of its economy.

Mr. Kasten. Mr. President, I rise today on behalf of myself and all the members of the Small Business Committee in expressing our strong support for President Bush's nomination of Pat Saiki to be Administrator of the SBA, Congresswoman Pat Saiki.

Pat Saiki brings a wealth of experience, energy, intelligence, and integrity to the SBA.

During her career in Congress, Pat Saiki demonstrated a strong, pro-small-business voting record. She has been awarded the U.S. Chamber of Commerce's Spirit of Enterprise, the NFIB's Guardian of Small Business, and the Watchdog of the Treasury Awards.

And as a former member of the House Banking Committee, Pat is very knowledgeable about a wide range of economic and business-related issues.

Mr. President, I would like to enter into the RECORDER letters of support for Mrs. Saiki's nomination from several business groups, including the NFIB, the National Association of Wholesale Distributors, the U.S. Chamber of Commerce, the Association of Women Business Owners, and the National Women's Economic Alliance Foundation.

I would also like to bring to the attention of the Senate an extraordinary endorsement for Pat Saiki from both the Hawaii House of Representatives and the Hawaii State Senate, which unanimously approved resolutions commending President Bush for nominating her to the SBA's top post—and strongly urging the U.S. Senate to expeditiously confirm her nomination.

I ask unanimous consent to print these letters and resolutions in the RECORD.

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


HON. ROBERT W. KASTEN, JR., U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KASTEN: On behalf of the over 500,000 members of the National Federation of Independent Business (NFIB), I urge you to support the confirmation of Patricia Saiki as the next Administrator of the Small Business Administration.

NFIB, America's largest small business advocacy organization, has had a close working relationship with Pat Saiki, both during her tenure in the Hawaii State Senate and during her legislative career, she has proven herself a worthy advocate for the Main Street business owner.

Even though Mrs. Saiki does not have personal experience as a business owner, she, nevertheless, has worked so closely with Hawaii business owners that she truly understands the real problems they face on a daily basis. Moreover, she has been able to apply that knowledge directly to legislative proposals while serving in the House of Representatives. Her interest in financial market, employee benefits, and tax issues is thorough and results-oriented.

Pat Saiki will be an excellent Administrator at the SBA. She is goal-directed, pragmatic and capable of managing individuals to perform above their own expectations. The NFIB strongly supports her immediate confirmation.

Sincerely,

JOHN J. MOTELEY III, Vice President, Federal Governmental Relations.


HON. ROBERT W. KASTEN, JR., U.S. Senate, Hart Senate Office Building, Washington, DC.

Dear Senator: While we already know that you concur with our views, we write to let you know formally of our strong endorsement of Pat Saiki to be the next Administrator of the Small Business Administration.

Pat has been a close friend for many years and words cannot adequately express the high regard in which NAW holds her. She will bring intelligence, energy, skill and savvy to the Administrator's position and
will bring credit to the President for making such an exemplary nomination. We hope that the Committee will be able to approve her expeditiously, so that the small business community will once again have a strong advocate in the policy-making levels of the Administration.

Cordially,

DIKE VAN DONGEN,
President
ALAN M. KHANOWITZ,
Senior Vice President
Government Relations

DEAR SENATOR BUMPERS: On behalf of the National Women's Economic Alliance Foundation, a nonprofit, nonpartisan organization comprising men and women leaders from business and industry, I would like to add our support for the nomination of Pat Saiki as head of the Small Business Administration.

As we have come to appreciate, small businesses are a critical asset to the economic well-being of this country and our ability to thrive in the global marketplace. Pat Saiki, bringing a strong position outstanding leadership skills and an ability to communicate to key publics that the nation's small businesses are critical to U.S. competitiveness in the global marketplace. It is with very good reason she has been called a "pro-business problem solver." Pro-business means pro-entrepreneurs and now, more than ever, the country's entrepreneurs represent one of America's most valuable resources.

Innovative and pragmatic, she will be a positive force for small business and the free enterprise system. On behalf of the Alliance, I thank you for the opportunity to express our support of Pat Saiki.

Sincerely,

PATRICIA HARRISON
President

BERYL DIGNEY
Chairman

NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS,
Chicago, IL, March 18, 1991

Hon. DALE BUMPERS,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN BUMPERS AND SENATOR KASTEN: We have just learned that the Honorable Patricia Saiki will be appearing before your Committee on Wednesday, March 20, 1991, concerning her appointment to become the Administrator of the United States Small Business Administration. We applaud President Bush's nomination of Mrs. Saiki and encourage your Committee to act expeditiously on her confirmation.

As we see every day, the small business community faces numerous hurdles in our daily struggle for survival. Mrs. Saiki hails from a state which small business is the primary employer, and where she has worked side-by-side with small business owners to address the problems they face. As a Member of the U.S. Congress and Hawaii state legislature, and as a respected teacher, she has proven herself to be a pragmatic problem solver.

The Small Business Administration (SBA) is a unique agency that plays a vital role in supporting and protecting our small businesses. Mrs. Saiki will bring leadership and a bright, energetic mind to her role as SBA's Administrator.

We would like to publicly endorse the selection and confirmation of Pat Saiki as the Administrator of the Small Business Administration. We appreciate the opportunity to register our support.

Sincerely,

TERRY NELSON,
President

Carey Stacy
Immediate Past President

JANET HARRIS-LANGE,
President-Elect

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, March 19, 1991

HON. DALE BUMPERS,
Chairman, Senate Committee on Small Business,
Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: It is my understanding that the Senate Small Business Committee will shortly consider the nomination of former Congresswoman Pat Saiki to be Administrator of the Small Business Administration. Representative Saiki has had a cumulative voting record of 69 percent on issues of interest to the U.S. Chamber of Commerce, based on House floor votes. As a business organization, our confidence in Ms. Saiki was expressed by our endorsement of her candidacy in her 1990 Senate race.

We recognize that a complete evaluation of the positions of lawmakers should be made by examining their votes in the committees and subcommittees on which they serve as well as their votes on the floor. We have always found Congresswoman Saiki to be extremely courteous and receptive in considering business viewpoints as they have been brought to her attention. I have no doubt that as Administrator of the SBA Pat Saiki would continue to be open and willing to listen to the concerns that are brought to her.

I am pleased that the Committee is acting so quickly on this nomination.

Sincerely,

RICHARD L. LESHER
President

AFRICAN-AMERICAN CHAMBER OF COMMERCE OF HAWAII,

Re confirmation of Pat Saiki for Director of SBA.

Senator ROBERT W. KASTEN, Jr.,
U.S. Senate, Hart Senate Building, Washington, DC.

DEAR SENATOR KASTEN: Our Senator from Hawaii, Senator Daniel K. Inouye, will be introducing Pat Saiki for Senate Confirmation as the Director of the Small Business Administration. We wish to inform you of our support for her Confirmation.

As you know, Pat Saiki comes from the State that has more small business per capita than any other state. Hawaii has always been very supportive of small businesses, of minority businesses and of women-owned businesses as well. Hawaii is composed of 70% ethnic minorities. It should also be noted that Hawaii has more women-owned businesses per capita than any other state. Ms Saiki understands this and has had to deal with minority issues and perspectives as well.

As a woman and a member of a minority herself, she knows the concerns of minority businesses.

In my capacity as President of the Honolulu Minority Business Development Center and in my capacity as President of the African-American Chamber of Commerce of Hawaii, I come in contact with many of Hawaii's small businesses and advocates thereof. I have learned the importance of small businesses and of sensitivity to small businesses' needs. I confirm that Ms. Pat Saiki has this sensitivity and an approach to business that is straightforward and supportive.

Small businesses need a leader like Ms. Saiki. The African-American community, the National Contract Management community, very capable, effective businesses and small businesses in Hawaii support and endorse Pat Saiki as the new Director of the Small Business Administration. Please convey our enthusiastic support for Pat Saiki's confirmation to your fellow Senators.

Sincerely,

JEROME JOHNSON
President

U.S. SENATE,
Washington, DC, March 11, 1991

HON. ROBERT KASTEN, Jr.,
Ranking Member, Committee on Small Business,
U.S. Senate, Washington, DC.

DEAR BOB: I was pleased to learn that the President has forwarded to you the nomination of Ms. Patricia Saiki for the post of Administrator of the Small Business Administration. I will have the honor of introducing Mrs. Saiki at her confirmation hearing before your Committee.

For that reason, I wholeheartedly support the candidacy of then Congressman Danny Akaka when he and Mrs. Saiki vied for Spark Matsunaga's Senate seat. They are both very capable and effective representatives of the State of Hawaii.

Although Mrs. Saiki is a member of the Republican Party, and incidentally an exceptionally good one, I have known her for many years. Our relationship dates back to 1960 when Mrs. Saiki was a student at the University of Hawaii. Since then, I worked with her during her 24-year tenure in the Hawaii State Legislature. Additionally, during Mrs. Saiki's 4 years in the U.S. House of Representatives, we were co-members of the Hawaii Congressional Delegation on numerous issues of mutual concern.

I understand that the present Administrator, Susan Engeleiter, will be leaving her post on or about April 1st to pursue other interests in the private sector. Furthermore, I also learned that presently there is no deputy administrator to handle matters and make decisions affecting the Small Business Administration (SBA) during the period between Ms. Engeleiter's departure and Mrs. Saiki's appointment, if the Committee and the Senate see fit to approve her confirmation. I am concerned that there would be a void at SBA if Mrs. Saiki is confirmed and is permitted to sit during the upcoming March recess. Accordingly, I would respectfully request that the Committee expeditiously consider Mrs. Saiki's confirmation and proceed to Senate approval before the recess.

In all her years of public service, Mrs. Saiki has represented the interests of the people of Hawaii to the best of her ability. We have had our disagreements over the years. However, I believe that we share a mutual respect for one another. We have never wavered in our unified belief that the best interests of Hawaii should be foremost
in our representation. I am not aware of any allegation or conflict of interest which would disqualify Mrs. Saiki for this post. Her reputation in the State is an unassailable one. I am confident that she will withstand the scrutiny mandated by the Federal Bureau of Investigation, as well as the financial disclosure requirements.

I would appreciate any assistance you could provide to expedite Mrs. Saiki's confirmation to ensure that an able Administrator is at the helm of the Small Business Administration. In the words of Representative Engeler's departure, or as soon thereafter as possible, I look forward to appearing before you in the near future to introduce the Committee Members Patricia Saiki for the post of SBA Administrator.

Aloha,

DANIEL K. INOUYE,
U.S. Senator.

THE SMALL BUSINESS COUNCIL OF THE CHAMBER OF COMMERCE OF HAWAII,
Honolulu, HI, March 14, 1991.

Senators ROBERT W. KASTEN, JR.,
Hart Office Building, SH 110, Washington, DC.

Sin: To say that I was overjoyed at the news of Mrs. Saiki's nomination as Administrator of the Small Business Administration would be an understatement. Seldom, if ever, have I come across an individual with such ability to inspire and to enthuse someone for a position. The choice of Mrs. Saiki is ideal. During her years as a local legislator, she proved repeatedly her willingness to give her utmost energy to further the causes of small business.

Honolulu is essentially a small business community, and Mrs. Saiki's long experience and familiarity with the complexities and hardships faced by small business owners has provided her with a valuable background.

Every new business owner is a pioneer in a special way, taking tremendous risks and accepting enormous responsibilities. There is no question but that under Mrs. Saiki's guidance, the Small Business Administration will be more able than ever before to forge ahead in its efforts to help small business owners attain their dreams.

Respectfully submitted,

CHARLES F. HOWARD,
Chairman, Small Business Council.

AMERICAN TRUCKING ASSOCIATIONS, INC.,

Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR KASTEN: I write in support of the President's nomination of the Honorable Patricia F. Saiki as Administrator of the Small Business Administration (SBA).

There are more than 45,000 Class III motor carriers registered with the Interstate Commerce Commission in Washington, D.C. They are companies with annual revenue of $1 million or less, and as such, they are small businesses.

Naturally, they have a keen interest in SBA and its leadership. These entrepreneurs, by their nature, look for openness, an equal willingness to work on small as well as big problems and a "can do" attitude.

Clearly, in our four-year association with Representative Saiki; these are traits we have found to be most evident.

In my view, she has the qualities of leadership needed to continue to move SBA forward in a way which takes into full account the concerns and initiatives of Interested Members of Congress.

I would urge that the Committee act favorably on this excellent nomination.

Sincerely,

THOMAS J. DONOHUE
HOUSE OF REPRESENTATIVES,
STATE OF HAWAII,
Honolulu, HI, March 13, 1991.

Hon. ROBERT KASTEN,
Ranking Minority Member, Senate Committee on Small Business, 428 A Russell Senate Office Building, Washington, DC.

DEAR SENATOR KASTEN: I transmit here-with a copy of House Resolution No. 130, which was adopted by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991.

Very respectfully,

GERALD I. MIYOSHI,
Clerk, House of Representatives.

H.R. No. 130

Whereas, on March 13, 1991, the President of the United States, George Bush, nominated Patricia F. Saiki of Honolulu, Hawaii, to be the Administrator of U.S. Small Business Administration; and

Whereas, this nomination requires the advice and consent of the United States Senate; and

Whereas, Patricia F. Saiki served the people of Hawaii with distinction for fourteen years as a member of the Hawaii State Legislature, and served with equal distinction for four years as a Member of Congress from Hawaii's First Congressional District; and

Whereas, her many years of service on the Boards of Directors of both Amfac, Inc. and Hawaiian Airlines and her membership while in Congress on the Banking, Finance, and Urban Affairs Committee, as well as her tenure on the House Committee on Banking, Finance and Urban Affairs, has provided her with a valuable background.

Whereas, she has consistently and effectively supported our state's and nation's small business community—the foundation of our country's economic growth and prosperity; and

Whereas, the fundamental purpose of the U.S. Small Business Administration is to counsel, assist, and protect the interests of America's small businesses and, further, to implement national policy encouraging women and minorities, as well as those who may be socially and economically disadvantaged, to succeed in small business; and

Whereas, Patricia F. Saiki will serve effectively as Administrator of the U.S. Small Business Administration, fostering its goals and implementing its policies on behalf of a sound and prosperous national small business community; Now, therefore, be it

Resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, That President George Bush be commended for the nomination of Patricia F. Saiki as Administrator of the U.S. Small Business Administration; and be it further

Resolved, that the Hawaii State Legislature does hereby strongly recommend the confirmation by the U.S. Senate of the nomination of Patricia F. Saiki to the post of Administrator of the U.S. Small Business Administration; and be it further

Resolved, that certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Majority and Minority Leaders of the Senate, and the Chairman and Ranking Minority Member of the Senate Committee on Small Business.
Representative Saiki has also been involved in business. She served for 14 years as a member of the board of directors of AMFAC, Inc. and for 13 years as a member of the board of Hawaiian Airlines. In both cases, she was the first woman to serve as a Director.

Representative Saiki graduated from the University of Hawaii in 1952. She is married and has five children.

Mr. President, if confirmed as Administrator, Representative Saiki will be charged with protecting the interests of small business. I believe she will bring great credit to the Small Business Administration and fulfill well the great responsibility imposed upon her by this important appointment. Mrs. Saiki is well qualified to meet the challenges that await her at the Small Business Administration, and I am pleased to support her nomination.

Mr. BAUCUS. I rise today in support of the confirmation of Patricia Saiki to become Administrator of the Small Business Administration.

I would note, however, a concern I raised with her yesterday during her confirmation hearing in the Small Business Committee.

That concern is a recent proposal by the Small Business Administration to transfer region 8’s loan portfolio to the Fresno, CA, Center in Region 10. Region 8 includes Montana, North Dakota, South Dakota, Utah, Wyoming, and Colorado.

I am strongly opposed to this proposal and urge Mrs. Saiki to put an end to consideration of it as soon as she takes over as Administrator.

Under the proposal, 13,500 direct and guaranteed loans will be transferred from region 8 to Fresno, with no corresponding job loss.

Now I ask you, how can 13,500 loans be transferred without a single job loss? I don’t believe it can be done.

I do know that the proposal estimates that Fresno will have to hire 16 additional people to serve region 8’s portfolio.

In Montana alone, our Helena office employs from 5 to 7 people to service such loans. What are these people going to do without the loans to service?

I am concerned that they will lose their jobs.

Aside from the job loss, the logic of this proposal escapes me.

As of January 31, 1991, region 8’s loan currency rate was 88.2 percent. The rate for Helena and Sioux Falls offices, which have 51 percent of the portfolio, is 90.9 percent. By this year’s end, region 8’s overall currency rate is expected to reach 90 percent.

In other words, the SBA is asking region 8 to give up control of its current loans; and adding 16 people to Fresno’s staff, for no significant improvement in portfolio currency.

If the purpose of this proposal is to cut down on costs, the SBA ought to be moving its operations out of high cost areas like California, and into low cost areas like Montana.

There is no reason why Montana can’t service the loans from region 8 and any other region you decide to throw in.

Clearly, with a currency rate of 90 percent, I would be willing to bet that Montana does better and keeps them current than any other region in this country. We would be happy to do it.

Again, this proposal makes no sense—economic or otherwise.

And there is more.

Recently, my staff spoke with an official at the SBA about the effect this proposal to consolidate services in California would have on Montana bankers. She was assured by that official that there would be none.

Well, Mr. President, I received a letter from Hal Fraser, senior vice president of the First Security Bank of Missoula, MT, which tells a different story.

Hal, who is also chairman of Montana’s SBA advisory council, currently services over 110 guaranteed loans, totaling over $16 million. He has worked with SBA programs for over 25 years. According to Hal, the network of relationships which he and other Montana bankers have built up over the years with businesses and the SBA will break down if this proposal goes through.

In his opinion, “the end loser is the small business person for whom the SBA is to be an advocate.” He believes that centralizing functions will impersonalize the present service and hurt the overall effort of the SBA.

In closing, I just want to reemphasize that I am strongly opposed to this proposal and urge that Mrs. Saiki put an end to consideration of it as soon as she takes office.

I ask unanimous consent to include a copy of Mr. Hal Fraser’s letter in the Record immediately following my remarks.

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

FIRST SECURITY BANK OF MISSOULA
March 15, 1991

Re Small Business Administration Loan Servicing

Senator MAX BAUCUS, Missoula, MT.

The Honorable Senator Baucus: This letter is for the purpose of addressing any proposed movement of SBA Loan Servicing from Helena, Montana to Fresno, California. Because I disagree strongly with such a proposal, I feel the need to tell you why.

I have been a banker for 27 years. I am currently the Chief Loan Officer and Administrator for a $250,000,000 Community Bank that serves part of Western Montana. Our bank has been one of the top 5 SBA lenders in the state for the past several years. We currently service over 110 SBA Guaranteed Loans, totaling $16 million. Also, I am the current Chairman of the Montana SBA Advisory Board.
Mr. KENNEDY. Mr. President, it is my pleasure to recommend to the Senate the confirmation of Dr. Bernadine Healy to be Director of the National Institutes of Health.

Dr. Healy has a distinguished record of service to the scientific community and to the Government as a teacher, researcher, physician, and administrator. She has demonstrated excellence in the public, private, and voluntary sectors. She has held positions of high visibility and major responsibility in the Federal policy arena, and she is well qualified to fill the job of NIH Director. She is an excellent choice to lead the Agency during a time when many serious problems demand attention.

This is an important point in history for the National Institutes of Health and for the Nation's biomedical research enterprise. It is an opportunity to demonstrate the significant medical research institution in the world. Its record is one of unprecedented achievement in science for the United States. Anyone who questions the validity of this w.e. should spend a day at the NIH seeing how Government works at its best.

Because of its outstanding record of support for biomedical research, the United States is the world leader in basic and clinical research in the life sciences. Even in the face of mounting budget deficits and other social needs, Congress and the administration have strongly supported the continued growth of these research capabilities. But such success should not lull us into complacency. At the present time, a sense of crisis is felt by many of our Nation's leading scientists, and that crisis is breeding poor morale throughout the scientific community. After 30 years of expanded training opportunities in biomedical science and medicine, remarkable scientific talent has been developed. The question now is how best to retain and utilize that talent.

In recent years, the proportion of grants funded has fallen to the lowest level ever—23 percent. Such low rates of funding mean that too many established scientists will not get the chance to pursue their important research, and too many talented younger scientists will be driven from the profession. We have invested wisely in developing their abilities and creating an extraordinary national resource for achieving needed new advances in medicine. Yet, that scientific talent cannot simply be turned on and off at will. We cannot afford to allow our extraordinarily far-sighted long-term investment in science to be wasted by shortsighted budget cuts.

Despite the increased budget for the NIH, the Agency has been unable to stabilize the grant funding process. Last year, the Appropriations Committee called for a long-range financial management plan to provide more stability and predictability, and end the current volatile grant funding environment.

The lack of first class research facilities has also limited the extent to which we can leverage the scientific talent we have developed. Strong leadership is required to guide the NIH and the research community through these difficult budget times. Dr. Healy is the person to exercise that leadership.

She has distinguished herself throughout her career. She was a val­idictorian at Hunter College High School, a summa cum laude graduate of Vassar College, and a cum laude graduate from Harvard Medical School. Following her residency training at Johns Hopkins Medical School in internal medicine, cardiology, and pathology, she became the director of the cardiac division and associate dean of the Hopkins Medical School.

Dr. Healy has managed large multicenter clinical trials of the type which confirm important medical breakthroughs. She has published hundreds of excellent papers which have reported those results. She has served in an editorial capacity for a number of our Nation's finest medical journals. And she is the recipient of numerous awards and honors.

In her current position as chairman of the Cleveland Clinic Foundation's Research Institute, Dr. Healy has expanded and invigorated the research program, especially basic science research, resulting in a doubling of the number of grants in the last few years. She has even served with the National Institutes of Health—as a staff fellow in the early 1970's, as a member of the Advisory Council for the Heart, Lung, Blood Institute, and most recently as a member of the Advisory Council to the NIH Director.

In addition to her broad experience in scientific research administration, Dr. Healy has had other leadership roles in public policy. Prior to joining the Cleveland Clinic Foundation, she was Deputy Director of the White House Office of Science and Technology Policy under President Reagan. Currently, she chairs the Advisory Panel for Basic Research for the 1990's at the Office of Technology Assessment, where she has done an excellent job. In addition, she has continued to serve on an advisory committee to the Bush administration.

Dr. Healy has also served as president of both the American Heart Association and the American Federation of Clinical Research. She has dedicated her time and efforts to other professional organizations. In addition, she has provided leadership in the areas of combating conflict of interest and providing more opportunities for women in research—two issues that are
of great concern to the Congress. With her high qualifications, it is especially appropriate that she will become the first woman to hold this leadership position in American science.

Dr. Healy's nomination comes at an interesting time for the NIH. It is now been without a permanent Director for a year and a half. Many of us in Congress, and probably the entire biomedical research community, have been distressed over the administration's long, embarrassing, and demeaning search for a new NIH Director.

Dr. James Wyngaarden announced nearly 2 years ago that he was stepping down as Director. The selection process that ensued was debased by inappropriate litmus tests, and many highly qualified candidates rejected the position or refused to be considered. Fortunately, in the end, this insulting process failed, and scientific and administrative standards of excellence have prevailed.

During this unnecessarily protracted and difficult transition period, the Acting Director of NIH, Dr. William Raub, has distinguished himself by the outstanding leadership he has provided. Our Nation owes him a debt of gratitude for the skill and grace with which he guided NIH safely through this period.

The demands that will be placed upon Bernadine Healy may well be unprecedented in the history of the NIH. Because of the outstanding reputation of the Agency as the leading biomedical research institute in the world, expectations for its research capability are at an all-time high. Remarkable progress has been made on cancer and other diseases, yet they continue to take their high toll and demand increased attention. We've learned a great deal about the HIV virus, yet the AIDS epidemic continues to spread, while millions of infected citizens wait for the medical breakthrough that could save their lives.

Dr. Healy is well qualified to meet and master these challenges. She has the research, administration, and public policy experience, and she is dedicated to improving our Nation's medical research and health care system. The scientists on the Bethesda campus and at institutions throughout the country which receive NIH support can look forward to a cooperative and supportive environment under her leadership, and so does the Congress.

Mr. President, I urge the Senate to confirm Bernadine Healy's nomination and I look forward to working with her.

STATEMENT ON THE NOMINATION OF DONALD HENDERSON

Mr. Gore. Mr. President, I am very pleased today to urge the Senate to confirm the nomination of Dr. Donald A. Henderson to be an Associate Director of the White House Office of Science and Technology Policy (OSTP). When confirmed, he will be Director Allan Bromley's chief deputy for life sciences and biotechnology.

On March 5, I chaired the Commerce Committee's confirmation hearing on Dr. Henderson. Based on that hearing and on the nominee's overall record, I believe that this is an exceptional nomination.

Dr. Henderson has accomplished a great deal during his career—successful physician, Federal expert on communicable diseases and vaccines, and for 13 years dean of the Johns Hopkins University School of Hygiene and Public Health. He remains a senior professor at Johns Hopkins, currently on leave so that he can take the OSTP position. But in addition to these other accomplishments, this is the man who led the World Health Organization's successful 1966-77 campaign to eradicate smallpox from the face of the Earth. He searched through Bangladesh, Afghanistan, Ethiopia, and many other places, looking for smallpox victims, vaccinating children and adults, controlling and gradually eradicating this awful scourge. Few people in our time have made such a significant contribution to humanity.

To no one's surprise, Dr. Henderson has won many of the world's top medical honors, including the U.S. National Medal of Science, the Albert Schweitzer International Prize for Medicine, and the World Health Organization's Health for All Medal.

As I saw at this confirmation hearing, he also remains an engaging, likeable, and committed physician, one who cares deeply about finding new vaccines to combat illness and one who continues to seek effective ways to get those vaccines to the people who need it. He has a particularly strong vision of how biotechnology and the other new tools of medicine can make major contributions to treating illnesses.

In my judgment, Donald Henderson will make an outstanding Associate Director at OSTP, and I enthusiastically support his nomination. My colleagues on the Commerce Committee agree, for on March 19 the Committee unanimously voted to approve his nomination. I very much look forward to Dr. Henderson's confirmation.

In closing, Mr. President, I also want to complement Dr. Bromley, the Director of OSTP. Along with his own personal contributions to national science and technology policy, which are considerable, Dr. Bromley continues to recommend outstanding people for OSTP's associate director positions. He has brought new energy, credibility, and effectiveness to OSTP. His ability to persuade Donald Henderson to join his team will make OSTP—and the Nation's science and technology programs—even stronger.
Congressional Record - Senate

March 21, 1991

Former Prisoner of War Recognition Day;

S.J. Res. 83. Joint resolution entitled “National Day of Prayer and Thanksgiving.”

The message also announced that the House has passed the joint resolution (S.J. Res. 59) designating March 25, 1991, as “Greek Independence Day: A National Day of Celebration of Greek and American Democracy”, with an amendment, in which it requests the concurrence of the Senate.

At 12:46 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 149. Joint resolution designating March 1991 and March 1992 both as “Women’s History Month.”

Enrolled Bills and Joint Resolutions Signed

At 4:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following bills and joint resolutions:

S. 419. An act to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means;

H.R. 1316. An act to amend chapter 54 of title 5, United States Code, to extend and improve the Performance Management and Recognition System, and for other purposes;

S.J. Res. 53. Joint resolution to designate April 9, 1991 and April 9, 1992, as “National Former Prisoner of War Recognition Day”; and

S.J. Res. 83. Joint resolution entitled “National Day of Prayer and Thanksgiving.”

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 6 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:


The message also announced that the House disagrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 419) to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligation to depositors and others by the least expensive means.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1281) to extend the expiration date for the Defense Production Act of 1950, and for other purposes; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and title I of the Senate amendment, and modifications committed to conference: Mr. Gonzalez, Mr. LaFalce, Ms. O’Connor, Mr. Viento, Mr. Carper, Mr. Wylie, Mr. Ridge, and Mr. Paxton.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the Senate amendment, and modifications committed to conference: Mr. Gonzalez, Mr. Annunzio, Mr. Neal of North Carolina, Ms. Oakar, Mr. Schumer, Mr. Carper, Mr. Wylie, Mr. Leach, Mr. McCollum, and Mrs. Roukema.

The following joint resolution was also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 1281) making dire emergency supplemental appropriations for the consequences of Operation Desert Storm, food stamp, unemployment compensation administration, veterans compensation and pensions, and other urgent needs for the fiscal year ending September 30, 1991; it agrees to the conference report in the Senate version of the bill, and appoints the following as managers of the conference on the part of the Senate:

Mr. Whittem, Mr. Natcher, Mr. Smith of Iowa, Mr. Yates, Mr. Obey, Mr. Royal, Mr. Bvrier, Mr. Murtha, Mr. Traxler, Mr. Lehman of Florida, Mr. Dixon, Mr. Fazio, Mr. Hefner, Mr. Mcdade, Mr. Myers of Indiana, Mr. Coughlin, Mr. Puskar, Mr. Edwards of Oklahoma, Mr. Green of New York, and Mr. Rogers.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 1282) making supplemental appropriations and transfers for “Operation Desert Shield/Desert Storm,” for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

For consideration of the House bill and all Senate amendments: Mr. Whitten, Mr. Murtha, Mr. Dicks, Mr. Wilson, Mr. Hefner, Mr. AucOin, Mr. Sabo, Mr. Dixon, Mr. Dywer of New Jersey, Mr. McDade, Mr. Young of Florida, Mr. Miller of Ohio, Mr. Livingstone, and Mr. Lewis of California.

As additional conferences solely for the consideration of Senate amendments numbered 32 and 34: Mr. Obey, Mr. Yates, and Mr. Edwards of Oklahoma.

Measures Referred

The following joint resolution was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 149. Joint resolution designating March 1991 and March 1992 both as “Women’s History Month.”

Measures Placed on the Calendar

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 902. An act to provide assistance to recipients of loans from the Small Business Administration who are affected by military service as part of Operation Desert Storm, and for other purposes.

Enrolled Bill and Joint Resolutions Presented

The Secretary of the Senate reported that on today, March 21, 1991, he had presented to the President of the United States the following enrolled bill and joint resolutions:

S. 419. An act to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means;

S.J. Res. 83. Joint resolution to designate April 9, 1991, and April 9, 1992, as “National Former Prisoners of War Recognition Day”;

S.J. Res. 53. Joint resolution entitled “National Day of Prayer and Thanksgiving.”

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-819. A communication from the President of the United States, transmitting, pursuant to law, notification that military operations to liberate Kuwait have been successfully completed: to the Committee on Foreign Relations.
REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment and with a preamble:
S. 721. A bill to provide financial assistance to eligible local educational agencies to improve urban education, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROTH:
S. 721. A bill to facilitate the dissemination of patent information; to the Committee on the Judiciary.

By Mr. ROTH (for himself and Mr. KASSEN):
S. 722. A bill to amend the Internal Revenue Code of 1986 with respect to the requirement that an S corporation have only 1 class of stock; to the Committee on Finance.

By Mr. DOMENICI:
S. 723. A bill to amend section 1782A of title 28, United States Code, relating to civil custody determinations, to modify the requirements for court jurisdiction; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself and Mr. BINGAMAN):
S. 724. A bill to clarify cost-share requirements under the St. Lawrence Seaway Development Act, and for other purposes; to the Committee on Energy and Natural Resources.

S. 725. A bill to establish certain requirements related to the planning and management, and the determination of eligibility, of the National Endowment for the Arts; to the Committee on Labor and Human Resources.

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. NUNN, Mr. WARNER, Mr. GLENN, Mr. MCCAIN, Mr. CRANSTON, and Mr. LAUTENBERG):

By Mr. COHEN:
S. 726. A bill to award grants for aspirations research, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DODD:
S. 727. A bill to amend the Higher Education Act of 1965 to improve access to financial assistance for low- and middle-income students; to the Committee on Labor and Human Resources.

By Mr. MITCHELL, Mr. KENNEDY, Mr. DASHIEL, Mr. WIRTH, Mr. COHEN, Mr. INOUE, and Mr. SANFORD:
S. 728. A bill to establish an Upper Sacramento River fishery resources restoration program; to the Committee on Environment and Public Works.

By Mr. BURDICK (for himself, Mr. BAUCUS, Mr. MOYNIHAN, Mr. BRADLEY, Mr. MITCHELL, Mr. BENTSEN, Mr. ROCKEFELLER, Mr. FORD, Mr. RIEH, Mr. SYMMS, Mr. BRYAN, Mr. CONRAD, Mr. SARBANES, Mr. JEFFORDS, Mr. D'AMATO, Mr. KASTEN, Mr. DECONCINI, Mr. DASCHEL, Mr. WIRTH, Mr. COHEN, Mr. INOUE, and Mr. SANFORD:
S. 728. A bill to assist small communities in construction of facilities for the protection of the environment and human health; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself, Mr. CHAFEE, Mr. GLENN, Mr. Lugar, Mr. JEFFORDS, Mr. MITCHELL, Mr. BRADLEY, Mr. KENNEDY, Mr. PELL, Mr. DECONCINI, Mr. LEVIN, Mr. HARKIN, Ms. MIKULSKI, and Mr. ADAMS):
S. 730. A bill to provide for the reduction of metals in packaging; to the Committee on Environment and Public Works.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BUMPERS, from the Committee on Small Business:
Patricia F. Salk, of Hawaii, to be Administrator of the Small Business Administration.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BENTSEN, from the Committee on Finance:
Renato Deghe, of New York, to be a Judge of the United States Tax Court for a term expiring fifteen years after he takes office.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:
Oliver W. Wagner, of California, to be United States District Judge for the Eastern District of California;
Robin J. Cauthorn, of Oklahoma, to be United States District Judge for the Western District of Oklahoma; and
Richard W. Goldberg, of North Dakota, to be a Judge of the United States Court of International Trade.

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. SYMMS (for himself and Mr. CRAIG):
S. 719. A bill to temporarily suspend the duty on certain lead fuel test assemblies; to the Committee on Finance.

By Mr. HEINZ:
S. 719. A bill to temporarily suspend the duty on certain lead fuel test assemblies; to the Committee on Finance.

By Mr. PATE, Mr. MITZENBAUM, Mr. PELL, Mr. SIMON, Mr. DODD, Mr. JULIOT, Mr. AKAKA, Mr. KOHL, Mr. CRANSTON, Mr. MITCHELL, Mr. BRADLEY, Mr. KENNEDY, Mr. PELL, Mr. MITCHELL, Mr. BRADLEY, Mr. KENNEDY, Mr. PELL, Mr. DECONCINI, Mr. LEVIN, Mr. HARKIN, Ms. MIKULSKI, and Mr. ADAMS:
S. 730. A bill to provide for the reduction of metals in packaging; to the Committee on Environment and Public Works.

By Mr. PACKWOOD (by request):
S. 731. A bill to provide incentives for research and energy production, and for other purposes; to the Committee on Finance.

By Mr. PATE, Mr. MITZENBAUM, Mr. LUGAR, Mr. GORE, Mr. KERRY, and Ms. MIKULSKI:

By Mr. GRAHAM (for himself, Mr. JEFFORDS, Mr. HUBBARD, Mr. MANGLE, Mr. BRYAN, Mr. FOWLER, Mr. BINGAMAN, and Mr. ADAMS):
S. 733. A bill to amend the Federal Water Pollution Control Act; to the Committee on Environment and Public Works.

By Mr. GRAHAM (for himself and Mr. MACK):
S. 734. A bill to permanently prohibit the Secretary of the Interior from preparing for or conducting any activity under the Outer Continental Shelf Lands Act on certain portions of the outer continental shelf off the State of Florida, to prohibit activities other than certain required environmental or oceanographic studies under the Outer Continental Shelf Lands Act within the part of the Eastern Gulf of Mexico Planning Area lying off the State of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

S. 735. A bill to establish certain requirements related to the planning and management, and the determination of eligibility, of the National Endowment for the Arts; to the Committee on Labor and Human Resources.

By Mr. GRAHAM (for himself and Mr. MACK):
S. 736. A bill to amend the Outer Continental Shelf Lands Act; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM (for himself and Mr. MACK):
S. 737. A bill to require a comprehensive analysis of long-term requirements of Federal, State, and local regulators and resource managers for scientific data and information about the Nation's coastal and marine environment and the conditions and phenomena affecting the quality of that environment; to require an evaluation of federally conducted and supported coastal and marine scientific research programs and activities on light of those requirements; and to require the preparation and submission to Congress of a report of the results of the analysis and evaluation, including recommendations for legislation, if appropriate, to restructure or otherwise enhance the array of research programs and activities; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL:
S. 736. A bill to designate the Architect of the Capitol as the Director of the U.S. Botanic Garden; to the Committee on Rules and Administration.

S. 738. A bill to authorize the Architect of the Capitol to accept certain gifts on behalf of the U.S. Botanic Garden; to the Committee on Rules and Administration.

By Mr. GRASSLEY (for himself and Mr. HEFLIN):
S. 740. A bill to provide a new civil cause of action in Federal court for international terrorism that provides extraterritorial jurisdiction over terrorist acts abroad against U.S. nationals; ordered held at the desk.

By Mr. WATSON, Mr. HATFIELD, Mr. DASCHEL, Mr. JEFFORDS, Mr. BRYAN, Mr. FOWLER, Mr. BINGAMAN, and Mr. ADAMS:
S. 741. A bill to promote cost effective energy efficiency improvements in all sectors of the economy, promote the use of natural gas and encourage increased energy production, thereby reducing the Nation's dependence on imported oil and enhancing the Nation's environmental quality and economic competitiveness; to the Committee on Finance.

By Mr. WIRTH:

S. 742. A bill to promote cost effective energy efficiency improvements in all sectors of the economy, promote the use of natural gas and encourage increased energy production, thereby reducing the Nation's dependence on imported oil and enhancing the Nation's environmental quality and economic competitiveness; to the Committee on Energy and Natural Resources.

S. 743. A bill to direct the "National Energy Efficiency and Development Act of 1991"; to the Committee on Finance.

By Mr. DANFORTH:

S. 744. A bill to extend the temporary suspension of duty on 9,0-dimethyl-8-(4-oxo-1,2,3-benzotriazin-3(4H)-yl)phosphorodithioate; to the Committee on Finance.

S. 745. A bill to extend the temporary suspension of duty on 4-fluoro-3-phenoxy benzaldehyde; to the Committee on Finance.

S. 746. A bill to extend the temporary suspension of duty on O,O-dimethyl-S-{(4-oxo-3-phenylbutyl)phosphorodithioate; to the Committee on Finance.

S. 747. A bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to Thornburg pension beneficiaries, to the Committee on Finance.

S. 748. A bill to extend the temporary suspension of duty on 4-fluoro-3-phenoxy benzaldehyde; to the Committee on Finance.

By Mr. BURDICK for himself, Mr. BURDICK, Mr. HOLLINGS, Mr. SHELY, Mr. INOUYE, Mr. LEVIN, Mr. CAFREE, Mr. KENNEDY, Mr. COCHRAN, and Mr. BAUX:

S. 749. A bill to extend the temporary suspension of duty on 4-fluoro-3-phenoxy benzaldehyde; to the Committee on Finance.

By Mr. CRANSTON for himself, Mr. KENNEDY, Mr. KERR, Mr. D'AMATO, and Mr. WIRTH:

S. 750. A bill to extend the temporary suspension of duty on 4-fluoro-3-phenoxy benzaldehyde; to the Committee on Finance.

By Mr. KIMMICH,

S. 751. A bill to extend the temporary suspension of duty on 4-fluoro-3-phenoxy benzaldehyde; to the Committee on Finance.

By Mr. BAUCUS for himself, Mr. BAUCUS, Mr. DANFORTH, Mr. ROTH, Mr. RIGGLE, Mr. PACKWOOD, Mr. DURENBERGER, Mr. GOVETT, Mr. MCCAIN, Mr. LIEBERMAN, Mr. HAT-
S. J. Res. 108. Joint resolution to designate the week of October 13 through October 19, 1991, as "National Senior Nutrition Week"; to the Committee on the Judiciary.

S. J. Res. 109. Joint resolution designating August 12 through August 18, 1991, as "National Parents of Murdered Children Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. MIKULSKI, Mr. MURKOWSKI, Mr. NAGATOMO, Mr. AKAKA, Mr. BAYH, Mr. BENTSEN, Mr. BIDEN, Mr. BINGMAN, Mr. BOND, Mr. BOREN, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BYRD, Mr. BURDICK, Mr. BURTCHELL, Mr. BURNS, Mr. BYRD, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DASCHEL, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURBERRY, Mr. EXON, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRASSLEY, Mr. HARKIN, Mr. HATCH, Mr. HAYTFIELD, Mr. HEFLIN, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mr. KASSEBAUM, Mr. KAYEN, Mr. KENNEDY, Mr. KERRY, Mr. KERRY, Mr. KIRK, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MccAIN, Mr. McCONNELL, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. NICKLES, Mr. NUNN, Mr. PAGELDAN, Mr. PADDEN, Mr. PERRY, Mr. PRYOR, Mr. REID, Mr. RIGEL, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SANFORD, Mr. SARAHAN, Mr. SARRAH, Mr. SMITH, Mr. STEPHENS, Mr. STEWART, Mr. STEVENS, Mr. SYMS, Mr. THURMOND, Mr. WALLACE, Mr. WEAVER, Mr. WELLSTONE, and Mr. WIRTH);

S. Res. 90. Resolution extending a warm welcome to His Excellency Lech Walesa, President of the Republic of Poland, and for other purposes; considered and agreed to.

By Mr. METZENBAUM:
S. Res. 91. Resolution expressing the sense of the Senate regarding human rights violations against the people of Kashmir, and calling for direct negotiations among Pakistan, India, and Kashmir; to the Committee on Foreign Relations.

By Mr. CRAIG (for himself, Mr. SYMS, Mr. DOLE, and Mr. SMITH):
S. Con. Res. 24. Concurrent resolution expressing the sense of the Congress that the President should seek to negotiate a new base rights agreement with the Government of Panama to permit the United States Armed Forces to remain in Panama beyond December 31, 1999, and to permit the United States to act independently to continue to protect the Canal Zone; to the Committee on Foreign Relations.

By Mr. HATCH:
S. Con. Res. 25. Concurrent resolution to express the sense of the Senate regarding the civil rights and civil liberties of all Americans, including Arab-Americans, should be protected at all times, and particularly during times of international conflict, and for other purposes; to the Committee on the Judiciary.

STATEMENT OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMS:
S. 717. A bill to amend title XVIII of the Social Security Act to provide for the exclusion of all rural areas from Medicare payment reductions for the services of new physicians provided in such areas; to the Committee on Finance.

EXCLUSION FOR RURAL MEDICAL CARE

Mr. SYMS. Mr. President, I am introducing today, joined by my colleagues from Idaho, Senator CRAIG, a bill to eliminate yet another disincentive for health care professionals to provide services to rural America.

During the budget debate for fiscal year 1991, a provision was included in the package which would limit reimbursement under the Medicare program for new doctors just out of school. This provision reduces the normal reimbursement rate, while the means to provide these services is steadily decreasing.

By Mr. DURBERRY:
S. 717. A bill to amend title XVIII of the Social Security Act to provide for the exclusion of all rural areas from Medicare payment reductions for the services of new physicians provided in such areas; to the Committee on Finance.

Effective Date—The amendment made by subsection (a) shall become effective as if included in the provisions of the Omnibus Budget Reconciliation Act of 1990.

S. 4106. A bill to amend title XVIII of the Social Security Act to provide for the exclusion of all rural areas from Medicare payment reductions for the services of new physicians provided in such areas; to the Committee on Finance.

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. MIKULSKI, Mr. MURKOWSKI, Mr. NAGATOMO, Mr. AKAKA, Mr. BAYH, Mr. BENTSEN, Mr. BIDEN, Mr. BINGMAN, Mr. BOND, Mr. BOREN, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BYRD, Mr. BURTCHELL, Mr. BURNS, Mr. BYRD, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DASCHEL, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURBERRY, Mr. EXON, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRASSLEY, Mr. HARKIN, Mr. HATCH, Mr. HAYTFIELD, Mr. HEFLIN, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mr. KASSEBAUM, Mr. KAYEN, Mr. KENNEDY, Mr. KERRY, Mr. KERRY, Mr. KIRK, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MccAIN, Mr. McCONNELL, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. NICKLES, Mr. NUNN, Mr. PAGELDAN, Mr. PADDEN, Mr. PERRY, Mr. PRYOR, Mr. REID, Mr. RIGEL, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SANFORD, Mr. SARAHAN, Mr. SARRAH, Mr. SMITH, Mr. STEPHENS, Mr. STEWART, Mr. STEVENS, Mr. SYMS, Mr. THURMOND, Mr. WALLACE, Mr. WEAVER, Mr. WELLSTONE, and Mr. WIRTH):

S. Res. 90. Resolution extending a warm welcome to His Excellency Lech Walesa, President of the Republic of Poland, and for other purposes; considered and agreed to.

By Mr. METZENBAUM:
S. Res. 91. Resolution expressing the sense of the Senate regarding human rights violations against the people of Kashmir, and calling for direct negotiations among Pakistan, India, and Kashmir; to the Committee on Foreign Relations.

By Mr. CRAIG (for himself, Mr. SYMS, Mr. DOLE, and Mr. SMITH):
S. Con. Res. 24. Concurrent resolution expressing the sense of the Congress that the President should seek to negotiate a new base rights agreement with the Government of Panama to permit the United States Armed Forces to remain in Panama beyond
March 21, 1991

CONGRESSIONAL RECORD—SENATE

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

S. 718

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

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) United States Senator Spark M. Matsunaga of the State of Hawaii served his country for 40 years as a soldier and statesman, including service in the United States Senate and House of Representatives for a period of 28 years.

(2) Senator Matsunaga had a distinguished record in Congress, including service as a deputy majority whip and as a member of the Committee on Agriculture, and the Committee on Post Office and Civil Service while a Member of the House of Representatives. Senator Matsunaga's distinguished career as a Senator included service as chief deputy whip and as a member of the Committee on Finance, the Committee on Labor and Human Resources, the Committee on Energy and Natural Resources, and the Committee on Veterans' Affairs.

(3) Senator Matsunaga long maintained a special interest in the provision of international peace and the peaceful resolution of conflicts among the nations and peoples of the world, having served as the Chairman of the Commission on Proposals for the National Academy of Peace and Conflict Resolution and having sponsored a legislation which resulted in the establishment of the United States Institute of Peace.

(4) The United States Institute of Peace was established to carry forward the goal of a world at peace where conflicts are resolved, not by the force of arms but through diplomatic negotiations. With the conclusion of the Persian Gulf War and the beginning of negotiations to provide for economic and political stability in the Middle East, support for the United States Institute of Peace could not be more timely today.

SEC. 2. SPARK M. MATSUNAGA SCHOLARS PROGRAM.

Section 1705(b) of the United States Institute of Peace Act (22 U.S.C. 718(b)) is further amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "and"; and

(3) by inserting at the end thereof the following new paragraph:

"(10) establish the Spark M. Matsunaga Scholars Program, which shall include the provision of scholarships and educational programs in international peace and conflict management and related fields for outstanding high school students and scholarships to outstanding undergraduate students, with program participants and recipients of such scholarships and fellowships to be known as "Spark M. Matsunaga Scholars."

SEC. 3. PRIVATE GIFTS AND CONTRIBUTIONS.

Section 1706(h)(3) of the United States Institute of Peace Act (22 U.S.C. 718(h)(3)) is further amended—

(1) delete the provisions listed under "individual" the following":

except—

"(1) for the purpose of purchasing, leasing for purchase, or otherwise acquiring, constructing, improving, furnishing, equipping, or maintaining any site or site for the Institute, and the legal entity described in section 1706(c), or
By MR. KENNEDY (for himself, Mr. MURZESKA, Mr. DODD, Mr. WILSTON, Mr. AKABA, Mr. KOHL, Mr. CRANSTON, Mr. WIRTH, and Mr. RIEGLE): 

S. 720. A bill to provide financial assistance to eligible local educational agencies to improve urban education, and for other purposes; to the Committee on Labor and Human Resources.

URBAN SCHOOLS OF AMERICA (USA) ACT OF 1991

Mr. KENNEDY, Mr. President, along with Senators MURZESKA, PELL, SIMON, DODD, WILSTON, AKABA, KOHL, CRANSTON, WIRTH, and RIEGLE: I am introducing the Urban Schools of America (USA) Act of 1991.

It has been over a year since the President and the Governors set ambitious new goals for improving the Nation's schools by the year 2000. This consensus marks a new era in educational potential for the Nation. But little has been done at the Federal level to assist States and localities in meeting the goals. And time is slipping away. Unless we succeed, the United States is in serious danger of falling farther behind in addressing the critical challenges we face at home and around the world.

Report after report has been issued since the Department of Education's landmark "A Nation At Risk" study sounded the alarm in 1983. Nowhere is the challenge of improving education more difficult or more important than in the Nation's inner cities. Urban public schools continue to suffer from lower achievement rates, higher drop-out rates, more difficulty in recruiting teachers, less access to early childhood development programs, greater health problems, and higher concentrations of children in need than other schools.

America's future domestic and global strength depends on these children and the success of their schools. Consider this: If the graduation rate in 1988 of the Nation's urban schools had equaled the national average, they would have graduated another 86,000 students. The Federal income tax on the total additional lifetime earnings of these 86,000 citizens would be large enough to double the present congressional appropriation for elementary and secondary education, or boost drug prevention efforts by a factor of 10—efforts that benefit the whole Nation, not just the cities.

The Federal Government must address the Nation's educational challenges where the needs are greatest and where we can do the most good. That is why I urge Senators to join me in sponsoring this legislation.

The USA bill does four things: First, it authorizes formula grants to hard-pressed city school systems—at least one in every State—to conduct programs that would move them closer to meeting our national education goals. These grants will be different from any other Federal education program. Each year, school districts will commit in advance to the specific progress toward the national education goals they intend to make by year's end. Working closely with the community, local educational agencies will have broad flexibility to design whatever programs they believe will bring them closest to the goals. Progress will be measured by preset criteria, and subsequent grant payments will be contingent on their success in reaching the agreed goals. The Secretary of Education will also be authorized to make incentive awards to schools which make exceptional progress.

Second, the bill authorizes funds to renovate and repair the aging facilities of urban schools. According to a report by the Council of Great City Schools, one-third of America's inner-city school buildings are obsolete, with a cumulative backlog of repairs estimated at $5 billion.

Third, the bill authorizes additional Federal research on urban education and provides city schools with resources to strengthen their own research capabilities. Dollars will be focused on assessing programs and monitoring progress toward meeting the national goals.

Finally, the bill calls for a thorough overhaul of the current range of confusing Federal regulations, in order to simplify them and enhance student learning.

The bill authorizes "such sums as are necessary" to implement these provisions over the next 6 years, starting in fiscal year 1992. Our intention is to include specific amounts as the bill moves through the Congress, consistent with the Nation's education budget. There is no question that the needs are large, and we must do all we can to meet them. Few dollars we spend will be better spent.

I intend to use the USA bill as a basis for a comprehensive elementary and secondary reform initiative to be developed over the next several months. This will address a wide range of educational problems, including the needs of disadvantaged rural school districts. I invite all Members to participate, and I look forward to effecting action by Congress and the administration of this critical issue.

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

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Urban Schools of America (USA) Act of 1991."

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Finding.
Sec. 3. Statement of purpose.

TITLE I—URBAN SCHOOL IMPROVEMENT

Sec. 101. Authorization.
Sec. 102. Allocation of funds.
Sec. 103. Application required.
Sec. 104. Planning period.
Sec. 105. Uses of funds.
Sec. 106. Accountability.
Sec. 107. Incentive awards to exemplary programs.
Sec. 108. Regulatory assessment.
Sec. 109. Local advisory group.
Sec. 110. Special rules.

TITLE II—SCHOOL BUILDING REPAIR AND RENOVATION

Sec. 201. Purpose; authorization of appropriations.
Sec. 203. Application.
Sec. 204. Repair and renovation.
Sec. 205. Environment and safety.
Sec. 206. Waiver.

TITLE III—URBAN SCHOOL RESEARCH

Sec. 301. Authorization.
Sec. 302. Assistant Secretary for Urban Education.
Sec. 303. Reservation, allotment, allocation.
Sec. 304. National Institute of Urban Education.
Sec. 305. Application.
Sec. 306. Uses of funds.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Interagency council on urban schools.
Sec. 402. White House Conference on Urban Education.
Sec. 403. Augustine F. Hawkins National Commission on Urban Education.
Sec. 404. Federal funds to supplement not supplant non-Federal funds.
Sec. 405. Definitions.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the ability of the Nation's major urban school enrollments to educate "at-risk" youth; and
(2) the quality and availability of public education in the Nation's major urban areas has a direct effect on the economic development of the Nation's inner cities;

(3) the success of urban schools in boosting the achievement of its minority youth attending such schools will determine the ability of the Nation to close the gap between the "haves and have-nots" in society;

(4) the purpose of the 1991 America's jobs are directly linked to the economic development of the Nation's major urban areas has a direct effect on the economic development of the Nation's inner cities;

(5) the success of urban schools in boosting the achievement of its minority youth attending such schools will determine the ability of the Nation to close the gap between the "haves and have-nots" in society;

(6) the purpose of the 1991 America's jobs are directly linked to the economic development of the Nation's major urban areas has a direct effect on the economic development of the Nation's inner cities;

(7) the success of urban schools in boosting the achievement of its minority youth attending such schools will determine the ability of the Nation to close the gap between the "haves and have-nots" in society;

(8) the quality and availability of public education in the Nation's major urban areas has a direct effect on the economic development of the Nation's inner cities.
(9) the academic performance of students in the urban school public school system is below that of students in most other kinds of school systems;
(10) urban school systems have higher dropout rates and lower graduation rates among youths with health care and less parental participation than other kinds of school systems;
(11) urban preschoolers have one-half the access to early childhood development programs as do other children;
(12) shortages of teachers in urban school systems are 2.5 times greater than such shortages in other kinds of school systems;
(13) declining numbers of urban minority high school graduates are pursuing post-secondary educational opportunities;
(14) urban school systems have greater problems with teen pregnancy, discipline, drug abuse and gang violence than do other kinds of school systems;
(15) 75 percent of urban school buildings are over 25 years old, 33 percent of such buildings are over 50 years old, and such buildings are often in serious disrepair and create poor and demoralizing working and learning conditions;
(16) solving the challenges facing our Nation's urban schools will require the concerted and collaborative efforts of all levels of government and all sectors of the community;
(17) State and Federal funding of urban schools has not adequately reflected need; and
(18) Federal funding that is well targeted, flexible and accountable would contribute significantly to addressing the comprehensive needs of inner-city schools.

It is the purpose of this Act to provide financial assistance for those urban schools most in need to:
(1) assist urban schools in meeting national education goals;
(2) improve the educational and social well-being of urban public school children; and
(3) close the achievement gap between urban and nonurban school children, while improving the achievement level of all children nationally.

The Secretary shall allot to each eligible local educational agency an approved application in each fiscal year an amount which bears the same relationship to such funds as the amount such eligible local educational agency was allocated under sections 106 and 106 of the Elementary and Secondary Education Act of 1965 in the preceding fiscal year bears to the total amount received under such sections in such preceding fiscal year by all eligible local educational agencies.

(1) In general.—From the amounts allotted under subsection (b) of this section for any fiscal year, each eligible local educational agency shall reserve not more than 5 percent to make as many grants as practicable for the activities described in section 103.

(2) Special rule.—Grants awarded pursuant to paragraph (1) shall be sufficient in scope and quality to be effective.

(b) Payments.—
(1) In general.—The Secretary shall annually pay to each eligible local educational agency, following the adoption of such grantees' plans pursuant to paragraph (1) of subsection (a) of this section the costs of the activities described in the application.

(c) Payment requirements.—The Secretary shall only make annual payments to eligible local educational agencies which—
(A) comply with the provisions of section 1005(a); and
(B) demonstrate to the satisfaction of the Secretary that the data submitted pursuant to section 106(c) shows progress toward meeting national education goals.

(d) Administrative costs.—Not more than 5 percent of any allotment or grant made under this title may be used for administrative costs.

SEC. 102. APPLICATION REQUIRED.
(a) Application required.—
(1) Local educational agencies.—
(A) In general.—Any eligible local educational agency desiring to receive an allotment from the Secretary to carry out the provisions of this title shall—
(i) develop and prepare an application with the local advisory group in accordance with section 109 of this Act;
(ii) submit to the State educational agency the application for review and comment; and
(iii) submit the application described in clause (i) to the Secretary for approval.

(B) The duration.—As excepted provided in section 109, the application described in clause (i) may be for a period of not more than 3 years.

(2) Community-based organizations and nonprofit partnerships.—Any community-based organization or nonprofit partnership described in section 102(c) desiring to receive a grant from an eligible local educational agency pursuant to section 101(c) shall—
(A) prepare an application for approval by the local advisory group described in section 109 and submit such application to the eligible local educational agency;
(B) describe in the application the collaborative efforts undertaken with the local educational agency in designing a program to meet the provisions of this Act; and
(C) describe in the application how funds will be used to help meet the education goals selected by the local educational agency pursuant to section 102(a).

(b) Contents of local educational agency application.—Each application submitted by an eligible local educational agency in accordance with subsection (a) shall include a description of—
(1) the ranking of all schools in the eligible local educational agency by achievement, test scores, and other indicators of how such schools will be served in accordance with section 110(a); and
(2) the community served by the eligible local educational agency and the effects of the community on the educational conditions within the schools served by the eligible local educational agency;

(3) the collaboration in program planning with the local advisory group described in section 105(c).

SEC. 103. USES OF FUNDS.
(a) In General.—Funds allotted under this title shall be used by eligible local educational agencies, or community-based organizations or nonprofit partnerships described in section 102(b) to meet national education goals through programs designed to—
(1) increase the academic achievement of urban school children to at least the national average, including—
(A) effective schools programs;
(B) tutoring, mentoring, and other activities to improve academic achievement directly;
(C) activities designed to increase the part participation of minority students in entry level and advanced courses in mathematics and science;
(D) supplementary academic instruction; and
(E) problem-solving and higher-order thinking skills; and
(2) programs to increase student motivation for learning and participation in school,
(3) efforts to lengthen the school day, school year or reduce class sizes;
(4) ensure the readiness of all urban children for school, including—
(A) full day, full calendar-year comprehensive early childhood development programs;
(B) parenting classes and parent involvement activities;
(C) activities designed to coordinate pre-kindergarten and child care programs;
(D) efforts to integrate developmentally appropriate prekindergarten services into the overall school program;
(E) upgrading the qualifications of early childhood education staff and standards for programs;
(F) collaborative efforts with health and social agencies to integrate comprehensive services and to facilitate the transition from home to school;
(G) establishment of comprehensive child care centers in high schools for student-parents and their children; and
(H) augmenting early childhood development programs to meet the special educational and cultural needs of limited-English proficient preschool children;
(3) increase the graduation rates of urban student to at least the national average, including—
(A) dropout prevention activities and support services for students at-risk of dropping out of school;
(B) re-entry, outreach and support activities to recruit students who have dropped out of school to return to school;
(C) development of statewide policies and practices that encourage students to stay in school;
(D) efforts to provide individualized student support, such as mentoring programs;
(E) collaborative activities between schools, parents, community groups, agencies and institutions of higher education aimed at preventing individuals from dropping out of school;
(F) programs to increase student attendance and
(G) alternative programs for students, especially bilingual and special education students, who have dropped out of school or are at-risk of dropping out of school;
(4) prepare urban school graduates to enter higher education, pursue careers and exercise their responsibilities as citizens, including—
(A) activities designed to increase the number and percentages of students, particularly minority students, enrolling in post-secondary educational institutions after graduation from secondary schools;
(B) activities to integrate developmentally appropriate prekindergarten services into the overall school program;
(C) activities designed in collaboration with colleges and universities to assist urban school graduates in completing higher education;
(D) efforts to increase voter registration among eligible high school students;
(E) activities designed to promote community service and volunteerism among students, parents, teachers, and the community; and
(F) civic education and other programs designed to enhance responsible citizenship and understanding of the political process;
(5) recruit and retain qualified teachers, including—
(A) school-based management projects and activities;
(B) programs designed to test efforts to increase the professionalism of teachers or to bring teachers up to national voluntary standards;
(C) alternative routes to certification for qualified individuals from business, the military and other fields;
(D) efforts to recruit and retain teachers in critical shortage areas, including early childhood teachers, mathematics and science teachers, and special education and bilingual teachers;
(E) upgrading the skills of teacher aides and paraprofessionals to assist such individuals in becoming certified teachers;
(F) efforts specifically designed to increase the number of minority teachers in urban schools;
(G) programs designed to “grow your own” teachers;
(H) incentives for teachers to work in inner-city schools; and
(1) collaborative activities with urban universities to revise and upgrade teacher training programs;
(6) decrease the use of drugs and alcohol among urban students, and to enhance the physical and emotional health of such students;
(A) activities designed to improve the self-esteem and self-worth of urban students;
(B) the provision of health care services and
(C) re-entry, outreach and support activities to recruit students who have dropped out of school to return to school;
(D) activities that begin in the early grades and are designed to prevent drug and alcohol abuse and smoking among students and teachers;
(E) collaborative activities with other agencies, organizations and community groups to discourage the advertising and glorification of drugs and alcohol;
(F) efforts to enhance health education and nutrition education; and
(G) alternative schools, and schools-within-schools programs, including bilingual and special education programs for students with special needs.
(b) SPECIAL RULE.—Funds alloted under this title may be used for the planning, development, operation or expansion of programs and activities which are designed to assist urban students in meeting national education goals, and may include—
(1) training of teachers and other educational personnel in subject areas, or instructional technology and methods that would improve the delivery of services in urban settings in any of the national education goals area, including staff development efforts which emphasize multicultural and gender and disability bias-free curricula;
(2) encouragement and collaboration with other municipal agencies, child care organizations, universities, or the private sector;
(3) programs designed to help substance abuse, and urban students and
(4) guidance counseling, psychological, social work, and other support services that contribute to progress in achieving national education goals;
(5) efforts to improve and improve access to educational technology;
(6) programs to serve homeless children, desegregating children, immigrants, migrants, or other highly mobile populations, even if such individuals do not attend a school assisted under this title; and
(7) efforts to improve and strengthen the curriculum and coordinate services across grade levels.
(c) PRIORITY.—Each local educational agency submitting an application under this section shall give priority in designing the project assisted under this title to activities that replicate successful efforts in other local educational agencies or expand successful programs within the eligible local educational agency.

SEC. 106. ACCOUNTABILITY.
(a) IN GENERAL.—The Secretary may award an allotment under this title to an eligible local educational agency to enable such agency to implement projects described in this subchapter (as such term is defined in section 102(a)) for a period of not more than 3 years.
(b) REQUIREMENTS TO MOVE TOWARD NATIONAL EDUCATION GOALS.
(1) PROGRAM CONTINUATION.—If, after 3 years, an eligible local educational agency receiving an allotment under this title fails to meet the accountability requirements described in subsection (a), such agency shall be deemed to have met the requirements described in subsection (b) at the end of 3 years and the requirements described in subsection (c) at the end of each year, as determined by the Secretary.
(2) SPECIAL RULE.—If, after 3 years, an eligible local educational agency receiving an allotment under this title is unable to demonstrate progress on meeting at least 3 other national education goals as measured by the criteria described in paragraph (3), such agency shall be deemed to have met the requirements of paragraph (1) so long as the achievement level of the schools assisted under this title did not decline in any of the 3 previous school years.
(3) CRITERIA.—For purposes of paragraph (2), the criteria are:
(A) the number or percentage of preschool children served by the eligible local educational agency is greater than the average such number or percentage in the 3 previous school years;
(B) the secondary school graduation rate in the eligible local educational agency is greater than the average such rate for the 3 previous school years;
(C) the percentage of secondary school graduates in the eligible local educational agency who enroll in postsecondary education is greater than such percentage for the 3 previous school years;
(D) the percentage of the teaching force in the eligible local educational agency who are minorities is greater than the average such percentage for the 3 previous school years;
(E) the incidence of discipline, drug-related or in-school crime in the eligible local educational agency is less than the average such incidence in the 3 previous school years.
(c) COLLECTION OF DATA.—Each eligible local educational agency, community-based organization, or nonprofit partnership described in section 102(c)(2) receiving an allotment under this title shall annually collect and submit to the Secretary data based on the statistical indicators and other criteria described in the application submitted by such eligible local educational agency for funds under this title that measure progress in achieving national education goals. Such data shall include multiple measures or indicators of each variable, and may take into
consideration the mobility of students in the schools served under this title.

SEC. 107. INCENTIVE AWARDS TO EXEMPLARY PROGRAMS.

From amounts reserved pursuant to section 102(a) or otherwise made available, the Secretary is authorized to make competitive awards to individual schools participating in a program assisted under this title that demonstrate to the satisfaction of the Secretary at least 3 of the following:

(1) Unusual or exemplary progress in achieving the national education goals.
(2) Exemplary or unusually effective collaborative arrangements between the schools, community-based organizations, agencies, parent groups, colleges and businesses.
(3) Identification, review and removal of potential barriers to student performance in the national education goal areas, such as suspensions and expulsions, in-grade retention, and lack of access to course offerings in pre-algebra and introductory algebra.
(4) Substantial expansion of the hours schools served under this title remain open for community use or student after-school recreation.

SEC. 108. REGULATORY ASSESSMENT.

(a) REPORT ON URBAN PUBLIC SCHOOLS.—In order to assist eligible local educational agencies under this Act in improving the performance of urban school children, the Secretary shall, not later than January 1, 1993, prepare a report on the impact of Federal regulations, guidelines and policies on urban public schools.

(b) CONTENTS OF REPORT.—The report shall analyze the impact of Federal legal, regulatory, policy and organizational requirements on the time and resources that eligible local educational agencies assisted under this Act have for educating students, including fiscal resources, staff time, facilities, instructional equipment, and services. The report shall make recommendations on how best to simplify Federal regulations, guidelines and policies so that more resources can be devoted to improving urban school performance. The report shall also identify the regulations whose waiver might be used as incentive adjustments balanced according to the race, ethnicity, native language background, and gender of its members, to the extent practicable.

(c) FUNCTIONS.—The local advisory group shall:

(1) advise the eligible local educational agency on the design and conduct of a needs assessment for all schools expected to participate in the program assisted under this title;
(2) assist in planning for community-wide collaboration in service delivery for students in schools expected to be served by the program assisted under this title;
(3) advise the eligible local educational agency on the implementation of the program assisted under this title and review and approve applications submitted to the eligible educational agency by community-based organizations pursuant to section 102(b)(3); and
(4) advise the eligible local educational agency on strategies for increasing parent involvement and the number of school volunteers and role models in schools;

(7) review the success of community-based programs assisted under this title for progress on the national education goals.

(d) USE OF EXISTING LOCAL ADVISORY GROUP.—Each eligible local educational agency that has established a broadly representative local advisory group before enactment of this Act that is comparable to the local advisory group described in this section, such existing local advisory group shall be considered to be in compliance with the provisions of this section.

SEC. 109. INCENTIVE PROGRAMS.

(a) RANKING OF SCHOOLS TO DETERMINE RELATIVE NEED.—

(1) IN GENERAL.—Each eligible local educational agency desiring to receive an allotment under this title shall, in order to determine which schools are most in need of services under this title, separately rank all schools under the jurisdiction of such agency on the basis of—

(A) achievement;
(B) poverty; and
(C) racial isolation.

(2) PERCENTAGE OF SCHOOLS TO BE SERVED.—Each eligible local educational agency that receives an allotment under this title shall serve at least 10 percent, but not more than 20 percent, of the schools under the jurisdiction of such agency.

(b) FLEXIBILITY.—Each eligible local educational agency shall have the flexibility to serve homeless children, desegregating students, immigrants, migrants or other highly mobile populations within the program assisted under this title.

(c) CHAPTER 1 SCHOOL IMPROVEMENT PLAN.—An approved program for any school served under sections 1020 and 1021 of the Elementary and Secondary Education Act of 1965, may be considered sufficient to meet the requirements of the provisions of section 106(b)(1) of this Act.

TITLES II—SCHOOL BUILDING REPAIR AND RENOVATION

SEC. 201. PURPOSE, AUTHORIZATION OF APPROPRIATIONS.

(a) PURPOSE.—It is the purpose of this title to provide assistance to eligible local educational agencies to assist such agencies in repairing, and renovating, instructional facilities in city schools.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995, 1996, 1997, 1998, and 1999, for carrying out the provisions of this title.

SEC. 202. ALLOCATION OF FUNDS.

(a) RESERVATION.—From the amount appropriated or otherwise available to carry out the provisions of this title for any fiscal year, the Secretary shall reserve 1 percent of such amount to monitor activities assisted under this title.

(b) SPECIAL RULES.—From the remainder of funds not reserved under subsection (a), the Secretary shall allocate to eligible local educational agencies with an approved application—
(1) 33 percent of such funds on the basis of the number of children in the eligible local educational agency between the ages of 5 and 11 who are members of families whose income does not exceed the income official poverty line (as defined by the Office of Management and Budget), according to the most recent census count, divided by the number of all such children in all eligible local educational agencies; and

(2) 33 percent of such funds on the basis of the number of school buildings used for instructional purposes in the eligible local educational agency, divided by the number of all such buildings in all eligible local educational agencies; and

(3) 33 percent of such funds on the basis of the number of school buildings in the eligible local educational agency which are used for instructional purposes and which are more than 25 years old, divided by the number of all such buildings in all eligible local educational agencies.

SEC. 205. APPLICATION.

(a) APPLICATION.—

(1) IN GENERAL.—Any eligible local educational agency desiring to receive an allotment to carry out the provisions of this title shall submit to the Secretary an application at such time, in such manner and accompanied by such information as the Secretary may specify.

(b) DURATION.—Each application submitted pursuant to paragraph (1) shall be for a period of not more than 3 years.

(c) CONTENTS.—Each application submitted pursuant to paragraph (1) shall be subject to annual review.

(d) CONTENTS.—Each application submitted pursuant to subsection (a) shall contain—

(1) an assessment of needs for building repair, renovation and construction;

(2) the name and location of all sites scheduled for repair, renovation or construction and a description of the activities planned at each site; and

(3) a description of accounting procedures used to assure proper disbursement of Federal funds.

SEC. 204. REPAIR AND RENOVATION.

Each eligible local educational agency receiving an allotment under section 203(b) shall use 50 percent of such allotment to conduct programs for—

(1) repair and renovation of school buildings for Instruction;

(2) installation or upgrades of school security and communications systems;

(3) construction of new buildings that will serve the needs of homeless children and preschool children;

(4) alterations to buildings to enable such buildings to serve as one-stop family service centers; and

(5) facilities' costs associated with lengthening the school day or school year; and

upgrading of and alterations to buildings to accommodate new instructional technology.

SEC. 205. ENVIRONMENT AND SAFETY.

Each eligible local educational agency receiving an allotment under section 203(b) shall use 50 percent of such allotment to conduct programs for—

(1) energy conservation;

(2) removal or containment of environmentally hazardous material, such as asbestos, lead and radon;

(3) meeting requirements of section 504 of the Rehabilitation Act of 1973; and

(4) meeting local, State or Federal laws or regulations enacted or promulgated since the initial construction of a building related to fire, air, light, noise, waste disposal, building height or other.

SEC. 206. WAIVER.

The Secretary may waive the 50 percent requirements described in sections 204 and 205 for any eligible local educational agency that demonstrates to the satisfaction of the Secretary a greater need for services described in section 204 or 205.

TITLE III—URBAN SCHOOL RESEARCH

SEC. 301. AUTHORIZATION.

There are authorized to be appropriated to the National Institute for Urban Education such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, to carry out the provisions of this title.

SEC. 302. NATIONAL INSTITUTE FOR URBAN EDUCATION.

(a) AMENDMENT TO THE DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Title II of the Department of Education Organization Act (20 U.S.C. 3401 et seq.) is amended—

(1) in subsection (b)(1) by—

(A) striking "and" at the end of subparagraph (G); and

(B) inserting at the end of subsection (b) the following paragraph:

"(H) the Assistant Secretary for the Department of Education or the Secretary of the Department of Education, as the case may be, may appoint a Director to administer the Institute;"

and

(2) in subsection (d) inserting "Secretary" after "Assistant Secretary".

(b) AMENDMENT TO TITLE V.—Section 5315 of title 5, United States Code is amended by striking "Assistant Secretary for Urban Education" and inserting "Assistant Secretary for Urban Education;".

(c) AMENDMENT TO TITLE II.—The National Institute for Urban Education is established as the National Institute for Urban Education.

"There shall be in the Department a National Institute for Urban Education, established in accordance with title III of the National Institute of Urban Education Act of 1991."

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SEC. 303. RESERVATION.

There are authorized to be appropriated to the National Institute for Urban Education such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, to carry out the provisions of this title.

SEC. 304. NATIONAL INSTITUTE OF URBAN EDUCATION.

(a) ESTABLISHMENT.—From amounts reserved under this section, the Assistant Secretary shall establish an institute to be known as the National Institute of Urban Education.

(b) FUNCTIONS.—The Institute shall—

(1) provide training in research and evaluation for agencies under this Act, or consortia of such agencies, in developing research and evaluation activities to assess progress toward national education goals; and

(2) provide for the conduct of research which will assist urban schools in enhancing learning, teaching, and system management;

(c) design, and if necessary develop, research and evaluation methods and techniques that meet the purposes of this Act;

(d) educate and disseminate among eligible local educational agencies results of activities conducted pursuant to title I of this Act;

(e) design and coordinate, in consultation with eligible local educational agency activities, a comprehensive and cohesive research and evaluation strategy for assessing progress under this Act;

(f) serve as a clearinghouse on urban education research and evaluation findings, policies, and practices;

(g) develop, and test new multiple measures of school progress toward the national education goals; and

(h) assist the Secretary in the performance of such duties as the Secretary may designate.

(i) Governing Board.—The Institute shall have a Governing Board.

(j) COMPOSITION AND APPOINTMENT.—

(1) COMPOSITION.—The Governing Board shall consist of 22 members, selected from a pool of candidates nominated by the superintendent and the principal of the Board of Education of the eligible local educational agency.

(2) APPOINTMENT.—The Governor or the Board of Education of the eligible local educational agency.

SEC. 305. TERMS OF OFFICE.

(A) IN GENERAL.—Members of the Governing Board shall be appointed for a period of 3 years.

(B) REAPPOINTMENT.—Members of the Governing Board may be reappointed to the Governing Board.

(C) DUTIES.—The Governing Board shall—

(1) establish the national research and evaluation program for the Institute;

(2) review the programs and activities of the Institute;

(3) issue an annual report to the Congress and the public on the progress of urban schools in meeting the goals of this Act;

(4) provide and report to the Congress and the public on the progress of urban schools in meeting the goals of this Act;

(5) STAFF.—Such personnel as the Institute may deem necessary may be appointed to carry out the functions of the Institute.

(6) CONTRACTS AND GRANTS.—

(1) IN GENERAL.—The Institute may award grants to or enter into contracts with eligible local educational agencies, universities, research and development centers, private corporations, or regional educational laboratories or consortia of such entities to carry out the duties of the Institute.
(2) COMPETITIVE AWARDS.—Grants and contracts awarded under paragraph (1) shall be awarded on a competitive basis.

SEC. 305. APPLICATION.

(a) IN GENERAL.—Any eligible local educational agency desiring to receive an allotment under section 303(b) shall—

(1) submit an application to the Assistant Secretary;

(2) consult with the Department of Education, local universities, research institutes, laboratories, or centers for purposes of planning and implementing a plan of research and technical assistance for the eligible local educational agency and schools of the local educational agency participating in programs assisted under title I; and

(3) describe in the application a research and technical assistance plan and how assistance provided under this title will be used to assess progress on the national education goals.

(b) CONSORTIA.—Eligible local educational agencies may pool their allotments under section 303(b), in whole or in part, to design and conduct cooperative data collection, evaluation and information dissemination activities:

(1) collaborative and coordinated research and evaluation of educational techniques or approaches used in multiple eligible local educational agencies;

(2) evaluation of projects assisted under title I;

(3) collection and dissemination of information on successful projects and approaches assisted under title I;

(4) design and implementation of extension services to assist local eligible local educational agencies to provide technical assistance to individual schools and teachers involved in projects assisted under title I;

(5) provision of data and information management services to individual schools assisted under title I;

(6) provision of staff training in schools assisted under title I; and

(7) evaluation of progress made by eligible local educational agencies assisted under this Act in meeting national education goals.

(8) provision of staff training in test interpretation and test results to urban schools;

(9) provision of information to parents on test results and test interpretation;

(10) provision of technology and training in its research and evaluation uses;

(11) development of assessment tools of students in individualized instruction;

(12) research on school policies and practices which may be barriers to the success of students in school; and

(13) development and testing of new multiple, alternative assessments of student progress toward the national education goals which are race and gender bias-free and sensitive to limited-English proficient and disabled students.

TITLE IV—GENERAL PROVISIONS

SEC. 401. INTERAGENCY COUNCIL ON URBAN SCHOOLS.

(a) ESTABLISHMENT.—There is established the Interagency Council on Urban Schools (hereafter in this section referred to as the "Council").

(b) COMPOSITION.—

(1) IN GENERAL.—The Council shall consist of—

(A) the Secretary of Education who shall serve as Chairperson of the Council;

(B) the Secretary of Labor;

(C) the Secretary of Health and Human Services;

(D) the Secretary of Agriculture;

(E) the Attorney General of the United States;

(F) the Secretary of Energy;

(G) the Director of the Environmental Protection Agency;

(H) the Director of the Commission on Civil Rights;

(I) the Chairperson of the Advisory Commission on Intergovernmental Relations;

(J) the Chairpersons of the National Endowments on the Arts and the Humanities;

(K) the Director of the National Science Foundation;

(L) the Secretary of Housing and Urban Development; and

(M) such other officers of the Federal Government as may be designated by the President or the Chairperson of the Council to serve wherever matters within the jurisdiction of the agency headed by such an officer are to be considered by the Council.

(2) REPRESENTATION.—Each individual described in paragraph (1) may designate a person to represent such individual on the Council.

(3) DURATION.—Each member shall be appointed for as long as the person is a member of the agency for which the person is designated under paragraph (1), but a lesser number may meet for other reasons.

(4) PRINCIPAL ADVISOR.—The Chairperson of the Council shall be the President’s principal advisor on urban schools.

(c) QUORUM.—Seven members of the Council shall constitute a quorum for the purposes of transmitting recommendations and proposals to the President, but a lesser number may meet for other reasons.

(d) MEETINGS.—The Council shall meet at least 2 times each year. When a Council member is unable to attend a meeting, the Council member shall appoint an appropriate Assistant Secretary or an equivalent individual from the department or agency of the member to represent the member for that meeting.

(e) DUTIES OF THE COUNCIL.—The Council shall—

(1) review programs and activities conducted by each department or agency represented on the Council and reports on the effectiveness of such programs and activities on the ability of urban schools to meet national education goals;

(2) track progress of urban schools in meeting national education goals;

(3) solicit information and advice from experts in urban education and representatives of urban schools on how the Federal Government could improve the programs and activities of the Federal Government which serve urban school students;

(4) review regulations across various departments or agencies of the Federal Government for duplication or contradiction;

(5) issue an annual report to Congress and the President on the progress urban schools are making in meeting national education goals, and on how Congress might change Federal programs to improve the effectiveness of such programs in urban schools;

(6) review and make recommendations regarding ways to improve or streamline various Federal data collection activities in urban schools; and

(7) conduct such research as may be helpful to urban school practitioners in improving the performance of students attending urban schools.

SEC. 402. WHITE HOUSE CONFERENCE ON URBAN EDUCATION.

(a) AUTHORIZATION TO CALL CONFERENCE.—

(1) IN GENERAL.—The President is authorized to call and conduct a White House Conference on Urban Education (hereafter referred to as the "Conference") which shall be held not earlier than November 1, 1992, and no later than October 30, 1993.

(2) PURPOSE.—The purpose of the White House Conference on Urban Education shall be—

(A) develop recommendations and strategies for the improvement of urban education;

(B) marshal the forces of the private sector; educational and governmental agencies; levels, parents, teachers, communities, and education officials to assist urban schools in achieving national education goals; and

(C) prepare the President's line-trending for a permanent national advisory commission on urban education.

(b) COMPOSITION OF CONFERENCE.—

(1) MEMBERS.—The Conference shall be composed of—

(A) representatives of urban public school systems, including board of education members and school superintendents;

(B) representatives of the Congress, the Department of Education and other Federal agencies;

(C) State elected officials and representatives from State educational agencies; and

(D) individuals with special knowledge of and expertise in urban education.

(2) SELECTION.—The President shall select one-third of the participants of the Conference, the Speaker of the House of Representatives shall select one-third of such participants, and the President pro tempore of the Senate shall select the remaining one-third of such participants.

(c) REPORTS.—In the selecting the participants of the Conference the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall ensure that the participants are as representative of the ethnic, racial, and language diversity of cities as is practicable.

(1) IN GENERAL.—A final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President not later than 120 days following the termination of the Conference. The final report shall be made public and, within 45 days after receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations for implementing the Conference.

(2) PUBLICATION AND DISTRIBUTION.—The Conference is authorized to publish and distribute the report described in this section. Copies of the report shall be provided to the Federal depository libraries and made available to local urban school leaders.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for fiscal year 1993 such sums as may be necessary to carry out the provisions of this section.

(2) AVAILABILITY.—Amounts made available pursuant to the authority of paragraph (1) shall remain available until expended.

SEC. 403. AUGUSTUS HAWKINS NATIONAL COMMISSION ON URBAN EDUCATION.

(a) ESTABLISHMENT.—There is established a National Commission on Urban Education (referred to hereafter as the "Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 12 members, equally divided between Members of Congress and representatives of urban public school systems, including board of education members and school superintendents. The members shall be appointed by the President. Four of the members shall be appointed by the Speaker of the House, including two Members of the House, of which 1 shall be
Mission shall be filled in the same manner as serve for the duration of the Commission.

Any vacancy in the Commission shall be filled in the same manner as the Commission is for the duration of the Commission.

The Commission shall make a study of the following issues:

1. Demographic Changes—Demographic changes will influence student enrollment and classroom teachers in the 10-year period prior to the date of enactment of this Act.

2. Special Needs—Numbers and types of special needs of students in urban schools.


4. Student Performance—Program and management efforts in urban schools designed to enhance student performance, and reasons for the effectiveness of such efforts.

5. Financial Support—Financial support and funding of urban schools from local State, and Federal sources.

6. Collaborative Efforts—Collaborative efforts and programs between urban schools, the private sector, and community groups.

7. Supply Needs—Supply needs for teachers in urban schools in the 10-year period beginning on the date of enactment of this Act.

8. Reports—In General—The Commission shall prepare and submit a report and recommendations to the President and to the appropriate committees of the Congress on the findings of the study required by this section. The report shall be submitted as soon as practicable.


10. Staff—Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of section 5339 of title 5, United States Code, regarding classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for level III of the Executive Schedule.

11. Compensation—Officers Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their official services or employment by the United States. Such members may be allowed travel expenses and per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

12. Special Rule—Members of the Commission who are not officers or full-time employees of States may be paid by the Commission such per diem and travel allowance as is provided by the United States Code for persons in the Government service employed intermittently.

(g) Administration—

1. In General—The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and places within the United States as the Commission or such committee may deem advisable.

2. Consultation—In carrying out its duties under this section, the Commission shall consult with other Federal agencies, representatives of State governments, local governments, and private organizations to the extent feasible.

3. Information—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or Instrumentality, Information, suggestions, estimates, and statistics for the purpose of this section, and each such department, bureau, agency, board, commission, office, establishment, or Instrumentality is authorized and directed, to the extent permitted by law, to furnish such Information, suggestions, estimates, and statistics directly to the Commission, upon request by the Chair.

4. Contracts—The Commission is authorized to enter into contracts to secure the necessary data and information necessary to carry out its work and to obtain the services of experts and consultants.

5. Cooperation—The heads of all Federal agencies that have provided data, or their designees or successors, and the leaders in the field of education, are authorized to cooperate with the Commission in carrying out this section.

6. Special Rule—The Commission is authorized to utilize, with the consent of such agencies, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

7. Termination—The Commission shall terminate 3 years after the date of its first meeting.

1. Authorization of Appropriations—

1. In General—There are authorized to be appropriated for fiscal year 1993 such sums as may be necessary to carry out the provisions of this section.

2. Availability—Amounts appropriated pursuant to the authority of paragraph (1) shall remain available for obligation and expenditure until expended or until the termination of the Commission, whichever occurs first.

SEC. 404. FEDERAL FUNDS TO SUPPLEMENT NOT SUPPLANT NON-FEDERAL FUNDS.

An eligible local educational agency may use funds received under this Act only as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be available from non-Federal sources for the education of students participating in activities assisted under this Act and in no case may such funds be used to supplant such funds from non-Federal sources.

SEC. 405. DEFINITIONS.

Except as otherwise provided, for the purposes of this Act—

1. The term "central city" has the same meaning that is used by the United States Census Bureau;

2. The term "community-based organization" means a private nonprofit organization which serves a significant segment of a community and which has a proven record of providing effective educational or related services to individuals in the community;

3. The term "eligible local educational agency" means a local educational agency which—

(i) serves the largest central city in a State;

(ii) enrolls 30,000 or more students and serves a central city with a population of at least 200,000 in a metropolitan statistical area.

4. The term "institution of higher education" has the meaning given to such term in section 102(a) of the Higher Education Act of 1965;

5. The term "local educational agency" has the meaning given to such term in section 102 of the Elementary and Secondary Education Act of 1965;

6. The term "metropolitan statistical area" has the same meaning as that used by the United States Census Bureau;

The term "poverty level" means the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index for All Urban Consumers;

7. The term "Secretary" means the Secretary of Education.

Mr. KOHL. Mr. President, I am pleased to join our distinguished colleagues from the Senate Labor and Human Resources Committee as a co-sponsor of S. 720, the Urban Schools of America (USA) Act of 1991.

I cannot think of a single area of greater need in this Nation than investment in education. A 1989 report on the National Association of Student Financial Aid Administrators and the American council on Education Early Awareness of Postsecondary Education gave, by way of background, these disturbing facts:

Today, there are significantly fewer youth to support our aging population. In 1950, there were 17 Americans working to support each retired person. By 1992, the ratio will be only three to one, and one of the three workers will be black, Hispanic, Asian, or Native American. Of the 3.6 million children who entered kindergarten in 1988 (the high school class of 2001), about one-third are minority students. One-quarter of the children were born in poverty. Some 15 percent fit in one or more of the following categories: mentally or physically handicapped, non-native speaking, or economically disadvantaged or children of unmarried parents. As a result of these sweeping demographic changes, the high percentages of school dropouts—already about half of students entering ninth grade in urban areas—are likely to increase. Unless there are serious, comprehen-
The report goes on to quote Henry Levin's of Stanford University estimates that the cost of school dropouts, amounted conservatively to $71 billion every year: $71 billion in lost tax revenues; $3 billion for welfare and unemployment; and $3 billion for crime prevention.

USA is an investment that would help to stem those costs. Through direct federal investment in urban school improvement, school building repair and renovation and urban school research, we can provide a desperately needed IQ to our ailing inner city schools.

As a Senator who represents a largely rural State, I know all too well that the problems plaguing public elementary and secondary education are not limited to urban areas. In my own State, the city of Milwaukee faces tremendous challenges in improving public education, but there are many other local education agencies across the State who could benefit from a "Rural" USA. In fact, there are over 50 school districts in the State with lower per capita incomes than the city of Milwaukee. I cosponsor this proposal with the understanding that it is our intent to focus on the rural schools as well.

A second concern that I have is that of the role of the chief State school officers. While I do believe that we must infuse funding directly into the local education agencies, I would hope that as this legislation winds its way through the process that we can achieve some balance between the LEA's and the State education agencies.

Finally, I believe that we must be prepared to invest generously in education. Whether this proposal is worthy of a $1 billion investment or $3 billion investment, I am not sure. I do think that we are going to have to balance incredible demands—ironically at a time when we need to be doing more in most all the areas. It is my sincere hope that critical initiatives like USA are not pitted against programs like Pell grants and title I programs. Somehow, we must continue to invest in education, health care and the social needs of our children and families as we proceed with deficit reduction. In the long term, I am convinced that that is where the real savings to our Nation will be gained.

Mr. President, I once again thank the chairman of the Labor and Human Resources Committee for his outstanding leadership in the field of education. He has once again given us a vision for positive change, for growth and investment in our people. I look forward to working with him on this legislation to make that vision of better education for our children a reality.

By Mr. ROTH:

S. 721. A bill to facilitate the dissemination of patent information; to the Committee on the Judiciary.

PATENT INFORMATION DISSEMINATION ACT OF 1991

- Mr. ROTH. Mr. President, I rise today to introduce legislation designed to establish a program to effectively and efficiently disseminate the largest, most comprehensive collection of technical information available in the United States—the 28 million documents of patent information at the U.S. Patent and Trademark Office (PTO).

Our national economic interest lies in the ability of U.S. business enterprises to manufacture new products and substantially improve existing products on a competitive basis. The competitiveness of U.S. production is of equal importance. These technological advances are the inventions which are protected by patents. As such, patents are an important determinant of a nation's competitive and economic strength.

In 1989 alone, the Patent and Trademark Office (PTO) granted 95,831 utility patents protecting chemical, mechanical, and electrical inventions. Of these grants, 55 percent were given to U.S. inventors and 45 percent were given to foreign inventors. All of these patents describe the inventions in detail. Each includes drawings or chemical formulae, technical specifications, and a legally required description of the best manner known to the inventor to practice the invention.

These technical blueprints cover the complete range of commercial innovation. They are indexed in 125,000 specific classes of technology from aircraft parts to biotechnologically engineered plants to computer equipment to mousetraps. Each class consists of a wealth of commercially valuable information relating generally to industrial innovation. In recent years, nearly one-half of this information is the product of foreign research, therefore representing the blueprints of our competitors.

Promoting efficient and effective access to patent information is a strategically important function in many respects. It can be, for example a key resource for directly and successfully accomplishing research and development activities. Moreover, because patents represent products which will reach the market in future years, the analysis of patent information can be a valuable management tool in assessing foreign and domestic competitors. And of course, patent information is a critical resource for obtaining and enforcing inventor's rights. Clearly, patent information is a critical resource for obtaining and enforcing inventor's rights. Clearly, patent information is a critical resource for obtaining and enforcing inventor's rights.

Mr. President, it is truly unfortunate that this valuable U.S. Government information resource remains virtually inaccessible in usable form to U.S. industry. In the past, there was a legitimate excuse why patent information in classified form could exist only at the military. Patently Ineffective was a reference to the automated patent system (APS). The massive paper files have now been transformed into machine readable form, at a cost to the Government of more than $150 million to date. There is, therefore, absolutely no reason why this patent information cannot now be made widely available at low cost through the use of compact-disc, read-only-memory [CD-ROM] technology.

The legislation I am introducing today calls upon the PTO to pursue such a program, which will maximize the PTO's resources to effectively and efficiently support industrial innovation.

This legislation goes on to quote Henry Stein. In 1989 alone, the Patent and Trademark Office (PTO) granted 95,831 utility patents protecting chemical, mechanical, and electrical inventions. Of these grants, 55 percent were given to U.S. inventors and 45 percent were given to foreign inventors. All of these patents describe the inventions in detail. Each includes drawings or chemical formulae, technical specifications, and a legally required description of the best manner known to the inventor to practice the invention.

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sified format. It would broaden the PTO's current automation efforts to take into account the needs of patent applicants and users, instead of focusing solely on the needs of patent examiners. In doing so, it would establish an efficient and vastly improved process for disseminating patent information, which is urgently by the U.S. patent professionals, the engineering and scientific community, industry and the PTO itself.

The PTO would not be required to expend enormous resources on this CD-ROM program because it already has at its fingertips digitized patent image ROM program because it already has at its fingertips digitized patent image data on United States patents and as a result of patent information exchange agreements, similar data on Japanese and European patents. The PTO is not, however, making this available to interested public parties. Mounting such patent information onto CD-ROM's provides the best means for disseminating it because it would allow actual patent images to be easily viewed at remote locations. Moreover, CD-ROM's can efficiently store approximately 300,000 patent text pages. Using such technology is also cost effective, requiring only a personal computer with a CD-ROM reader, rather than a more expensive mini or main-frame computer which is needed for magnetic computer tapes.

The main and most costly task in implementing this program will be creating the initial master CD-ROM's. Estimated start-up costs for this function are provided for in the legislation. Once the master CD-ROM's are made, the PTO will charge whatever fees may be appropriate to cover the marginal costs of producing and processing the purchase orders for copies of the master CD-ROM's.

It is notable that our Government already recognizes the benefits of CD-ROM technology as an effective dissemination tool. This is underscored by the fact that the Commerce Department has just issued its first monthly CD-ROM product in relation to its National Trade Data Bank (NTDB). As stated by Undersecretary of Commerce Michael Darby in a recent letter to Members of the Senate in announcing this new program: "In order to make this—export—data as accessible as possible to the largest audience, the Economic and Statistics Administration is using state-of-the-art electronic data dissemination technology."

I applaud this effort to help America compete through export promotion. Now the Commerce Department, through the PTO, should accomplish their same goal of helping America's competitiveness by stimulating U.S. innovative and technological abilities through a similar CD-ROM dissemination effort on patent information. The "Patent Information Dissemination Act" will help achieve this very objective.

I ask unanimous consent that a section-by-section summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the CONGRESSIONAL RECORD.

Section 1. Short Title

The Patent and Information Dissemination Act of 1991

Section 2. Findings and purposes

Finds that U.S. competitiveness is dependent on maintaining a premier level of industrial innovation and that such innovation is linked to basic and applied R&D. Further finds that patent information contains detailed technical information in all fields of innovative activity and technology, and that this information has not been effectively or widely used. Additional findings include that the U.S. is falling behind Japan and the EC in recognizing the critical linkage between patent information dissemination and industrial innovation and competitiveness, and that it is in our national economic interest to utilize CD-ROM technology to promote the effective and efficient dissemination of worldwide patent information.

The purposes of the legislation are to fully recognize and utilize the potential value of the significant amount of information in applied research at the U.S. Patent and Trademark Office (PTO), and to provide patent information in a useful, inexpensive and efficient form to public users in order to contribute to improving U.S. industrial innovation and competitiveness.

Section 3. Definitions

Defines "CD-ROMs" as compact discs formatted with read-only-memory, including such discs that make use of advanced optical storage. Defines "patent information" as a complete and exact facsimile of a patent or patent application including the text and all images contained therein. "Classified patent information" is defined as patent information organized both sequentially and by the subject-matter of the claimed invention, and "sequential patent information" is defined as patent information that is organized progressively by the date the patent was issued or the date the patent application was published.

Section 4. Information Dissemination Program

Requires the Commissioner of the PTO to publish a master CD-ROMs containing sequential and classified patent information, and provide copies of them to the public for purchase and to the public for use at the PTO's public patent search library and designated Patent Depository Libraries. The Commissioner shall also provide the necessary equipment and technical information for public use of the CD-ROMs.

Sets forth specific time frames in which to make available the CD-ROMs. The PTO is required to provide a master CD-ROM containing sequential patent information patented after January 1, 1989 within 180 days of enactment of the Act. Within one year of enactment, the PTO is required to provide CD-ROMs of classified patent information for the past 17 years, which is the length of a U.S. patent term. Sequential and patent information patented after January 1, 1989 shall be made available as soon as possible after new patents are issued. The Commissioner is required to consult with patent users in determining the extent to which older sequential patent information should be provided on CD-ROMs.

Section 5. Information to be disseminated

Provides that the Commissioner shall disseminate on CD-ROMs patent information that contains the PTO's possession in computer readable form, including all U.S. patents and all foreign patents issued and patent applications patents issued therein. For purposes of the sense of the Senate that the Secretary of Commerce should modify any agreement between the U.S. and a foreign government that contains a provision that severely limits the dissemination of patent information in accordance with the Act's provisions.

Section 6. Fees

Requires the Commissioner to establish fees for the purchase of CD-ROMs, at a rate sufficient to recover the estimated marginal production and processing costs of CD-ROM copies and paper facsimiles of CD-ROM patent information.

Section 7. Report

Within one year after date of enactment, the Commissioner must submit to Congress a report on implementation of the CD-ROM program.

Section 8. Authorization of appropriations

Based on the estimated costs of producing the master CD-ROMs, $2,000,000 is authorized to be appropriated.

By Mr. ROTH (for himself and Mr. KASTEN):

S. 722. A bill to amend the Internal Revenue Code of 1986 with respect to the requirement that an S corporation have only one class of stock; to the Committee on Finance.

SUBCHAPTER S "ONE CLASS OF STOCK" REQUIREMENTS

Mr. ROTH. Mr. President, I rise today to introduce a bill that I wish I did not have to introduce—because this bill is aimed at limiting the IRS's ability to destroy thousands of small businesses across the country; a bill that I have to introduce for the mere fact that the IRS has overreached its bounds, and it is time for the Congress to step in and assert its authority; a bill that should have been carried out by the IRS through the normal regulation process—a process that has now run amuck because of the IRS's desire to push its weight around by subjecting small businesses to a potential tax that bodes a death knell for those the IRS pursues. I hope other Senators will join me and a broad coalition of small businesses, including the two largest small business associations—the National Federation of Independent Businesses [NFIB] and the National Small Business United [NSBU]—as well as the National Retail Federation [NRF], the National Association of Wholesaler/Distributors [NAW] and the Associated General Contractors (AGC). I expect that there will be many more groups that come to endorse this bill in the near future.

I believe it is important that the Members of Congress come to the rescue of these small businesses because small business is the backbone of our
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S. 722

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED,

SECTION 1. RULES RELATING TO REQUIREMENT THAT S CORPORATIONS HAVE ONLY 1 CLASS OF STOCK.—

(a) IN GENERAL.—Section 1361(c)(4) of the Internal Revenue Code of 1986 (relating to special rules for applying subsection (b)) is amended to read as follows:

"(d) SPECIAL RULES FOR DETERMINING 1 CLASS OF STOCK.—For purposes of subsection (b)(1),--

(3) DIFFERENCES IN COMMON STOCK VOTING RIGHTS DISREGARDED.—A corporation shall not be treated as having more than 1 class of stock solely because there are differences in voting rights among the shares of common stock.

(b) IDENTICAL DISTRIBUTION AND LIQUIDATION RIGHTS.—A corporation shall be treated as having 1 class of stock if all outstanding shares of stock of the corporation confer identical rights as to distribution and liquidation proceeds.

(c) TREATMENT OF OPTIONS, WARRANTS, ETC.—An option, warrant, or similar instrument to acquire stock of a corporation shall be treated as stock until such option, warrant, or similar instrument is exercised.

(b) TERMINATIONS BASED ON FAILURE TO HAVE 1 CLASS OF STOCK.—

A corporation shall be treated as having 1 class of stock if all outstanding shares of stock of the corporation are treated as common stock for purposes of subsection (a).

SECTION 2. AMENDMENT.—Section 1361 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subsection:

"(d) CERTAIN TERMINATIONS FOR FAILURE TO HAVE 1 CLASS OF STOCK.—

(1) IN GENERAL.—If—

(i) an election by any corporation was terminated under subsection (d)(2), and such termination was due to such corporation having more than 1 class of stock because all outstanding shares of stock of such corporation did not confer identical rights as to distribution and liquidation proceeds, and

(ii) such corporation, within a reasonable period of time after discovery of the terminating event, takes such corrective actions as the Secretary may prescribe to assure that all outstanding shares of stock of such corporation confer identical rights as to distribution and liquidation proceeds,

then, notwithstanding the terminating event, such corporation shall be treated as continuing to be an S corporation as to any period which, but for this subsection, such status would be treated as terminated.

(2) CONFORMING AMENDMENT.—Section 1361(f) of such Code is amended by striking...
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"If" and inserting "Except as provided in subsection (b)(1)(C)."

(c) EFFECTIVE DATE—
(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.
(2) TERMINATIONS.—The amendment made by subsection (b) shall apply to terminating events discovered on or after the date of the enactment of this Act.

LEGISLATIVE SUMMARY
A corporation may elect to be taxed as a subchapter S corporation if it is a "small business corporation." Section 1361(b) defines a "small business corporation" as a domestic corporation that is not an ineligible corporation and that does not have more than 35 shareholders, (2) have as a shareholder a person (other than an estate and certain types of trusts) who is not an individual, (3) have a nonresident alien as a shareholder, and (4) have more than one class of stock. Section 1361(c)(6) provides that a corporation shall not be treated as having more than one class of stock solely because there are differences in voting rights among common stock. Section 1361(c)(5) provides that "straight debt" shall not be treated as a second class of stock.

REASONS FOR CHANGE
The IRS issued proposed regulations relating to the requirement that a small business corporation have only one class of stock, which were published in the Federal Register on October 5, 1980. Although these regulations were proposed to be effective for taxable years beginning after December 31, 1982, the IRS later announced that regulations in this area would be prospective. Because these regulations will treat differences in timing or amount of distributions, in addition to differences in rights, as a second class of stock, many taxpayers will inadvertently terminate their Subchapter S status. In enacting the Subchapter S rules, Congress did not intend that small businesses be required to monitor day-to-day activities in order to ensure, for example, that a difference in timing in distribution to different shareholders did not cause a termination of their Subchapter S status.

I believe that a difference in the timing of a distribution will not create another class of stock so long as at the close of a taxable year shareholders have received identical distributions. Furthermore, I believe that shareholders should be given the opportunity to cure an uneven distribution prior to termination of Subchapter S status.

EXPLANATION OF PROPOSAL
The bill clarifies that outstanding shares of a corporation must be identical as to the rights of the holders in the profits and assets of the corporation. Thus, a corporation will be considered to have one class of stock if pursuant to the corporation's charter, articles or bylaws all of the outstanding shares of stock confer identical rights to distributions and liquidation proceeds.

In general, a reasonable administrative action or agreement, the outstanding shares of stock do not confer identical rights to distributions and liquidation proceeds, the Secretary may determine that a corporation has more than one class of stock on a prospective basis, only. However, prior to making a determination that the corporation has more than one class of stock, the Secretary will provide the corporation with notice and a reasonable period of time to take such action as the Secretary may require to cause all of the outstanding shares of stock to confer identical rights to distribution and liquidation proceeds.

The Secretary shall not make a determination that a corporation has more than one class of stock if the difference in rights to distribution and liquidation proceeds is deemed to occur pursuant to the operation of state laws.

For purposes of making the determination as to whether the outstanding shares of stock of a corporation confer identical rights to distributions and liquidation proceeds, options, warrants, and other similar rights shall not be considered stock of the corporation until exercised.

By Mr. DOMENICI:

S. 723. A bill to amend section 1372A of title 26, to add and revise Code, relating to child custody determinations, to modify the requirements for court jurisdiction; to the Committee on the Judiciary.

CHILD CUSTODY JURISDICTION REFORM ACT

By Mr. DOMENICI: Mr. President, I rise also to introduce a bill that makes a very small but important change to our laws that govern the way child custody orders are modified in this country. Some might wonder, what are you doing involving yourself in that?

I happened to have a small task force in my State made up of New Mexico Bar, the bar association. They are working on family law sections. They found that to make the law of custody more accommodating interstate. We made a slight error of omission.

Now the orders that accommodate to these custody orders and make it more fluid so we do not have so many State boundaries is not quite working. This amendment would make it work much better.

I hope that the Judiciary Committee will take a look at it and see the value of it, and make this very minor change.


My bill would clarify how States retain and lose jurisdiction in child custody modification cases. It would correct a flaw in the current law, and help fulfill the original intent of the PKPA.

This legislation was developed through my work with a small task force from the New Mexico Bar Association's family law section. They have identified this issue as one of their key problems facing family law right now. I truly appreciate and share their commitment to improve conditions for children and their families.

The section of the PKPA that my bill will amend was originally designed to prevent jurisdictional conflict between States courts with respect to child custody cases. It sets forth specific conditions under which a State may establish and retain jurisdiction to make a child custody ruling. Once a State has established jurisdiction, the custodial parent must comply with the provisions of the PKPA, no other State may exercise concurrent jurisdiction over the custody dispute.

Unfortunately, Mr. President, there is a slight defect in the PKPA that still allows a second jurisdiction to persist; that is, States may modify custody rulings made by other States if a child has resided in the new State for at least 6 months. This action has the effect of negating or superseding the intent of the original ruling, as well as altering the jurisdictional authority.

The language of the PKPA is vague in certain critical elements: It is possible for a second State to modify another State's decree by determining on its own that the first State no longer has jurisdiction under its State laws—even if the modification is inconsistent with that first State's decree and law.

If you think this sounds confusing you ought to try and live your life in compliance with the inevitable conflicts the defective law can cause.

This defect depends upon your point of view and contributes to the kind of forum shopping that the PKPA was intended to prevent. Forum shopping encourages a parent, unhappy with one court's decision, to move the children to another State, hoping to get a more favorable decree. This is particularly problematic since the Supreme Court, in a 1988 child custody case, Thompson versus Thompson, ruled that there is no Federal court jurisdiction to determine which of the two conflicting States has proper jurisdiction.

This defect, Mr. President, is causing numerous problems across the Nation right now. Let me briefly describe the type of situation that is the result of this defect in the PKPA. A first State issues a custody decree giving the mother custody of the children and the father certain visitation rights. The mother, not happy with this arrangement, then moves herself and the children to a neighboring State, hoping to get a decree with more restrictive visitation rights.

After living in the new State for 6 months, the mother finds a judge who rules that the original State no longer has jurisdiction, and visitation rights are subsequently modified. The father, who still retains certain visitation rights in his own State, is denied those rights when he tries to visit his children. The parents and lawyers continue to fight, and the children are caught in the middle of a tug of war that can drag from one State to the next, and across the country innumerable times.

The pain that custody battles cause for both children and parents is tragic enough, and we should do what we can to curb legal loopholes that create even more legal battles and distress.
We should promote an atmosphere for our children that permits them the lighthearted joy of playing on a playground—not forcing upon them the misery of being footbal in a courtroom.

My bill will eliminate this competition by clarifying that a State making an original custody decree retains jurisdiction as long as that State remains the residence of the child or of either parent named in the decree. The original State could determine on its own that it no longer has jurisdiction under its own laws—thereby transferring jurisdiction—but another State could not act until the original State declines jurisdiction.

This bill will ensure that one State, and one State only, will have jurisdiction under Federal law to resolve a child dispute issue, and it will also relieve Federal courts from any need to resolve such disputes.

In closing, Mr. President, I would like to thank members of the New Mexico Bar's Family Law Division who helped me with this bill. In particular, I would like to give special thanks to Tom Montoya, who is with the Albuquerque law firm of Atkinson & Kelsey, for his work on this issue.

I think this is a reasonable solution to the problem. I hope my colleagues will support it. I look forward to working with the relevant committees to see that this bill can be considered quickly.

By Mr. DOMENICI (for himself and Mr. BINusable):
S. 724. A bill to clarify cost-sharing requirements for the flood control project, Rio Grande Floodway, San Acacia to Bosque del Apache Unit, New Mexico; to the Committee on Energy and Natural Resources.

COST-SHARING ON FLOOD CONTROL PROJECT

Mr. DOMENICI. Mr. President, I am introducing today a bill that I believe will be appropriately referred. One has to do with my State, the State of New Mexico. I am introducing legislation to clarify a local cost-share requirement for an important flood control project. We have a flood control project in our State that is imperative.

Mr. President, what has happened is the way we wrote the cost-sharing laws when we put in the reform measures for water projects, which I happen to have been a part of, and I am proud of them, we did not make room for a project for the Government itself. The U.S. Government was a big beneficiary; it is assumed they owned a lot of the potentially flooded properties. We did not make room for the Federal Government to either pay its share or to reduce the cost share of the local government.

This does not attempt to change it generally. I believe it should be, for the country. It merely attempts to change it for this project, where it is so obvious, with the Government having 60 percent of the benefits, that you cannot ask the local units of government to pay their usual cost share because they are paying for a very big portion of the Federal Government's benefits. This would change that for that project.

The Rio Grande Floodway, San Acacia to Bosque del Apache Unit, is a project to address serious flooding that has occurred along a 55-mile stretch of the Rio Grande, a stretch from the San Acacia Diverter Dam to the headwaters of Elephant Butte Lake.

Fourteen major floods have occurred in the past 60 years along this section of the Rio Grande. While significant private property damage has occurred during that time, Federal facilities in that area have been particularly hard hit.

I am prompted to introduce this legislation because the project will offer significant benefits to two Federal facilities involved in a Reclamation conveyance channel and the Bosque del Apache Wildlife Refuge.

In fact, it is estimated that these Federal facilities will receive 60 percent of the project's benefits.

But the project is not going forward because the local sponsors—the State of New Mexico and the Middle Rio Grande Conservancy District—are being asked to contribute the entire non-Federal share of 25 percent of the project's benefits. In other words, the local participants are being told they must contribute money toward protecting the Federal facilities.

As one would expect, Mr. President, these local sponsors question the fairness of this.

Consequently, the legislation I am introducing today modifies the cost-sharing requirements of the project, reducing the non-Federal requirements to 25 percent of those benefits attributable to non-Federal benefits.

Mr. President, I want to thank the chief sponsors of the legislation passed by the Congress in 1986 that raised local cost-sharing requirements for Federal water projects. I still strongly support the concept of a greater local presence.

However, I believe sincerely that this requirement is not appropriate in the case of this project. It seems only fair that the cost-sharing requirement be modified to more accurately reflect who the primary beneficiaries of this project will be.

This important project is ready to move forward, Mr. President. Therefore, it is my hope that the Congress will quickly consider this legislation. I ask unanimous consent that the text of this bill be printed at this point in the Record.

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

S. 724

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

SECTION 1. Notwithstanding any other provision of law, the project for flood control, Rio Grande Floodway, San Acacia to Bosque del Apache Unit, New Mexico, authorized by Section 203 of the Flood Control Act of 1948 (P.L. 60-458) and amended by Section 204 of the Flood Control Act of 1950 (P.L. 81-313), is modified to more equitably reflect the non-Federal benefits from the project in relation to the total benefits of the project by reducing the non-Federal contribution for the project by that percentage of benefits which is attributable to the Federal properties.

Provided, however, That the Federal property benefits exceed 50 percent of the total project benefits.

By Mr. COHEN:
S. 726. A bill to award grants for aspirations research, and for other purposes; to the Committee on Labor and Human Resources.

GRANTS FOR ASPIRATIONS RESEARCH

Mr. COHEN. Mr. President, the crisis of opportunity and motivation and hope among adolescents and young families in America is reaching epidemic proportions. Nearly one-fifth of America's children now live in poverty. Nearly one-third of our children face educational and even lifelong failure. This year alone, 1 million marginally literate young people will drop out of high school. Faced with such an uncertain future, it is not surprising that so many children lack the ambition or motivation to break out of this cycle.

Comparisons among schools, even within the same city, raise interesting questions. In urban settings, one school may have a much lower drop-out rate, a higher percentage of college-bound seniors, and a student body with higher overall aspirations than a school a few blocks away. In different regions of Maine, which may vary widely in cultural, socioeconomic, and population standards, students face obstacles that may be quite particular to their community.

The downward trend in our children's aspirations can be reversed, however, with the coordinated efforts of the sectors of our society which have a direct stake in the welfare of our Nation's young people. It is widely agreed that education is important not only to our children, but to our Nation's economic well-being as well. In this regard, businesses across the Nation are recognizing their stake in education, and are investing in their communities through the local schools.

In Maine, Governor, the University of Maine, and a number of business leaders have embraced the aspirations movement in education, and have signed on to the Maine Aspirations Compact, which directly involves businesses in schools. The commitment has paid off, and a number of successful business-school partnerships...
are currently in operation all over the State.

For example, Geiger Bros., a printing and advertising company in Lewiston and publishers of the Farmers' Almanac, has instituted a special relationship with the Montello Elementary School through the Adopt-a-School Program. Geiger Bros. has donated its resources to establish several programs which give the Montello students special attention that has made a significant difference in their lives.

One of these programs, the Writing/Illustration Group, uses the resources of Geiger Bros.' Communications Director and art department to assist teachers in stimulating their students' interest in writing and illustration. The recognition of excellence group rewards high achievement through special events and material awards. Some of the best writings by Montello students were assembled and printed in a booklet entitled 'Montello's Anthology,' and some of those writings will appear in the 1982 Farmers' Almanac. The students' artwork was displayed on Geiger Bros.' premises in the Geiger Gallery.

Geiger Bros. employees have also donated their own time to special one-on-one relationships with Montello students. Perhaps the most successful among these is the Job Shadowing Program, through which students have the opportunity to see first-hand what a working day entails. Sixth graders are paired with a Geiger Bros. employee who has volunteered to participate in the Adopt-a-School Program, whose job description matches the student's interests, and the student follows the employee through his or her tasks for a half day. The students ask good, probing questions, and when they return to school in the afternoon, they are quite eager to discuss what they have seen and learned.

While these programs are very instrumental in stimulating and motivating the children to learn, the Geiger Bros. volunteers have also benefited from their exposure to the children and the educational process. One Geiger Bros. employee and "Job Shadowee" remarked that she was "Pleasantly surprised at how well prepared the kids have been to ask intelligent, relevant questions."

The news of the success of aspirations-styled partnerships is spreading. In February, Geiger Bros. participated in a forum discussion with business and community leaders in the Lewiston-Auburn area to discuss the initiatives involved in establishing an adopt-a-school program. Geiger Bros. is not alone in its efforts to build business-school partnerships to raise student aspirations, as similar programs are working equally well throughout the Nation. The Bangor Education Foundation has designed a newsletter entitled "Partners in Progress," which shares news about the activities of business-school partnerships in the area. Recently, the UNUM Corp., in Portland chose five schools to receive its interest in a $440,000 effort, which will be administered by the Maine Aspirations Foundation. The program will seek to raise the career sights of the students and better prepare them for a changing economy.

These examples show the tremendous impact that direct business involvement can have on the education of our children. However, the goal of raising the student levels of achievement and motivation can be achieved within the school environment itself. The Piscataquis Community High School's commitment to this goal is a telling example.

In 1980, only 10 percent of the seniors at Piscataquis Community High School were accepted into some type of postsecondary educational institution. The high school is located in Guilford, ME, a small community where many of the school's students are first generation high school graduates.

But in 1985, under the leadership of the newly appointed principal, Norm Higgins, Piscataquis High School headed in a new direction. An aspirations committee was formed with the working philosophy that "education is for all kids and is everyone's responsibility."

The committee developed a number of programs to address the problem of low aspirations. A college outreach program now allows each interested student to visit any college or vocational school in the State. On these trips, the students are accompanied by parents, faculty advisors, and the school's support staff, so that everyone becomes involved in the student's interest in higher education. This program is supported by a decentralized college guidance system, in which five to six administrators and teachers work with groups of students to develop higher education goals. The result of this structure, as Principal Higgins points out, is a sort of "adult peer pressure" in which each advisor becomes personally concerned over the success of the students in his or her group.

Many of the school's ideas that have worked the best have cost the least amount of money. For example, the school has constructed a large scoreboard, which tracks each student's acceptance into a postsecondary education program. The scoreboard has come to represent the future for Piscataquis students, a daily reminder of the new opportunities available to them.

The Guilford community has embraced the high school's efforts. In 1985, the school was able to raise $15,000 to support college scholarship money for students to pursue postsecondary education. In 1990, $52,000 in local scholarship money was raised. The scholarships have made it possible for many young people to turn their scoreboard acceptances into a reality.

Principal Higgins expects that between 72 to 78 percent of Piscataquis' seniors will be accepted into some type of postsecondary educational institution this year. Fifteen percent of students will be able to afford to attend an Ivy League school. Several at Ivy League institutions. Focusing on student aspirations has made a great difference. "We have not invested a lot of money, it's just a change in mindset," says Principal Higgins. "It's become a part of the culture of our school and our community."

For students at Montello School, or college-bound seniors at Piscataquis Community High School, aspirations-styled thinking has given their lives a brighter future. Unfortunately, for the rest of America's youth, the future is not as promising. Aspirations research can focus on the root causes of low student achievement, and the role of community involvement, and a general lack of opportunity play an important part in low aspirations. Research can provide us with means of understanding the impact of these factors in order to develop programs that either overcome such obstacles or are successful in spite of them.

Second, aspirations research can identify the successful components of programs like the ones I have described so that their achievements can be replicated throughout the Nation. Aspirations research and programs have flourished in the last 5 years, but there are few forums in which aspirations educators can exchange ideas, learn from past mistakes, and set goals for the future.

The legislation that I introduce today will provide educators throughout the Nation with the benefits of aspirations research that has already changed the lives of many of our Nation's young people. This bill would provide for five annual competitive grants, of no more than $200,000 each, to be awarded to institutions engaged in the development of aspirations research and programs that either overcome such obstacles or are successful in spite of them. The legislation will provide funds for the development of aspirations research and programs that will provide us with important ways to put the grim statistics behind us and to better understand how we can serve our Nation's youth. First, aspirations research can focus on the root causes of low student achievement. Aspirations research can focus on the root causes of low student achievement, and the role of community involvement, and a general lack of opportunity play an important part in low aspirations. Research can provide us with means of understanding the impact of these factors in order to develop programs that either overcome such obstacles or are successful in spite of them. The legislation that I introduce today will provide educators throughout the Nation with the benefits of aspirations research that has already changed the lives of many of our Nation's young people. This bill would provide for five annual competitive grants, of no more than $200,000 each, to be awarded to institutions engaged in the development of aspirations research and programs that either overcome such obstacles or are successful in spite of them.
By Mr. DODD:

S. 727. A bill to amend the Higher Education Act of 1965 to improve access to financial assistance for low- and middle-income students; to the Committee on Labor and Human Resources.

**BETTER ACCESS TO STUDENT AID ACT**

Mr. DODD. Mr. President, I rise today to introduce the Better Access to Student Aid Act of 1991— a bill to make deserving low- and middle-income families eligible for Federal student assistance.

Each year, millions of low- and middle-income families struggle to afford the costs of higher education. Since 1981, while families have watched tuition costs climb by as much as 59 percent, the Federal share of available financial aid has dropped from 83 to 75 percent. Moreover, since the mid-seventies, the percent of Federal aid to students in the form of grants has dropped drastically from 76 percent to 29 percent as loans have replaced grants as the major source of student aid.

When the Higher Education Act was first authorized in 1965, its purpose was to make postsecondary education opportunities accessible to every student— regardless of family income, gender or ethnicity. Unfortunately rising tuition costs, defaults on student loans and the tightening of Pell grant and Stafford student loan eligibility requirements are making it harder, if not impossible, for many families to afford higher education costs.

In 1980 the average Pell grant covered 41 percent of tuition costs. A decade later, Pell grants only cover, on average, 26 percent of tuition costs. More of the neediest students are now forced to borrow guaranteed student loans to supplement their grant awards.

The Stafford Student Loan Program was originally designed to assist middle-income students and families with the financing of higher education. However, the availability of opportunity is in danger. In 1981, legislation implementing Reaganesomics, families earning over $30,000 were required to prove need to be eligible for a guaranteed student loan. While $30,000 is a lot of money in some parts of this country, it is not in my own State of Connecticut. Furthermore, needs testing was required of all income levels with the passage of the 1986 reauthorization of the Higher Education Act. As a result, middle-income families have been squeezed out of the Federal aid programs.

The inclusion of nonliquid assets— such as homes and businesses— in the calculation of need, has compounded the problem for students and families. Even assets that are not easily converted to cash are counted. Low- and middle-income families alike are expected to borrow against their home to meet their expected family contribution. This is a particularly onerous requirement for families who, over the last 20 years, have seen the value of their homes dramatically outstrip increases in their income. They simply could not afford to make payments on home equity loans from their incomes.

Moreover, students who are employed, prior to or during school, have 70 percent of their earnings included in the calculation of the expected student contribution. To meet these contribution expectations, many students are forced to work two and three jobs during school to pay for basic living expenses. Other students must stretch their programs beyond the traditional 2 or 4 years.

Simply put, access and choice is diminishing for low- and middle-income students alike. The prospects of sizable loan burdens discourage even the best students. Imagine what it is like to be an 18- or 24-year-old deciding what a postsecondary education is worth— $10,000 or $40,000 of debt. Not only are students' choices of a postsecondary institution influenced by cost and aid availability, so are their career decisions.

Parents, low- and middle-income alike, are forced to leverage themselves to the hilt to help give their children a college education or training opportunities beyond high school. To give you an idea of how demanding the needs testing is— it only allows a family of four, with one child in college, $14,930 a year, plus a few modest deductions, to meet essential living costs. A single parent with one child applying for Federal aid is expected to live on $9,700 a year.

These are just a few, but telling, examples of why families and students are having more difficulty seeking higher education opportunities. While postsecondary education opportunities in the United States still far surpass those in other industrialized nations and over 6 million Americans receive some form of Federal student aid, it is vital that we take this opportunity during the reauthorization of the Higher Education Act to strengthen and improve the delivery of the Federal student aid. Today, more than ever before, the opportunity and national security depend on an educated and trained workforce.

The Better Access to Student Aid Act would amend the Higher Education Act to correct some of the inequities I have outlined and provide students and families greater access to Federal student aid.

First, to lower the expected family contribution and to make more low- and middle-income families eligible for Federal assistance, the bill would eliminate the home and farm equity from the calculations, for Pell grants and guaranteed student loan eligibility, for families with an adjusted gross income of $40,000 or less.

Families earning between $10,000 and $70,000— who could better afford to apply for a home equity loan— would have only a percentage of their net home value, ranging from 10 to 100 percent, included in the needs calculations.

Second, students are presently required to contribute 10 percent of their earnings. The bill would allow for a variable amount of Federal aid, based on a formula ranging from $700 to $500, whichever is greater. This measure would leave the existing floors in place, but would lower the alternative formula from 70 percent to 45 percent.

Third, independent students with dependents currently may deduct certain allowances from total income to determine eligibility for Federal aid. This act would simply permit such students also to deduct reasonable child care costs paid by the student, or student's spouse, for each dependent child to determine student aid eligibility.

The percentage of "nontraditional" students in our system of higher education has been steadily rising over the last few years. With this in mind, we must understand that the costs associated with their attending school may differ considerably from the traditional student. For single or married students with young children, Federal aid may not be accessible if they cannot afford child care costs.

Fourth, the income ceiling cap for the simplified needs test would be raised from $15,000 to $25,000 to make more students and/or families eligible to avoid the undo complexity of the longer financial aid forms.

Fifth, for students in families with a recently dislocated worker or displaced homemaker, this measure would clarify the process by which a student would be given special consideration for the purposes of applying for new or additional Federal aid.

Mr. President, with the reauthorization of the Higher Education Act now underway, the Congress, including myself, must give serious consideration to some of the more sweeping proposals for change— to renew the Federal commitment to improving rather than impairing access to education opportunities and to reinforce the idea that education and national security depend on a part of that final product.
I ask unanimous consent that the full text of the bill and a summary be printed in the Record.

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

S. 727

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 "Better Access to Student Aid Act of 1991."  

SEC. 2. FINDINGS; TABLE OF CONTENTS.

(a) FINDINGS.—The Congress finds that—

(1) by the year 2000, at least 75 percent of jobs will require education and training beyond high school;

(2) the Federal share of available financial aid has dropped from 83 to 75 percent since 1980;

(3) the balance between Federal loans and grants has shifted since the mid-1970s as loans have replaced grants as the major source of student financial aid;

(4) Federal financial assistance has not kept pace with rising tuition costs;

(5) twice as many youth from families in the highest family income quintile participate in postsecondary education opportunities than youth in families in the lowest family income quintile;

(6) the neediest students are relying more heavily on loan programs to pay for postsecondary education costs; and

(7) over the decade of the 1980s middle-income students have been squeezed out of the student loan programs.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Findings; table of contents.
Sec. 3. Treatment of a family home as a nonliquid asset.
Sec. 4. Modification of student contribution.
Sec. 5. Child care allowance for independent students.
Sec. 6. Expanded eligibility for the simplified needs test.
Sec. 7. Expanded financial aid officer discretion.

SEC. 3. TREATMENT OF A FAMILY HOME AS A NONLIQUID ASSET.

(a) PELL GRANT NEEDS ANALYSIS.—Section 411F(2) of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") (20 U.S.C. 1070a-4(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end thereof the following:—

"(b) For academic year 1992-1993 and succeeding academic years, the term 'assets' shall not include, in the case of a family with an adjusted gross income which is less than $40,000, the net value of—

(A) the family's principal place of residence; or

(B) a farm on which the family resides.

SEC. 4. MODIFICATION OF STUDENT CONTRIBUTION.

Section 475(g)(1)(C) of the Act (20 U.S.C. 1087g(g)(1)(C)) is amended by striking out "70 percent" and inserting in lieu thereof "not less than 45 percent".

SEC. 5. CHILD CARE ALLOWANCE FOR INDEPENDENT STUDENTS.

Section 477(b) of the Act (20 U.S.C. 1087q(b)) is amended—

(1) by paragraph (1)—

(A) by striking "and" at the end of subparagraph (F); and

(B) by adding at the end thereof the following:

"(G) an allowance for reasonable child care costs determined in accordance with paragraph (F)";

(2) by inserting at the end thereof the following new paragraph:

"(H) an allowance for reasonable child care costs determined in accordance with paragraph (F)."

SEC. 6. EXPANDED ELIGIBILITY FOR THE SIMPLIFIED NEEDS TEST.

Section 478(a)(1) of the Act (20 U.S.C. 1087a(a)(1)) is amended by striking out "$15,000" and inserting in lieu thereof "$25,000".

SEC. 7. EXPANDED FINANCIAL AID OFFICER DISCRETION.

(a) IN GENERAL.—Section 479a(d) of the Act (20 U.S.C. 1087a(d)(1)(A)) is amended to read as follows:

"SEC. 479a. (A) IN GENERAL.—Nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of parts A and B, respectively, of this title.

(b) SPECIAL RULE.—Section 479a of the Act (20 U.S.C. 1087a) is amended—

(1) by redesignating subsection (e) as subsection (d), and

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) SPECIAL ADJUSTMENTS.—

(1) ADJUSTMENT FOR DISLOCATED WORKER.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if, in the case of dislocated workers—

(A) the administrator uses the income for the year in which the determination is made (the award year) rather than the income reported in the preceding tax year; and

(B) the administrator excludes the net value of investments and real estate, including the principal place of residence, in determining the family contribution for the Pell Grant Program and the expected family contribution under part F.

(2) ADJUSTMENT FOR DISLOCATED HOMEOWNER.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if, in the case of a dislocated homemaker (as defined in section 480(e) of this Act), the net value of a principal residence shall be considered to be zero.

SEC. 8. CONFORMING AMENDMENTS.—

(a) ASSET ADJUSTMENT EXAMPLE.—Section 411B(g)(1) of the Act (20 U.S.C. 1070a-2(g)(1)) is amended by striking out "" , except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act), the net value of a principal residence shall be considered to be zero"","n and inserting in lieu thereof "" , except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act), the net value of a principal residence shall be considered to be zero"","n.

(b) Section 411B(l) of the Act (20 U.S.C. 1070a-2(l)) is amended by striking out "" , except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act), the net value of a principal residence shall be considered to be zero"",n and inserting in lieu thereof "" , except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act), the net value of a principal residence shall be considered to be zero"",n.

(2) Section 411C(f)(1) of the Act (20 U.S.C. 1070a-3(f)(1)) is amended by striking out "", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act), the net value of a principal residence shall be considered to be zero",n and inserting in lieu thereof "", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act), the net value of a principal residence shall be considered to be zero",n.

(2) Section 411D(f)(3) of the Act (20 U.S.C. 1070a-4(f)(3)) is amended by striking out "", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act), the net value of a principal residence shall be considered to be zero",n and inserting in lieu thereof "", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act), the net value of a principal residence shall be considered to be zero",n.
March 21, 1991

CONGRESSIONAL RECORD—SENATE 1229

By Mr. SEYMOUR—

S. 728. A bill to establish an Upper Sacramento River fishery resources restoration program; to the Committee on Environment and Public Works. UPPER SACRAMENTO RIVER FISHERY RESOURCES RESTORATION ACT

• Mr. SEYMOUR, Mr. President, today I am introducing the Upper Sacramento River Fishery Resources Restoration Act.

The Upper Sacramento River is the largest spawning ground for salmon in the State of California. It is responsible for 70 percent of all the salmon caught in California's coastal waters. Over the last 40 years salmon population in the river have declined between 50 and 90 percent. The steelhead population in the same river system has also been devastated, now comprising only 10 percent of the river’s pre-World War II stocks. The scale of this tragedy is enormous. In 1960 over 300,000 adult salmon and steelhead spawned in the Sacramento River. Now the number had fallen to under 100,000.

The loss of the Sacramento River's valuable fishery resources can be traced to the construction of dams, and diversions of water. Dams, levees and diversions have been built along the river to supply water to Californians. In all, two-thirds of the State's population, almost 20 million people, use water from the Sacramento River and its tributaries.

The two largest projects along the Upper Sacramento River are the Shasta and Keswick Dams. Unfortunately, these two dams have blocked off hundreds of miles of prime spawning ground. Further, the dams cut off the supply of spawning gravel needed by steelhead and salmon for the continued successful reproduction of their species.

Allowing the further decline of these fish species in the Sacramento River will not only be an environmental tragedy, but also an economic one. The rapid decline in the river's fisheries has already led to the listing of the winter-run chinook salmon as a threatened species by the U.S. Fish and Wildlife Service. More such listings are sure to come if measures are not taken to curtail the precipitous decline of the river’s fish populations.

Thousands of Californians rely on the river's fisheries and the recreational dollars that they bring in. Further, if more species are listed as threatened or endangered, current water use patterns may have to be radically altered, bringing severe hardship to the State's agricultural community.

The Upper Sacramento River Fishery Resources Restoration Act is a measure built from consensus. In 1988 Governor Deukmejian authorized a comprehensive study of the declining fish stocks in the Upper Sacramento River. The recommendations to restore the river's chinook salmon and steelhead trout populations were incorporated into legislation introduced by Senator Pete Wilson and Congressman Wally Herger and I are now reintroducing this vital legislation.

The bill will authorize $185 million—over 10 years—in Federal funds for: Building fish ladders; improving gravel beds used for spawning; limiting damage to stocks by manmade obstacles; constructing new fish hatcheries and improving the Coleman National Fish Hatchery; constructing control devices for Shasta Dam to control the temperature of downstream river flow; and improving fish screening at Glenn-Colusa Irrigation District Diversion work.

This is not solely a federally funded effort, though. A full 75 percent of the $185 million Federal appropriation will be reimbursed to the Treasury. Half the sum will be repaid by the river's water and power users such as local electric utilities, water districts and other direct purchasers of water and power from the Central Valley project. Secretary Lujan will make the determination on the appropriate distribution of these repayments. The State of California will pick up the remaining 25 percent of the cost.

The bill also establishes the Upper Sacramento River Fisheries Task Force to assist the Secretary of the Interior in implementing and coordinating the mitigation activities it outlines. The Governor will appoint representatives from: California fish and game; California Department of Water Resources; California State Water Resources Control Board; California State Lands Commission; California Department of Forestry and Fire Prevention; California State Reclamation Board; California Water Commission; California Wildlife Conservation Board; California Department of Food and Agriculture; California State Fish and Game Commission; Sacramento Valley Landowners Association; Sacramento River Water Contractors Association; Sacramento River Preservation Trust; Pacific Coast Federation of Fishermen's Association; Golden Gate Fisherman's Association; the fishery resources and conservation community; Pacific Processors Association; and Butte, Colusa, Glenn, Shasta, Sutter, and Tehama Counties.

The Secretary of the Interior will appoint representatives from the Bureau of Land Management, Bureau of Reclamation, and the U.S. Fish and Wildlife Service. The National Marine Fisheries Service, the U.S. Army Corps of Engineers, the Soil Conservation Service, the Forest Service, and the Central
Valley project preference power customers will also be represented.

The drought has given new urgency to the measure. Everyone agrees that the steps outlined by the 1986 study are necessary to prevent a further decline in the Sacramento steelhead trout and chinook salmon populations. The Upper Sacramento River Fishery Resource Conservation Act will allow for the implementation of these strategies. I encourage my colleagues to join me in supporting this vital measure.

By Mr. BURDICK:

S. 729. A bill to assist small communities in construction of facilities for the protection of the environment and human health; to the Committee on Environment and Public Works.

SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE ACT

Mr. BURDICK. Mr. President, today I am reintroducing legislation to help small communities finance facilities for protection of the environment and human health.

Many of my colleagues agree that we must do more to help small towns to meet pressuring environmental needs. I am pleased that over 20 of my colleagues have joined me introducing this legislation including the majority leader, Senator MITCHELL and chairman of the Finance Committee, Senator BENTSEN.

There is growing evidence that small communities, including many communities in my home State of North Dakota, have a significant need to improve or expand their environmental protection facilities, including sewage treatment plants, drinking water systems, solid waste facilities, and underground storage tanks. Needed improvements to environmental facilities in these small communities are estimated to cost from $6 to $3 billion.

Small communities face special problems in financing environmental facilities. Late in 1988, the Environmental Protection Agency published a report assessing the impact of existing and proposed environmental requirements on municipalities, small business and agriculture, "Municipalities, Small Business, and Agriculture—The Challenge of Meeting Environmental Responsibilitiess" which concluded—

Most municipalities will be able to meet the expected increase in environmental expenses and still remain financially sound. The municipalities most likely to experience difficulties will be those with populations of 2,500 or less.

EPA also assessed the expected increases in environmental user fees and concluded—

Most of the municipalities that would experience the largest overall percentage increase in fees are the smallest municipalities...

... the user fees of 20% of the municipalities under 2,500 persons may rise over 100% above current levels by 1996.

Many of the households that are expected to experience initial "rate shocks" when confronted with rising user fees are in communities having fewer than 2,500 persons.

In addition, EPA examined the relative access of small and large communities to basic financing options. The study concluded—

Between 21% and 30% of communities under 2,500 persons may have difficulty using revenue bonds, general obligation bonds, and loans because of the high cost of some individual regulations and the cumulative costs of new legislative requirements... and the limited margin for expanding financial obligations in small communities due to existing demands for environmental and other infrastructure services...

EPA noted that small communities may face additional pressure in financing environmental projects, including lack of economies of scale, poor management, and limited access to technical services.

In March of this year, the Congressional Office of Technology Assessment issued a report titled "Rebuilding the Foundations: A Special Report on State and Local Public Works Financing and Management." The report confirms that the EPA report that lack of environmental infrastructure is a serious problem and that small communities face special problems in financing public works facilities.

OTA concludes that—

... benefit-based and private sector strategies are not appropriate or workable in most small, rural and low growth areas. This is an especially severe problem for funding environmental public works, since they lack substantial Federal or State support...

... adaptations of available technical and management expertise as well.

OTA further concludes that—

... without stepped up State and Federal assistance, noncompliance with EPA standards is a likely outcome for districts which cannot generate adequate funds.

Several other studies identify or address the problem of financing environmental services in small communities. The National Council on Public Works Improvement addressed the issue of small public works in a part of a February 1988 report, "Fragile Foundations: A Report on America's Public Works." The report states—

A national problem does exist for small water systems... Small water systems operate on a marginal basis, with inadequate resources—operational and managerial—to correct existing deficiencies.

A 1987 report by the National Council on Problems in Financing and Managing Small Water Systems concluded—

There is an abundant supply of information on the problems and successes of large urban water systems. However, there is relatively little knowledge about the plight of small, rural water systems... The small system problem in the United States is probably more serious since many small systems lack adequate water treatment equipment to meet the necessary operational skills to protect public health.

A report by the Congressional Budget Office, "Financing Municipal Water Supply Systems"; May 1987, indicates that the per capita costs of water systems are seven times greater for small communities than for large communities.

Lack of financial resources for environmental services in small communities shows up in compliance data. EPA reports that small drinking water systems serve only 8 percent of the population, but account for 83 percent of drinking water standards violations and 94 percent of monitoring/reporting violations.

An EPA study of drinking water system compliance "Ensuring the Viability of Small Drinking Water Systems"; May, 1988, concluded—

Plagued by personnel and infrastructure problems, many small systems are unable to meet the challenges of regulations mandated by the 1986 Safe Drinking Water Act amendments. Underlying their difficulties are a lack of financial capacity, technical and management capacity, and information and the regulation itself.

This problem can be expected to become more significant as new regulations required by the 1986 amendments to the Safe Drinking Water Act, including requirements for disinfection and water quality standards, take effect in the next few years. Safe drinking water is crucial to public health and we cannot ignore the needs of small communities which cannot afford needed water system improvements.

Late in the last Congress, the Environment and Public Works Committee held hearings on several bills related to small community environmental financing including bills introduced by Senators BAUCUS, BRADLEY, BENTSEN, and MOYNIHAN.

These bills were consolidated into a single bill and reported as the Small Community Environmental Assistance Act—S. 2184; Committee Report 101-528. The bill we are reintroducing today is virtually identical to the Committee reported bill.

This legislation will assist States in establishing revolving funds to help small communities—under 2,500 population finance environmental projects through low interest loans and, in the case of poorer communities, grants. This effort will be a valuable complement to the wastewater treatment assistance provided under the Clean Water Act and the assistance available through the Farmers Home Administration.

In addition, communities under 25,000 population facing the most serious financial constraints will be eligible for construction assistance from the Army Corps of Engineers. The bill directs the Corps to work with EPA and the States to identify the most needy communities and to build needed public health facilities with 90 percent Federal funding. Many of our very poor communities lack the management structure and financial capacity to repay a loan.
or match a grant. In these cases, full Federal assistance is the only alternative to correct serious and continuing public health problems. The bill will also increase opportunities for public/private partnerships in financing infrastructure facilities through several technical amendments to the Clean Water Act.

Mr. President, I ask unanimous consent that a section-by-section description of the bill and the bill itself be printed in an appropriate place in the RECORD.

I look forward to working with my colleagues to advance this important legislation. There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 279
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE IT-ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE ACT OF 1991

(1) small communities face special problems in providing for infrastructure facilities to protect the environment and human health, including sewage disposal, safe drinking water, and environmentally sound solid waste disposal;
(2) small communities often lack economies of scale necessary to provide adequate financial base for construction and operation of environmental infrastructure facilities;
(3) small communities often have limited access to financial markets due to limited management capability and limited access to financial and technical services;
(4) the Environmental Protection Agency estimates that between 21 percent and 30 percent of small communities will have difficulty using revenue bonds for environmental infrastructure facilities because of limited financial resources;
(5) many small communities have not benefited from existing environmental infrastructure financing and assistance programs of the Federal Government because such assistance programs are often focused on the largest environmental problems caused by larger municipalities (e.g., only 8 percent of the Federal sewage treatment plant grant funds have been devoted to small communities);
(6) existing Federal grant assistance programs for waste water treatment have been financed with State loan funds and some small communities will have limited access to such funds and some disadvantaged small communities may be unable to comply with pollution control requirements without grant assistance;
(7) residents of small communities often spend a larger portion of household income for environmental services than do residents of large communities;
(8) recent amendments to Federal environmental laws require additional efforts by small communities to address environmental problems and devote a larger percentage of resources to this effort;
(9) the Environmental Protection Agency estimates that small community households may face an average increase of $170 for environmental user charges and fees as a result of new environmental requirements;
(10) many rural water supply systems are inadequate or insufficient to provide for existing and future needs and have deteriorated to the degree that a reliable supply of water is in jeopardy and large quantities of water are wasted;
(11) the National Council on Public Works Improvement recently concluded that "A national priority is that essential water systems . . . and . . . these small water systems operate on a marginal basis, with inadequate financial resources to correct existing deficiencies";
(12) the Environmental Protection Agency reports that small water systems serve 7 percent of the United States population, but account for over 90 percent of the violations of the Safe Drinking Water Act;
(13) the Environmental Protection Agency reports that 80 percent of the communities in violation of sewage treatment requirements are rural communities and that rural community sewage treatment needs exceed $28,000,000,000;
(14) it is essential that the Federal Government play a more active role in providing financial assistance to small communities to enable construction of environmental infrastructure facilities;
(15) it is essential that the Federal Government make a special effort to provide financial assistance, including grant assistance, to small communities which are economically disadvantaged; and
(16) it is essential that the Federal Government expand and strengthen technical assistance and outreach programs to assist small communities in complying with environmental requirements and the construction, operation, maintenance, and rehabilitation of environmental infrastructure facilities.

PURPOSE

SEC. 3. PURPOSE.-The purposes of this Act are to-

1. provide for the creation of State loan and grant funds to assist small communities in financing wastewater treatment, drinking water, and solid waste disposal facilities and projects;
2. direct the United States Army Corps of Engineers to construct essential wastewater treatment works having water, waste disposal facilities in economically distressed areas;
3. to expand and strengthen Federal programs for providing technical assistance and outreach to small communities on issues relating to environmental protection and the construction operation, maintenance, and rehabilitation of environmental facilities and projects; and
4. to clarify requirements with respect to publicly owned treatment works that have received grants pursuant to the Clean Water Act.

DEFINITIONS

SEC. 4. DEFINITIONS.—For the purposes of this Act—

1. the term "Administrator" refers to the Administrator of the Environmental Protection Agency;
2. the term "Secretary" means the Secretary of the Army;
3. the term "State" has the same meaning as established in section 502(3) of the Federal Water Pollution Control Act;
4. the term "wastewater treatment works" shall have the same meaning as that established in section 212(2) of the Federal Water Pollution Control Act;
5. the term "solid waste management facility" shall have the same meaning as that established in section 1004(29) of the Solid Waste Disposal Act;
6. the term "municipality or "municipality landfill" shall have the same meaning as that established in section 100(36) of the Solid Waste Disposal Act;
7. the term "public" has the same meaning as that established in section 1401(4) of the Safe Drinking Water Act;
8. the term "construction" has the same meaning as that established in section 1004(2) of the Solid Waste Disposal Act;
9. the term "small community" refers to a municipality in which the population is less than 2,500 individuals, as determined by the latest decennial census of the United States; or
10. the environment for which assistance is sought has fewer than one thousand service connections;
11. the term "disadvantaged small community" refers to a small community in which the median household income of the residents of such community is less than 75 percent of the national median household income, as determined by the latest decennial census of the United States;
12. the term "underground storage tank" has the same meaning as that established in section 9001(1) of the Solid Waste Disposal Act;
13. the term "municipality" refers to a city, town, township, county, parish, district, association, cooperative, or other public body created by or pursuant to State law;
14. the term "economically distressed area" means—
(A) a county with—

(1) a per capita income that is less than or equal to 70 percent of the national average, as determined by the Bureau of the Census, Department of Labor; and

(2) an unemployment rate that is greater than the national average, as determined by such Bureau; and

(B) any Indian reservation; and

(C) any colonia;

(3) a federally recognized "Federal Indian reservation" shall have the same meaning as that established in section 518(b)(1) of the Federal Water Pollution Control Act, as amended. Except as provided in section 306(b)(1) of such Act, the term "Indian reservation" shall include former reservations in the State of Oklahoma and village corporations established pursuant to the Alaskan Native Claims Settlement Act; and

(15) the term "colonia" means an organized settlement which, in the judgment of the Administrator, is generally lacking in drinking water, sewage treatment, and waste disposal facilities, and is within one hundred fifty miles of the United States border with Mexico.

TITLED—SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE REVEVOLVING FUNDS

SEC. 101. (a) GENERAL AUTHORITY.—Subject to the provisions of this title, the Administrator shall make grants to each State for the purpose of establishing a small community environmental infrastructure revolving fund.

(b) PURPOSE.—State small community environmental infrastructure revolving loan funds shall be established for—

(1) the construction of public water systems;

(2) construction of solid waste management facilities; and

(3) construction of underground storage tanks which are owned and operated by small communities and are in compliance with section 900(c) of the Solid Waste Disposal Act, as amended.

(c) SCHEDULE OF GRANT PAYMENTS.—The Administrator shall establish a schedule of payments under which the Administrator will pay to the State the amount of each grant to be made to the State under this title. Such schedule shall be based on the State's small community environmental infrastructure revolving fund plan under section 103 of this title, except that—

(i) such payments shall be made in cash in quarterly installments, and

(ii) such payments shall be made as expeditiously as possible, but in no event later than the earlier of—

(A) 8 quarters after the date such funds were obligated by the State, or

(B) 12 quarters after the date such funds were allotted to the State.

The Administrator shall be authorized to be appropriated to carry out this section shall be allotted by the Administrator in accordance with a formula, established by the Administrator, which reflects the need for construction of facilities for wastewater treatment, drinking water supply, and solid waste disposal in small communities and the proportion of such need in each State in disadvantaged small communities.

(3) MINIMUM ALLOTMENT.—Notwithstanding any other provision of law, the Administrator shall ensure that each State receives a minimum allotment of not less than one percent of the funds appropriated pursuant to this title in each fiscal year.

(f) PERIOD OF AVAILABILITY FOR GRANT AWARDS.—Except as provided in subsection (a) of this section for a fiscal year shall be available for obligation by the State during the fiscal year for which sums are authorized and during each of the following fiscal years.

The amount of any allotment not obligated by the State by the last day of the 2-year period of availability established by subsection (d) of this section. None of the funds reallocated by the Administrator shall be reallocated to any State which has not obligated all sums allotted to such State in the first fiscal year of such 2-year period.

SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE REVEVOLVING FUNDS

SEC. 102. (a) GENERAL RULE.—To receive grant funds made available under this Act, a State shall first establish a small community environmental infrastructure revolving fund which complies with the requirements of this section.

(b) SPECIFIC REQUIREMENTS.—The Administrator may make grants under this section with a State only after the State has established to the satisfaction of the Administrator that—

(1) the State shall accept grant payments with funds to be made available under this Act in accordance with a payment schedule established by the Administrator under subdivision (c) of this section. None of the payments reallocated by the Administrator shall be reallocated to any State which has not obligated all sums allotted to such State in the first fiscal year of such 2-year period.

(2) the State will deposit in the fund from State moneys an amount equal to at least 25 percent of the total amount of all grants which will be made to the State with funds to be made available under this Act on or before the date on which each quarterly grant payment will be made to the State under this Act;

(3) the State will enter into binding commitments with small communities to provide all grants consistent with the requirements of this Act in an amount equal to 125 percent of the amount of each such grant payment within 1 year after the receipt of such grant payments;

(4) all funds in the fund will be expended in an expedient and timely manner;

(5) in addition to complying with the requirements of this Act, the State will commit or expend each quarterly grant payment which it will receive under this title in accordance with laws and procedures applicable to the commitment or expenditure of revenues of the State;

(6) in carrying out the requirements of this Act, the State will use accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards;

(7) the State will require as a condition of making a loan or providing other assistance from the fund that the recipient of such assistance will maintain project accounts in accordance with generally accepted government accounting standards; and

(8) the State will make annual reports to the Administrator on the actual use of funds in accordance with section 19(b) of this Act.

(c) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, a small community environmental infrastructure revolving fund of a State under this section may be used only—

(1) to make loans to small communities, on the condition that—

(A) such loans are made at or below market rates, including interest free loans, at terms not to exceed 30 years;

(B) annual principal and interest payments on such loans are sufficient to ensure that completion of a project and all loans will be fully amortized not later than 30 years after project completion;

(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

(D) the recipient of the loan agrees to repay the loan and the fund will be credited with all payments of principal and interest on all loans.

(2) to make grants to small communities, on the condition that—

(A) such grants do not exceed 75 percent of the costs of eligible projects; and

(B) the municipality receiving a grant is a disadvantaged small community.

(3) to guarantee, or purchase insurance for, small community obligations where such action would improve credit market access or reduce interest rates;

(4) as a source of revenue or security for the repayment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of such bonds will be deposited in the fund;

(5) to earn interest on fund accounts; and

(6) for the reasonable costs of administering the fund and conducting activities under this Act, except that such payments shall not exceed 4 percent of the balance of such fund.

(d) ADMINISTRATION.—Each State loan fund shall be administered by an instrumentality of the State with such powers and limitations as may be required to operate the fund in accordance with the requirements of this Act.

(e) CONSISTENCY WITH PLANNING REQUIREMENTS.—(1) A State may provide financial assistance from its small community environmental infrastructure revolving fund only with respect to a wastewater treatment project which is consistent with plans, if any, developed under sections 260(e), 306(e), 319, and 300 of the Federal Water Pollution Control Act.

(2) A State may provide financial assistance from its small community environmental infrastructure revolving loan fund only with respect to a public water system which is approved by the chief executive official of the State and approved by the enforcement authority pursuant to section 1413 of the Safe Drinking Water Act.

(3) A State may provide financial assistance from its small community environmental infrastructure revolving loan fund only with respect to a solid waste management facility which is consistent with a plan approved pursuant to section 4007 of the Solid Waste Disposal Act.

INTENDED USE PLAN

SEC. 103. (a)(1) IN GENERAL.—Prior to the beginning of each fiscal year, each State may prepare and submit to the Administrator a plan identifying the intended uses of the amounts available to its small community environmental infrastructure revolving fund. Such intended use plan shall include, but not be limited to—

(A) a list of those projects for construction of wastewater treatment facilities, drinking water systems, and solid waste management facilities which are pending;

(B) a description of the short- and long-term effects of the intended uses of the funds; and

(C) information on the activities to be supported, including a description of project
small community environmental infrastructure Assistance. (2) functions. The functions of the Office of

SEC. 105. (a) office of small community environmental infrastructure assistance. (1) The Administrator shall establish an office of small community environmental infrastructure assistance. (2) functions. The functions of the office of small community environmental infrastructure assistance shall be to—

(A) manage grants pursuant to subsection (b) of this section;

(B) manage the operation of regionalization of environmental infrastructure facilities, programs, and existing rate structures, and operation of special management districts; and

(F) in cooperation with the Secretary, provide information and guidance to State agencies and not-for-profit organizations, and to small communities, and other interested parties, regarding environmental infrastructure facilities; compliance with environmental laws and the construction, operation, maintenance, and rehabilitation of environmental infrastructure facilities.

(b) small community assistance grants. (1) In implementing the functions identified in subsection (a) the office of small community environmental assistance may provide grants to appropriate State agencies and not-for-profit organizations, and to small communities, and other interested parties, to carry out the objectives of this section. Audits of the use of funds deposited in the pollution revolving fund established by such State shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

(c) annual report. Beginning 60 days after the end of each fiscal year, the Administrator shall submit an annual report to the President, which shall include an independent audit of the financial statements of the revolving fund established by this Act, and shall reserve each fiscal year 1 percent of the amount of funds deposited in the pollution revolving fund established by such State. Funds in an amount equal to not less than 25 percent of the amount of funds deposited in the pollution revolving fund shall be reserved for small communities in fiscal years 1996, 1997, and 1998.

(d) noncompliance. (1) If the Administrator determines that a State has not complied with the requirements of this Act, the Administrator shall notify the State of such noncompliance and the necessary corrective action.

(2) withholding of payments. If a State does not take corrective action within 90 days after the date a State receives notice of noncompliance under paragraph (1), the Administrator shall withhold payments to the State until the Administrator is satisfied that the State has taken the necessary corrective action.

(3) reallocation of withheld payments. The Administrator shall reallocate withheld payments to the State of origin if the State is satisfied that the payments were made in accordance with the Act.


(b) Statutory funds appropriated pursuant to this section shall be reserved for the implementation of section 105(b) of this Act, 2 percent of funds authorized pursuant to this section in fiscal year 1993, 1.5 percent of funds authorized in fiscal year 1994, and 1 percent of funds authorized in fiscal years 1995, 1996, and 1997.

TITLe II—ENVIronmental infrastruCture faciliTyS for eCononiCally DIsTrESSed AREAS administration

SEC. 201. (a) authority. The Secretary shall act as the administrator of the authorities of this title.

(b) to implement the authorities of this title, there shall be established, within 180 days of the date of enactment of this title, an Office of Community Environmental Infrastructure Assistance within the Directorat of Civil Works of the Office of the Chief of Engineers.

SEC. 202. (a) general eligibility. Funds provided for the implementation of this title shall be available for construction of—

(1) wastewater treatment works;

(2) public water supply system facilities;

(3) solid waste management facilities.

(b) financial capability. Funds provided for the implementation of this title shall be available only for environmental infrastructure projects located in an economically distressed area.

(c) small community size. Funds provided for the implementation of this title shall be available only for environmental infrastructure projects serving less than 25,000 persons.

SEC. 203. (a) general authority. The Secretary of any State may submit to the Secretary a State Priority Project Plan pursuant to the requirements of this section.

(b) plan elements. A plan developed pursuant to this section shall include, at a minimum—

(1) a list of counties in the State designated as economically distressed, including such information as the Secretary determines to be necessary and appropriate;

(2) a list of specific environmental infrastructure projects eligible for financial assistance pursuant to this title including such information concerning the nature, benefits, costs, and expected long-term operations of the projects and the State environmental infrastructure projects ranked in priority order for the fiscal year in which assistance is sought;

(3) a list of eligible environmental infrastructure projects ranked in priority order for the fiscal year in which assistance is sought;

(4) regulations. The Secretary shall establish by regulation such additional requirements for State Priority Project Plans as he determines to be necessary and appropriate; and

(5) coordination with other federal agencies. The Secretary shall coordinate with other Federal agencies in the implementation of this section.

SEC. 204. (a) general authority. Within one year of the date of enactment of this title and annually thereafter, the Secretary shall develop and submit to Congress a national economically distressed area environmental infrastructure assistance plan for implementing projects eligible pursuant to section 106. (b) The plan prepared pursuant to this section shall include, at a minimum—

(1) a general description of the efforts of the Secretary and other Federal agencies to implement the provisions of this title in the preceding year;
(2) a list of all environmental infrastructure projects listed by States pursuant to paragraph 206(b)(3); 

(b) The Secretary shall enter into local cooperation agreements to provide for the planning, design, and construction of environmental infrastructure projects ranked pursuant to paragraph 206(b)(2) of this title. 

(c) NATIONAL PRIORITIES.—In the Secretary shall enter into local cooperation agreements giving first priority to environmental infrastructure projects ranked first pursuant to paragraph 206(b)(3). 

(2) To the extent practicable, the Secretary shall assure that in any given fiscal year, local cooperation agreements are signed for a project or projects from each State submitting a Priority Project Plan pursuant to section 203 of this title. 

(d) PROJECT MANAGEMENT.—(1) Local cooperation agreements shall be signed by the local sponsor of such project, the proper representative of the State, and a designated representative of the Secretary, in consultation with a representative of the Administrator. 

(2) In a case where there is a signed local cooperation agreement, the Secretary shall provide for construction of the project. 

(e) CONSISTENCY WITH PLANNING REQUIREMENTS.—Notwithstanding any other provision of law, the Secretary may not sign a local cooperation agreement under this title for an environmental infrastructure project which is— 

(1) a wastewater treatment project which is inconsistent with plans developed under section 203(e), 310 and 320 of the Federal Water Pollution Control Act; 

(2) a public water system for which the project has not been approved by the chief executive officer of the agency with primary enforcement authority under the Safe Drinking Water Act; 

(3) a solid waste management facility which is inconsistent with the plan approved pursuant to section 4007 of the Solid Waste Disposal Act. 

PROJECT DESIGN GUIDELINES 

SEC. 206. (a) GENERAL AUTHORITY.—The Administrator shall, within 24 months of the date of enactment of this title, publish guidelines for design of wastewater treatment, public water supply, and solid waste disposal facilities pursuant to this title. 

(b) GUIDELINE CONTENTS.—Guidelines published pursuant to this section shall, at a minimum— 

(1) describe the basic design standards to be applied in the planning of environmental infrastructure facilities; 

(2) identify appropriate engineering specifications for construction of environmental infrastructure facilities based on an expected operational life of 20 years; 

(3) establish such minimum standards of planning, engineering, and construction as are deemed appropriate by the Administrator; and 

(4) assure that any facility constructed in compliance with applicable Federal and State environmental laws. 

(c) REVIEW AND REVISION.—The Administrator shall review and revise the guidelines published pursuant to this section not less often than every five years. 

SEC. 207. (a) OFFICE OF ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE.—(1) The Secretary shall establish an Office of Environmental Infrastructure Assistance. 

(2) FUNCTIONS.—The functions of the Office of Environmental Infrastructure Assistance shall be to— 

(A) manage projects pursuant to this title; 

(B) provide information and guidance to economically distressed area communities in financial analysis, financial planning, and assessment of project feasibility; 

(C) provide information and guidance to economically distressed area communities on issues including regionalization of environmental infrastructure facilities, reform of existing rate structures, and operation of special management districts; and 

(D) in cooperation with the Administrator, the Secretary shall develop policies and programs to assist area communities in issues relating to construction, operation, maintenance, and rehabilitation of environmental infrastructure facilities. 

(b) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall work with the Administrator, the Secretary of Agriculture, and other Federal agencies in the implementation of this subsection. 

AUTHORIZATION 

SEC. 208. There is hereby authorized to be appropriated for the purpose of carrying out this title the amount of $500,000,000 for each of the five fiscal years beginning with fiscal year 1993. 

TITLE III—FINANCING OF PUBLIC OWNED TREATMENT WORKS 

FINANCING OF PUBLICLY OWNED TREATMENT WORKS FUNDED BY DEBT ISSUANCE 

SEC. 301. (a) IN GENERAL.—Section 201 of the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) (33 U.S.C. 1321) is amended by adding at the end thereof the following subsection: 

"(4) By satisfying any requirement of this Act, any regulation, or any condition of any grant or financial assistance under this Act, the owner of a publicly owned treatment works may, directly or by means of a public authority created for the purpose, act in accordance with the provisions of this subsection. " 

"(XII) Notwithstanding any requirement of this Act, any regulation, or any condition of any grant or financial assistance under this Act, the owner of a publicly owned treatment works may, directly or by means of a public authority created for the purpose, act in accordance with the provisions of this subsection. 

"(XIV) The authority of the Secretary to require such permits or to impose such conditions in the case of such treatment works is inconsistent with plans developed under section 203.e., 310 and 320 of the Federal Water Pollution Control Act; 

(b) EFFECTIVE DATE.—As otherwise provided, the amendments made by subsection (a) of this section shall become effective on the date of enactment of this title." 

AUTHORITY OF STATE REVOLVING FUNDS TO GUARANTEE LOCAL DEBT OBLIGATIONS 

SEC. 302. (a) In General—Section 603(d) of the Clean Water Act (33 U.S.C. 138(d)) is
amended by deleting the "and" at the end of paragraph (6), deleting the period at the end of paragraph (7), and inserting in lieu thereof a semicolon and the word "and," and by adding at the end of that section the following subsection:

(9) To provide financial and technical assistance to small communities, and to facilitate construction of eligible environmental infrastructure projects.

(b) AMENDMENT.—Section 206 of the Clean Water Act (33 U.S.C. 1383) is amended by adding at the end thereof the following:

"(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall become effective on the date of enactment of this Act."

SEC. 303. SECURITY.—Nothing in this title shall be construed to provide any new authority for the owner of a publicly-funded, publicly-owned wastewater treatment works to grant any authority for the owner of a publicly-funded, publicly-owned wastewater treatment works to grant any debt obligation issued pursuant to this Act.

SECTION-BY-SECTION DESCRIPTION OF SMALL COMMUNITY ENVIRONMENTAL ASSISTANCE

Section 101: Grants to States—The EPA is to develop criteria for grants to States to establish pollution control revolving funds to assist small communities in financing environmental infrastructure projects, including drinking water systems, wastewater treatment facilities, and solid waste facilities. Grants are to be made in a manner that allows for the establishment of sustainable revolving funds that can be used to maintain and improve environmental infrastructure projects.

Section 102: Eligible Environmental Infrastructure Projects—Projects eligible for assistance under this title include construction of drinking water systems, wastewater treatment facilities, and solid waste facilities. Projects are to be located in economically distressed areas and serve less than 50,000 people.

Section 103: Intended Use Plan—States are to develop an annual plan identifying the intended uses of funds received under this title.

Section 104: Audits, Reports, and Fiscal Controls—States are to provide for appropriate fiscal controls and audits and provide reports to the EPA on their compliance with this title.

Section 105: Small Community Environmental Infrastructure Revolving Funds—Grants to States are to be used to establish revolving funds to provide low-interest loans and grants to small communities for the construction of environmental infrastructure projects.

Section 106: Small Community Environmental Infrastructure Technical Assistance—The EPA is to establish an Office of Small Community Environmental Assistance to provide technical assistance to small communities in financing environmental infrastructure projects and, in conjunction with the Army Corps of Engineers, assist small communities in improving systems operations.

Section 107: Authority.—The EPA is to establish an Environmental Infrastructure Technical Assistance and administer the authority as provided in this title.

Section 108: Audits, Reports, and Fiscal Controls—The EPA is to provide for audits, reports, and fiscal controls and provide reports to the Congress on its compliance with this title.

The legislation we are introducing today is designed to assist small communities in financing environmental infrastructure projects. This is legislation we reported from the Environment and Public Works Committee last year. The bill includes a provision that if enacted, states that any State receiving funds under this title shall commit a significant portion of such funds to improvements in wastewater treatment facilities for economically distressed areas.

Mr. BAUCUS. Mr. President, I am pleased to join in introducing legislation to assist small communities throughout the Nation in the construction of facilities for the protection of the environment and human health.

This is legislation we reported from the Environment and Public Works Committee last year. The bill includes a provision that if enacted, states that any State receiving funds under this title shall commit a significant portion of such funds to improvements in wastewater treatment facilities for economically distressed areas.

First, small communities, by which I mean communities under 2,500 population, have a significant need for improved or expanded environmental protection facilities, including sewage treatment plants, drinking water systems, solid waste facilities, and underground storage tanks.

Second, small communities face special problems in financing environmental facilities including reduced economies of scale, limited access to financing, and modest managerial resources.

Finally, the Federal Government needs to do more to assist these communities in financing the construction of basic environmental facilities and projects.

The legislation we are introducing today will assist States in establishing loan and grant funds to help small communities in financing environmental infrastructure projects.

Section 206: Project Design Guidelines—The Administrator of EPA is to develop, within 24 months of the date of enactment of this Act, guidelines for the design, engineering, and construction of environmental infrastructure projects.

Section 207: Economically Distressed Areas—Technical Assistance and Outreach—The EPA is to establish an Office of Environmental Infrastructure Assistance to assist small communities in managing pursuant to this title and assisting communities in economic distress in development of environmental facilities.

Section 208: Authorization—There is authorized to be appropriated to implement this title a total of $10 billion for the five year period beginning in fiscal year 1993.

Title II—FINANCING OF PUBLICLY OWNED TREATMENT WORKS

Section 301: Financing of Publicly Owned Treatment Works That Have Received Grant Funds—This section would facilitate the role of the private sector in financing sewage treatment facilities by allowing the issuance of debt backed by future POTW operating revenues without requiring the repayment of principal and interest.

Section 302: Authority of State Revolving Funds to Guarantee Local Debt Obligations—This section would permit a State revolving fund and financial assistance to purchase or insure letters of credit in order to secure payment of local obligations incurred in connection with certain types of public-private partnerships.

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The legislation we are introducing today will assist States in establishing loan and grant funds to help small communities in financing environmental infrastructure projects.
concern that small communities face significant financial difficulties in maintaining and improving their environmental facilities. In recognition of these challenges, the Federal Government has taken steps to address the needs of small communities, particularly those located in rural areas.

The legislation introduced during this session is designed to provide direct assistance from the Federal Government to small communities. This assistance is intended to help them meet environmental standards while minimizing the financial burden. The bill aims to ensure that small communities are not unduly burdened by regulatory requirements and that they are able to secure the necessary funding to implement environmentally sound practices.

In conclusion, Mr. President, I urge my colleagues to support this legislation as it is crucial for the protection of our environment and the well-being of small communities across the country. By providing necessary assistance, we can ensure that these communities are able to meet the environmental challenges they face.
CONGRESSIONAL RECORD—SENATE

and Vermont—and nearly two dozen environmental and industry groups. This legislation will phase down the use of four metals—cadmium, mercury, lead, and hexavalent chromium—in packaging in favor of more benign alternatives. This will tackle waste at the source, before it is generated and before it is released into the air, soil, and water.

Mr. President, lead, mercury, cadmium, and chromium are among the most harmful substances found in packaging today. The Office of Technology Assessment identifies cadmium, mercury, and lead as the principal toxic metals in municipal solid waste. The medical community has concluded that these metals can damage the nervous system and cause mental retardation. As part of our solid waste stream, these metals pose significant threats to the environment and public health. When disposed of in landfills, these metals can leach into groundwater and poison our drinking water supplies or migrate into surface waters where they harm fish and wildlife. Humans and wildlife can also inhale toxic particulates when they are incinerated, either through air emissions or landfill disposal of the incineration ash.

Hexavalent chromium can cause lung cancer. Last year, the Environmental Protection Agency banned the use of hexavalent chromium in certain heating and air-conditioning systems because they release dangerous amounts of chromium into the air.

A few weeks ago, EPA announced a program to reduce releases of 17 toxic chemicals that present both significant risk to human health and the environment and opportunities to reduce such risks through pollution prevention. All four of the metals which are the subject of this bill are included in the list of 17 pollutants EPA is targeting for reduction.

Sources of lead in packaging include solder, steel cans, paint pigments, ceramic glazes and inks, and plastics. Cadmium is found in metal coating and plating, in pigments for some plastics, and in some printing inks. Chromium is also used to plate metal products and appears in paints, pigments, and dyes. Mercury too is found in certain paints.

Mr. President, alternatives to these harmful materials in packaging are available. For example, the National Association of Printing Ink Manufacturers has noted that the use of lead-based orange and yellow inks can be further reduced by using organic pigment substitutes. Progress is already being made in many areas of metals when lead in soldering food cans declined 77 percent between 1979 and 1986.

Mr. President, packaging comprises nearly one-third of all municipal solid waste. It is about time that we stop using these dangerous metals in packaging when safer alternatives are readily available.

The bill I am introducing today requires that manufacturers reduce the total concentration of cadmium, mercury, lead, and chromium in packaging to 600 parts per million in 2 years, 250 parts per million in 3 years, and 100 parts per million in 4 years. It does allow exemptions for packaging that either is made from recycled materials or where the metals are needed to protect its contents, such as medical products or x-rays. Further, this legislation requires that manufacturers present certificates showing that they are complying with these reductions. Finally, this bill calls for the EPA to report on how effective these steps prove to be and whether other toxic materials should be reduced as well.

This legislation complements bills introduced by Senators BAUCCUS and GILLETTE from Idaho. Both of these bills address toxic materials in packaging and ban the disposal and incineration of batteries, which account for the bulk of lead and chromium in municipal solid waste. The bill I am introducing today will also complement S. 391, the Lead Exposure Reduction Act of 1991 introduced by Senators REM and LEIBERMAN, Bradley, myself and others to reduce exposure to the harmful effects of lead. Together, my legislation and these other bills will help prevent harmful materials from harming our soil, air, water, and ultimately ourselves and our children.

Mr. President, the bill I am offering today reflects the hard work of CONEG, industry, and environmental organizations. I commend all of the organizations involved for their effort to protect the environment and these toxic materials.

Since CONEG developed this model legislation, eight States have adopted legislation to reduce toxic metals in packaging. Including Connecticut, Maine, New Hampshire, New York, Rhode Island, Vermont, Iowa, and Wisconsin. Other States, including my own State of New Jersey, currently have similar legislation pending.

Mr. President, the swift action on behalf of the States to enact this legislation indicates that getting toxic metals out of packaging is a pressing problem, and one that can be solved efficiently and effectively under this bill. We have waited much too long to control these dangerous metals. CONEG's Source Reduction Council realizes that the time is ripe for a national effort and has endorsed this legislation. The time has come for us to build on the pathmaking efforts of the States and enact this bill.

I urge my colleagues to support this legislation.

I ask unanimous consent that the bill, a section-to-section analysis, a list of CONEG members who support the Federal bill, and letters of support be included in the RECORD.

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

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 "Reduction of Metals in Packaging Act".

The Congress finds that—
(1) the management of solid waste can pose a wide range of hazards to public health and safety and to the environment; (2) packaging comprises a significant percentage of the overall solid waste stream; (3) the presence of heavy metals in packaging is a part of the total concern in light of their likely presence in emissions or ash when packaging is incinerated, or in leachate when packaging is landfilled; (4) cadmium, mercury, and hexavalent chromium, on the basis of available scientific and medical evidence, are of particular concern; (5) it is desirable as a first step in reducing the toxicity of packaging waste to eliminate the addition of these heavy metals to packaging and (6) the intent of this Act is to achieve this reduction in toxicity without impeding or discouraging the expanded use of post-consumer materials in the production of packaging and its components.

SEC. 2. DEFINITIONS.

(a) "packaging" means a container providing a means of marketing, protecting, or handling a product and includes a unit package, intermediate package, and a shipping container as defined in ASTM D669, and unsealed receptacles such as carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubes of their likely presence in emissions or ash when packaging is incinerated, or in leachate when packaging is landfilled;
(b) "distributor" means any person, firm, or corporation who takes title to goods purchased for resale; and
(c) "packaging component" means any individual assembled part of a package such as, but not limited to, any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, and labels.

SEC. 3. PROHIBITION/SCHEDULE FOR REMOVAL OF INCIDENTAL AMOUNTS.

(a) The Administrator of the Environmental Protection Agency shall issue such regulations as may be necessary to require, not later than 2 years after the date of the enactment of this Act, that no package or packaging component shall be offered for sale or for promotional purposes by its manufacturer or distributor in any State of the United States, which includes, in the package itself or in any packaging component, inks, dyes, pigments, adhesives, stabilizers, or any other additives, any lead, cadmium, mercury, or hexavalent chromium which has been intentionally introduced as an element during manufacturing or distribution as opposed to the incidental presence of any of these elements.
(b) Such regulations shall further provide that no product shall be offered for sale or for promotional purposes by its manufacturer or distributor in any State of the United States, in a package...
which includes, in the package itself or in any of its packaging components inks, dyes, pigments, adhesives, stabilizers, or any other additive containing lead, cadmium, mercury, hexavalent chromium which has been intentionally introduced as an element during manufacturing or distribution as opposed to the incidental presence of any of these elements.

(c) For purposes of such regulations, the sum of the concentration levels of lead, cadmium, mercury, hexavalent chromium present in any package or packaging component shall not exceed the following—

(1) 0.06 parts per million by weight effective two (2) years after the date of the enactment of this Act;

(2) 0.025 parts per million by weight effective three (3) years after the date of the enactment of this Act; and

(3) 0.01 parts per million by weight effective four (4) years after the date of the enactment of this Act.

SEC. 5. EXEMPTIONS.

(a) Such regulations shall be applicable to all packages and packaging components except the following—

(1) those packages or packaging components with a code indicating date of manufacture that were manufactured prior to the effective date of this statute;

(2) those packages or packaging components to which lead, cadmium, mercury, or hexavalent chromium has been added in the manufacturing, forming, printing, or distribution process in order to comply with health or safety requirements of Federal law or to which there is no feasible alternative, except that the manufacturer of a package or packaging component must petition the Environmental Protection Agency for any exemption from the provisions of this subsection for a particular package or packaging component based upon either criterion. The Administrator of the Environmental Protection Agency may grant a 2-year exemption if warranted by the circumstances. Such an exemption may, upon meeting either criterion of this subsection, be renewed for 2 years. For purposes of this subsection, a use for which there is no feasible alternative is one in which the regulated substance is essential to the protection, safe handling, or function of the package's contents; or

(3) packages and packaging components that would not exceed the maximum contaminant levels set forth in subsection (c) of section 4 of this Act but for the addition of post-consumer materials.

(b) The provisions of subsection (a) shall be of no effect on and after the expiration of the 72-month period following the date of the enactment of this Act.

SEC. 6. CERTIFICATE OF COMPLIANCE.

(a) Such regulation shall require, not later than 2 years after the date of the enactment of this Act, the issuance of a certificate of compliance (stating that a package or packaging component is in compliance with the requirements of this Act) be furnished by the manufacturer or supplier of such package or component to its purchaser. Where compliance is achieved under the exemptions provided in subsection (b) or (c) of section 5, the Certificate of Compliance shall state the specific basis upon which the exemption is claimed. The Certificate of Compliance shall be signed by an authorized officer of the manufacturer or supplying company. The purchaser shall retain the Certificate of Compliance for as long as the package or packaging component is in use. A copy of Certificate of Compliance shall be kept on file by the manufacturer or supplier of the package or packaging component. Certificates of Compliance, or copies thereof, shall be furnished to the Environment Protection Agency upon its request and to members of the public in accordance with section 9.

(b) If the manufacturer or supplier of the package or packaging component reformulates or creates a new package or packaging component, the manufacturer or supplier shall provide an amended or new Certificate of Compliance for the reformulated or new package or packaging component.

SEC. 7. FEDERAL ENFORCEMENT.

Whenever on the basis of any information the Administrator of the Environmental Protection Agency determines that any person has violated or is in violation of this Act, the Administrator may issue an order assessing a civil penalty in an amount not to exceed $25,000.

SEC. 8. REVIEW BY THE ENVIRONMENTAL PROTECTION AGENCY.

The Administrator of the Environmental Protection Agency shall review the effectiveness of this Act no later than 42 months after the date of its enactment and shall report to the Congress the results of such review. The Administrator shall report any data indicated to add other toxic substances contained in packaging to the list set forth in this Act in order to further reduce the toxicity of packaging materials. The Administrator shall also report whether to continue the recycling exemption as it is provided for in subsection (c) of section 5 of this Act as a result of the nature of the substitutes used in lieu of lead, mercury, cadmium and hexavalent chromium.

SEC. 9. PUBLIC ACCESS.

Any request from a member of the public for a copy of any Certificate of Compliance from the manufacturer or supplier of a package or packaging component shall be—

(1) made in writing with a copy provided to the Administrator of the Environmental Protection Agency;

(2) made specific as to package or packaging component information requested; and

(3) responded to by the manufacturer or supplier within 60 days.

SEC. 10. NON-PREEMPTION.

Nothing in this Act shall be construed so as to prohibit a State from enacting and enforcing a standard or requirement with respect to toxic metals in packaging that is more stringent than a standard or requirement relating to toxic metals in packaging established or promulgated under this Act.

SECTION-BY-SECTION ANALYSIS OF THE REDUCTION OF METALS IN PACKAGING ACT

Section 1—Provides that the Title of the bill is the Reduction of Metals in Packaging Act.

Section 2—States that the intent of this Act is to reduce toxicity found in solid waste by reducing the amount of lead, mercury, cadmium, and hexavalent chromium in packaging.

Section 3—Defines the terms “package,” “distributor,” and “packaging component.”

Section 4—States that the total concentration of lead, cadmium, mercury, and hexavalent chromium not exceed 600 parts per million in two years, 250 parts per million in three years, and 100 parts per million in four years.

Section 5—Allows exemptions for packaging that is either made from recycled materials or is produced to meet or exceed state safety standards.

Section 6—Requires that manufacturers and distributors present a certificate that their packaging complies with these reductions.

Section 7—Establishes civil penalties for manufacturers that do not comply with the Act.

Section 8—Requires the EPA to review the effectiveness of this Act.

Section 9—Gives the public access to any certificate of compliance.

Section 10—Allows states to adopt more stringent standards.

Hon. Frank R. Lausen, U.S. Senate, Hart Building, Washington, DC

Dear Senator Lautenberg:

On behalf of the Source Reduction Council (SRC), I am writing to you to express our support for the introduction of the Reduction of Metals in Packaging Act. The Source Reduction Council believes your bill will complement similar bills already signed into law in at least eight states around the country.

As you know, the state laws as well as your bill are based on the model legislation developed by our organization. In drafting the model, not only states but, a wide range of industries and non-profit groups, looked at all aspects of this complicated issue. The result was a model that addressed a wide range of concerns and truly represents a consensus. Because of this consensus, the SRC has rejected attempts to amend the original model and to change its intent.

The members of the SRC collectively and individually will continue to support the model when introduced as originally drafted and will oppose amendments to the legislation, including additional exemptions, that would weaken the original intent of the bill.

In addition, the SRC would be opposed to any federal legislation pre-empting any past or future activities of states in the area of toxic in packaging.

Possible amendments that the SRC would be opposed to are:

• Requiring the utilization of a nationally recognized risk assessment protocol to apply to additional substances in packaging under future consideration for regulation.

• Exemptions for ceramic decorated glass or ceramic packaging materials.

• Exemptions for wine and liquor bottles with tin/lead wrappers.

• Exemptions for cans with lead solder.

• Requiring certification of compliance to be retained by farmers’ markets, roadside stands, “mom and pop” stores and supermarkets.

Finally, as a point of clarification, the SRC intended that finished tinplated steel be complement similar bills already signed into law in at least eight states around the country.

Thank you for your interest in this vital national issue.

Chris Simmons, Chairman, Board of Directors, Source Reduction Council of CONEG.

Hon. Frank R. Launenberg, Senate Hart Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the Environmental Defense Fund (EDF), I wish to express our strong support for your legislative efforts to reduce the serious environmental problems associated with the use of toxic heavy metals in consumer packaging. Specifically, your introduction of the “Reduction of Metals in Packaging Act of 1991” represents an important step forward in recognizing the need to increase the safety of all methods of waste management by eliminating or reducing the use of packaging of heavy metals known to be detrimental to human health and the environment.

The Act is closely modeled after similar legislation developed by the Coalition of Northeast Governors’ Source Reduction Council, on which EDF serves. While such legislation has been adopted in a number of states, it is critical that its protections be extended to the nation as a whole. Packaging accounts for fully a third of all toxic metals generated in the United States, and the presence in this packaging of the metals that would be restricted through this Act (lead, cadmium, mercury, and, in some proposals, thallium) complicates its safe management—whether through landfilling, incineration, or recycling.

The “Reduction of Metals in Packaging Act of 1991” represents an appropriate balance between aggressive reductions in the use of heavy metals and allowance for reasonable exemptions in two areas: packages where the presence of the heavy metal is needed to protect either the handling, processing, or product from itself or harming damage, and packages where the heavy metal is present solely due to the incorporation of a recycled content which may have itself contained the regulated metal.

It is essential that we scrutinize uses of metals known to be toxic to humans and the environment in the aim of reducing their use to the maximum degree possible. Significantly, the benefits of reducing the use of such metals will extend well beyond municipal waste management to their entire life cycle, including reductions in both occupational exposures and the major environmental problems arising from metals mining, processing, and manufacturing.

EDF applauds your initiative in this important area, and will do its part to ensure that the “Reduction of Metals in Packaging Act of 1991” becomes law.

Sincerely,

RICHARD A. DENISON, PH.D.,
Senior Scientist,
NATURAL RESOURCES DEFENSE COUNCIL,

Hon. Frank R. Launenberg, Senate Hart Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the Natural Resources Defense Council (NRDC), I am writing to express our support for the Reduction Of Metals In Packaging Act. The NRDC believes that your bill will contain the landmark legislation needed to outlaw lead and cadmium in packaging in at least eight states around the country.

As you know, the state laws are based on your bill. If the bill is enacted into law, what it contains has, is, and will be the source law in all the states.

If you will not, we urge you to express our strong support—both collectively and individually, for your proposed legislation to prohibit the use of certain heavy metals in packaging as described in your draft bill.

Sincerely,

ALLEN HERSKOWITZ,
Senior Scientist,
NATURAL RESOURCES DEFENSE COUNCIL,

Hon. Frank R. Launenberg, Senate Hart Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: We the undersigned persons write to you to express our strong support for the “Reduction of Metals in Packaging Act of 1991.”

We urge your committee to give the bill favorable consideration.

Sincerely,

R. J. Allen, Natural Resources Defense Council;
T. A. G. Gladding, Scott Paper Company;
C. A. H. Denison, Natural Resources Defense Council;
R. H. Denison, Environmental Defense Fund;
J. W. Denison, Natural Resources Defense Council;
J. W. Denison, Environmental Defense Fund;
J. W. Denison, Natural Resources Defense Council;

LIST OF CONEG MEMBERS VOTING TO SUPPORT A FEDERAL REDUCTION OF METALS IN PACKAGING ACT

State of Connecticut; State of Massachusetts; State of New York; State of Pennsylvania; State of Rhode Island; Scott Paper Company; Procter & Gamble; American National Can; Digital Equipment Corporation; Pennsylvania Resources Council; New York Public Interest Research Group; Vermont Public Interest Research Group; The Conservation Foundation; Environmental Action Foundation; Conservation Law Foundation of New England; Natural Resources Council of Maine; Natural Resources Defense Council.

March 20, 1991

Hon. Frank R. Launenberg, Senate Hart Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: We the undersigned persons write to you to express our strong support for the “Reduction of Metals in Packaging Act of 1991.”

We urge your committee to give the bill favorable consideration.

Sincerely,

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J. W. Denison, Natural Resources Defense Council;

Mr. Glenn, Mr. President, I rise today as an original cosponsor of the Reduction of Metals in Packaging Act. This legislation is an important step in reducing the environmental and health
threats posed by toxic metals in municipal solid waste.

Disposal of solid waste is one of the most urgent and fundamental environmental problems facing Federal, State, and local governments today. Nationwide, over 3,500 landfills have closed since 1979; only 6,000 landfills remain, 45 percent of which have the capacity to hold less than 5 years' worth of waste. For example, of the 86 counties in my own State of Ohio, 28 have no landfills and 35 have 5 years or less capacity.

Mr. President, I recently introduced a supplemental amendment that source reduction in packaging is favorably to the environment and should be promoted. Senator Laufenberg's bill which will reduce the use of four toxic metals—cadium, mercury, lead, and hexavalent chromium—used in packaging is a vital component in both lowering the overall volume of solid waste and in curtailing the environmental and health dangers of solid waste.

The reduction of toxics in packaging means that the solid waste management measures that we take, including incineration, landfill disposal and even recycling, will be cleaner and safer for the environment. As co-chair of the Senate Great Lakes task force, I am especially supportive of this bill because it will further reduce inputs of persistent toxic chemicals into the Great Lakes. All of the chemicals targeted by this bill are identified as priority concerns by the International Joint Commissions. In fact, the Great Lakes Water Quality Agreement with Canada lists them and urges virtual elimination of any new inputs of these substances into the environment.

Mr. President, I am pleased to cosponsor this legislation and urge my fellow members of the Great Lakes task force to join me in supporting it.

By Mr. Packwood (by request):
S. 731. A bill to provide incentives for research and energy production, and for other purposes; to the Committee on Finance.

NATIONAL ENERGY STRATEGY TAX ACT

Mr. Packwood. Mr. President, I rise today to introduce the National Energy Strategy Tax Act of 1991, the tax component of the President's national energy strategy.

The bill does two things. First, it makes the research and experimental tax credit permanent. Second, the bill extends the business energy tax credits for solar and geothermal facilities, as for example, a geothermal facility is the primary source of heat and power for the municipal buildings in the city of Klamath Falls, Oregon.

In addition to these legislative proposals, the national energy strategy contemplates administrative action in two areas to promote conservation of energy—clarifying the tax rules for employer-provided mass transit and for energy conservation payments by utilities. This administrative action should be forthcoming in the near future.

I commend the President for making these incentives for development of alternative energy sources and energy conservation part of his comprehensive energy proposal. I hope we can expand on them as Congress formulates a comprehensive energy strategy this year.

Now is the time for us to reorder our energy priorities. Developing new technology for clean, safe, renewable energy sources should be at the top of the list. So should energy conservation.

Our Nation has become much too dependent on imported oil. In 1960, we imported 45 percent of the oil consumed in the United States, which in turn accounted for 52 percent of our trade deficit. This increased dependence on imported oil could jeopardize our national security and create a permanent deficit in our balance of payments. Although fossil fuels are a cost effective source of energy, they bring with them environmental problems. We will have to rely more and more on renewable energy sources to fill the gap in the future.

I hope my colleagues will join me and support this bill.

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

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

S. 731

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

SEC. 1. SHORT TITLE. This Act may be cited as the "National Energy Strategy Tax Act".

SEC. 2. ENERGY CREDIT EXTENDED 1 YEAR.

(a) In General.—Subparagraph (B) of section 48(a)(2) of the Internal Revenue Code of 1986 (relating to energy percentage) is amended by striking "1981" and inserting "1991".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3. RESEARCH CREDIT MADE PERMANENT.

(a) In General.—Section 41 of the Internal Revenue Code of 1986 (relating to credits for increasing research activities) is amended by striking subsection (b).

Mr. President, today I joined by Senators Gore, Lugar, Kerry, Metzenbaum, and Mikulski in introducing a bill to establish an independent safety board for the Nuclear Regulatory Commission.

The need for independent, credible review of accidents and operating conditions at commercial nuclear reactors has been evident for years. Accidents that were considered statistically improbable have happened. Operating conditions that have contributed to accidents remain unchanged, and plant designs that are known to be inadequate remain unmodified. The public is led to believe that standards on paper are met in the plant, when in fact there are many examples where that is not the case.

NRC efforts to address those problems, or at least appear to address them, have not worked. There is no reason to accept business as usual in nuclear regulation while industry flirts with disaster and the public remains so dubious of nuclear energy's safety.

While the long-term decline of nuclear energy make the point that something is amiss in the industry, there is now another reason to establish an independent safety board. That reason is the alternative that has been proposed by the administration as part of its national energy strategy.

The administration and other nuclear supporters can no longer deny that nuclear power has such weak public support that construction of new plant is virtually impossible. After a decade of fretting and complaining about the public's rejection of nuclear power, they have hit upon a means to fix their problem—get rid of the public. That is the gist of the proposals that have been made for nuclear regulation in the energy strategy and in other efforts.

When the public insists that nuclear reactors meet promised safety standards, the public influence that construction of new plant is virtually impossible. After a decade of fretting and complaining about the public's rejection of nuclear power, they have hit upon a means to fix their problem—get rid of the public. That is the gist of the proposals that have been made for nuclear regulation in the energy strategy and in other efforts.

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When the public insists that nuclear reactors meet promised safety standards, the public influence that construction of new plant is virtually impossible. After a decade of fretting and complaining about the public's rejection of nuclear power, they have hit upon a means to fix their problem—get rid of the public. That is the gist of the proposals that have been made for nuclear regulation in the energy strategy and in other efforts.
When operating licenses for reactors approach expiration, the administration would make sure that those with legitimate concerns could not be heard. That is why I believe an independent safety board is needed. The foundation of an expansion of nuclear energy in this country, if it is ever to happen, must be built upon greater credibility and responsiveness of the nuclear industry. But long before we consider construction of new nuclear plants, we must make sure that existing nuclear reactors meet the highest safety standards. Under the existing regulatory system, the public has too little assurance that serious problems are fixed.

There is also a question of exactly why nuclear energy is being promoted as it is in the national energy strategy. If it is to reduce imported oil, nuclear energy will have little, if any, impact. That is because only 5 percent of oil consumption in our Nation is used for electricity generation.

While we need to make savings wherever we can, nuclear energy can only replace the portion of that oil-fired generating capacity that is used for so-called base load plants, or those that run day and night. That means full use of the nuclear option will only replace about 3 percent of current domestic oil consumption.

But the effect on imported oil is reduced even further because oil-fired base load plants use residual oil, or that product which is left over after other, lighter products have been taken out of the barrel. The residual oil used in those plants is a thick, tar-like substance that is not a factor in determining what can be sold. The licenses are out. But the licenses are that nuclear energy will have an important role in cutting oil imports are not as strong as industry advertisement claims would have us believe.

If the administration's nuclear policies are premised on the belief that changing nuclear regulations will allow the American nuclear industry to match the level of public support in foreign countries, the administration should look again at how the nuclear option is faring in those countries.

As nuclear experts from the West get close looks at Soviet-designed reactors in Eastern Europe, they have often been horrified at the conditions. Shortly after the reunification of Germany, a number of the Soviet-designed reactors were shut down as safety hazards. Austria, Hungary, and Czechoslovakia shut down several of its reactors. Bulgaria might be well-advised to close its reactors, but since the reactors supply 40 percent of that country's electricity with no alternative sources in sight, Europeans can only cross their fingers and hope for the best.

Conditions in nuclear reactors in the Soviet Union and Eastern Europe are the extreme, but even countries that use Western designs are backing away from this technology. Italian voters adopted a national policy of prohibiting new nuclear plants or the expansion of existing ones. Swiss voters approved a referendum to end new reactor construction for the next decade. Britain, when Margaret Thatcher was in charge, put nuclear construction starts on hold until it can be proven that the technology can be cost effective.

And the two examples often cited by nuclear supporters, Japan and France, have both witnessed a weakening of support for increased reliance on nuclear energy. Polls show over half the Japanese public oppose the Government's policy to build additional nuclear plants. In France, over 80 percent of respondents to a public opinion survey thought that a serious nuclear accident was possible in their country. Forty percent would like to stop completely use of nuclear powerplants.

If the public in those countries where nuclear energy is supposed to be so successful are dubious of its role, why should Americans be expected to embrace it? And why should the American public be asked to accept this technology under the terms proposed by the administration, in which public input is barred? Does anyone believe that blocking the public's role will increase confidence in nuclear energy?

We have before us a tremendous opportunity with regard to energy policy. History shows that if we do not take advantage of this opening, it will take another energy disaster, an embargo or a price spike for example, before the public and public will to make progress on bound-long term changes can be mustered.

For nuclear energy, we have the opportunity to insist that the nuclear industry meet its professed safety standards, fix recognized hazards in reactors, solve its long term problems in waste disposal, build public confidence in the technology. Instead of continuing the policy of covering up its problems, through this bill we are advocating that the industry adopt a new approach to its future. It is an approach that is needed to raise the public's protection in the near term, and is the only way to settle outstanding safety issues in the long term.

I urge my colleagues to join us in support of establishing an independent safety board for the Nuclear Regulatory Commission. I ask unanimous consent that the text of our bill be reprinted at the conclusion of my remarks.

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

SEC. 2. (a) The Congress finds that there is a need for—
(1) vigorous investigation of events at facilities, or involving materials, licensed or otherwise regulated by the Nuclear Regulatory Commission; and
(2) continual review and assessment of licensing and other regulatory practices of the Nuclear Regulatory Commission, which assessment may result in conclusions critical of the Nuclear Regulatory Commission or its officials.

The purpose of this Act is to establish an Independent Nuclear Safety Board—which shall promote nuclear safety by—
(1) conducting independent investigations of events at facilities, or involving materials, licensed or otherwise regulated by the Nuclear Regulatory Commission; (2) reviewing and assessing the licensing and other regulatory practices of the Nuclear Regulatory Commission; (3) recommending to the Nuclear Regulatory Commission improvements in licensing and related regulatory practices; and
(4) informing the Congress of its investigation findings and recommendations.

ESTABLISHMENT OF NUCLEAR SAFETY BOARD

SEC. 3. (a) The Independent Nuclear Safety Board shall be established.
(b) The Congress finds that there is a need for a Board to agency.
(c) The Board shall be independent of the Nuclear Regulatory Commission.
(d) The Board shall be composed of 5 members appointed by the President, by and with the advice and consent of the Senate.
(e) Any vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

(2) The member of the Board shall have any significant financial relationship in any firm, company, corporation, or other business entity engaged in activities regulated by the Commission either as licensee or con-
tractor, or have such a relationship within the two years preceding his appointment.

"(c)(1) The Chairman and Vice Chairman of the Board shall be designated by the President to be ex officio. The Vice Chairman may be reappointed to such offices.

"(2) The Chairman shall be the chief executive officer of the Board and shall, subject to supervision and direction, as the Board may establish, exercise the functions of the Board with respect to:

(a) the appointment and supervision of personnel employed by the Board;
(b) the organization of any administrative units established by the Board; and
(c) the use and expenditure of funds.

The Chairman may delegate any of the functions under this paragraph to any other member or to any appropriate employee or officer of the Board.

"(3) The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman or in case of a vacancy in the office of Chairman.

"(d)(1) Except as provided under paragraph (2), the members of the Board shall serve for terms of 6 years. Members of the Board may be reappointed.

"(2) Of the members first appointed—

(a) one shall be appointed for a term of 2 years;
(b) one shall be appointed for a term of 4 years; and
(c) one shall be appointed for a term of 6 years; as designated by the President at the time of appointment.

Any member appointed to fill a vacancy occurring before the expiration of the term of office for which such member's predecessor was appointed shall serve only for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office.

"(4) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(e) Two members of the Board shall constitute a quorum, but a lesser number may hold hearings.

"(f) The Board shall have the following functions and authorities:

(i) (A) The Board shall investigate those events occurring at nuclear facilities, or involving any materials, licensed or otherwise regulated by the Commission, which the Board determines to be significant because of possible adverse effect on the health or safety of the public or because such events could be the precursors of events that may adversely affect the health or safety of the public.

(B) The Board may request the Commission to make an investigation of the events described in division (i) and to report its findings to the Board in a timely fashion. Whenever the Commission concludes such an investigation, the Board may analyze the findings of the Commission for the purpose of obtaining its own conclusions and recommendations.

(C) The purpose of any Board investigation under this paragraph shall be—

(i) to determine whether such event is part of a pattern of similar events at facilities, or involving any materials, licensed or otherwise regulated by the Commission which could adversely affect the public health or safety or which could be the precursor of events which could adversely affect the public health or safety; and

(ii) to provide such recommendations to the Commission for changes in licensing, safety regulations and requirements, and other regulatory policy as may be prudent or necessary to improve safety at facilities, or involving any materials, licensed or otherwise regulated by the Commission.

(D) For the purpose of this paragraph, the term 'event' shall include an action or failure to act by any person, including the Commission, which indicates a continuing series of actions or failures to act by any such person, including operational failures, that the Board determines to have a potentially adverse effect on public health as provided in this paragraph.

(E) The Board shall have access to and may systematically analyze:

(A) operational data from any facility, or involving any materials, licensed or otherwise regulated by the Commission;

(B) operational data of the Commission including personnel and files;

(C) any reports of the Commission to Congress, or any other report or study conducted or made by the Commission;

(D) any correspondence received from the scientific and industrial communities, and from the interested public, including personnel and files;

(E) any correspondence received from the scientific and industrial communities, and from the interested public, including personnel and files.

(F) Any person who willfully neglects or refuses to appear as a witness, or to testify, or to produce any evidence in obedience to any subpoena duly issued under the authority of this paragraph shall be fined not more than $5,000, or imprisoned for not more than 5 months, or both. Upon certification by the Chairman of the Board of the facts concerning any willful disobedience by any person to the United States attorney for any judicial district in which the person resides or is found, the attorney may proceed by information for the prosecution of the person for the offense.

(G) The Board shall issue periodic reports which shall be available to the Congress, and to Federal, State, and local government agencies concerned with safety at facilities, or involving any materials, licensed or otherwise regulated by the Commission.

(H) Upon request, such reports shall be made available to other interested persons. Such reports shall contain the major findings of Board investigations, recommendations for specific measures to reduce the likelihood of a recurrence of nuclear events similar to those investigated by the Board and of corrective steps implemented or required by the Commission to enhance or improve safety conditions at such facilities investigated by the Board and other facilities as considered appropriate by the Board.

(I) In accordance with the Civil Service laws and regulations, the Chairman of the Board is authorized to hire staff and employ consultants for the purpose of carrying out the functions and duties of the Board.

(J) There are hereby transferred to the Board—

(A) all functions of the Office for the Analysis and Evaluation of Operational Data relating to the functions of the Board described in subsection (f); and

(B) such personnel from the Office for the Analysis and Evaluation of Operational Data as the Director of the Office of Management and Budget determines are necessary to carry out the functions described in subsection (f).

(K) There are hereby authorized to be appropriated for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 the sum of $38,000,000.

(L) The Board shall terminate at the end of the fiscal year 1997.

Mr. LUGAR. I am pleased to join with Senator BIDEN in sponsoring legislation to establish an independent Nuclear Safety Board.

The theory underlying a Nuclear Safety Board is that accidents such as the one at Three Mile Island are preceded by one or more incidents which, if identified and analyzed, could provide the basis for preventive measures. Three Mile Island was preceded by several incidents which indicated the existence of design and procedural flaws requiring corrective action. Had the
significance of these incidents been appreciated and appropriate corrective measures taken. It is likely that the Three Mile Island accident would not have occurred.

Why is an independent board necessary to study nuclear incidents, analyze operational data, and make recommendations for improving nuclear safety? Why cannot such a function be carried out solely by offices within the Nuclear Regulatory Commission?

First, an analysis of significant incidents must reveal any trends. Once a trend is identified, the question of whether the Nuclear Regulatory Commission has abdicated its responsibility is raised. When the NRC analyzes reactor problems, the adequacy of its own previous actions to ensure nuclear safety is often at issue. An independent board is more likely to thoroughly investigate or to ensure that the NRC thoroughly investigates inadequacies in its own regulations and procedures.

Second, the recommendations of an independent board would carry more weight with the public and would be more likely to be acted upon by the NRC. Under this bill, the NRC is not bound to accept any of the recommendations made to it by the Nuclear Safety Board, but it is bound to respond to them.

Third, the recommendations of an independent board would have greater public acceptance. The Nuclear Safety Board is modeled on the National Transportation Safety Board, with appropriate modifications to account for the differences between nuclear and transportation safety. The Nuclear Safety Board would focus upon significant events—not only accidents in which damage occurs—and upon analyzing the implications of these events.

The threat of global warming has reminded us once again of the strong case for maintaining nuclear power as an energy option. But the public needs assurance that we have established the best procedure for regulating any new nuclear power facilities. I believe that nuclear power has a future and that we should act now to enhance the system for assuring its safe operation. The Nuclear Safety Board could be an important part of that effort.

Mr. KERRY. Mr. President, I rise in support of the bill being introduced today by my colleague Senator BIDEN which will establish an Independent Nuclear Safety Board to promote nuclear safety. I further rise to add an amendment to this measure which will require the Independent Safety Board to review safety conditions at any commercial nuclear powerplant requesting an extension of its original operating license.

Mr. President, as the 122 nuclear powerplants across this Nation begin to reach middle age, the questions of safety for the millions of our citizens living around these nuclear powerplants is an issue that needs to be addressed. As parts wear out, reactor material becomes brittle and pipes corrode, the likelihood of unfortunate mishaps are increased. The need to develop a comprehensive and vigorous maintenance and monitoring program is essential. If the Nuclear Regulatory Commission is capable of making safety based decisions when they hinder the licensing and operation of powerplant. They may not be able to achieve the balance that the public interest requires, with the issue of public safety and nuclear energy production coming into conflict. The NRC’s record as protector of the public’s safety, in both the licensing of the Seabrook and Pilgrim Nuclear Powerplants, has been woefully inadequate. Since becoming an elected official in Massachusetts in 1982, I and local citizens in the region have been concerned about emergency evacuation and operation of the Pilgrim Nuclear Powerplant, which has been consistently ignored, the problems glossed over, by those in charge of nuclear safety for the American people—the Nuclear Regulatory Commission. Two years ago I asked the Inspector General to get involved in with emergency evacuation issues at Seabrook and Pilgrim because the NRC had showed blatant disregard to very real public safety concerns about these two plants.

The NRC is clearly responsible for the oversight and regulation of nuclear power facilities relating to these two plants in my opinion, abdicated its responsibility for health and safety and basically failed in its job. For example, the NRC pushed ahead to license Yankee Rowe, despite the extensive evidence that questions the feasibility of being able to evacuate the area quickly and safely in the case of a nuclear mishap. In addition, the NRC for the past few years has sidestepped questions raised regarding the quality of the welds at the Seabrook plant. Last fall the Inspector General issued a report that found the NRC had poorly reviewed emergency evacuation plans for Pilgrim. And yet another example of their callous disregard for safety can be seen in the findings at the beginning of this year by the Inspector General that the NRC did not accurately take into account the information it required to determine emergency planning or utilize FEMA appropriately in determining emergency evacuation plans.

In addition, I have been concerned about the oversight and regulation of two aging facilities, Yankee Rowe and other aging facilities which the NRC has approved for license renewal. Just last week I asked the NRC to have an independent safety assessment of the Yankee Rowe plant, because a new study of the Yankee Rowe plant has revealed that the plant is not only due for scheduled maintenance, but is facing serious safety issues as well.

Mr. President, these are the reasons that I not only commend my colleague Senator BIDEN for introducing legislation that would establish an independent review board on all safety issues for the NRC but feel the need to ensure that the independent Board is also key in the decisionmaking process regarding the safety issues surrounding relicensing of our aging nuclear powerplants.
Yankee Rowe is the oldest plant in the Nation. The quality of our aging nuclear power facilities and their ability to continue to operate well into the next century is imperative to ensure that nuclear power facilities operate safely into the 21st century.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 737. A bill to require a comprehensive analysis of long-term requirements and the conditions and phenomena affecting the quality of that environment; to require an evaluation of federally conducted or supported coastal and marine scientific research programs and activities on light of those requirements; and to require the preparation and submission to Congress of a report of the results of the analysis and evaluation, including recommendations for legislation, if appropriate, to restructure or otherwise enhance the performance of those programs and activities; to the Committee on Commerce, Science, and Transportation.

COASTAL AND MARINE ENVIRONMENT LEGISLATION

Mr. GRAHAM. Mr. President, I rise to introduce a bill to improve protection and management of America's coastal and marine resources and environment. I would also like to take this opportunity to express my sincere appreciation to the chairman and ranking member of the Committee on Commerce, Science, and Transportation for inviting me to become a member of the National Ocean Policy Study. I am delighted to accept this invitation, and look forward to working with them.

The United States depends on its coastal areas and the adjacent ocean waters for many uses including human habitation, food, energy and mineral resources, recreation, and maritime transportation. The coastal part of our population is growing rapidly, and that trend will continue. Clearly, our demands on—and resulting threats to—our coasts and the oceans will also continue to grow.

We offer it to our children and following generations to take a thoughtful look at how we manage and protect the coastal and marine environment and its resources. We must resist shortsighted policies that stress development and resource extraction over stewardship and environmental protection.

Mr. President, while there have been significant advances in protection and management of our coastal and marine environment in recent years, several matters remain to be effectively addressed, including:

Limits on the ability of States to influence decisions on designation of offshore disposal sites for dredge spoil, and the need to address concerns about the disposal of dredge spoil disposed of at sea; and

Uncertainty about the authority of the downstream State regarding upstream permitting decisions and other actions that may degrade water quality or im-
pair designated uses in the downstream part of a river basin or other water body shared by those States;

- Inadequate consideration of coastal States' concerns in management of the Offshore Oil Leasing Program, with the result that leases sales produce more litigation than oil;

- A sequence of events in offshore leasing that just does not make sense, with companies spending millions of dollars to buy leases before completion of environmental studies that will determine if drilling will be allowed on those leases;

- Widespread concern among Floridians that an offshore drilling accident could cause massive and irreversible damage to the State's exceptionally fragile and valuable coastal and marine environment and its nationally important resources including the Everglades, the Florida keys, and habitat vital to the survival of many species of fish and shellfish;

- Corps of Engineers procedures for planning and conducting navigation and beach nourishment projects that do not fully take into account beach erosion and resulting costs that result from navigation projects, and that do not provide for coordinated long-term planning to ensure the most efficient allocation of Federal and State resources; and

- A fragmented approach to planning and management of coastal and marine scientific research programs that does not always provide the right information at the right time to meet the needs of environmental regulators and resource managers, and does not make the best use of limited resources.

To address these problems, this package of legislation will:

- Strengthen the Clean Water Act by providing greater protection for coastal water quality and giving States that share an ocean or other water body with an adjacent State the authority to prevent actions in the upstream State from harming downstream water quality;

- Reduce environmental hazards from offshore oil drilling by making the Federal Offshore Oil and Gas Leasing Program more environmentally sensitive and more responsive to the concerns of coastal States, and by permanently prohibiting drilling south of 26 degrees off the Florida Keys and the Everglades, and everywhere within 100 miles of Florida;

- Improve quality and protection of beaches by establishing a new planning and management process for Corps of Engineers navigation, and beach nourishment projects; and

- Promote more effective management and protection of our coasts by requiring a new and comprehensive process for Corps of Engineers planning and management of navigation and beach nourishment projects.

The proposals for improving Corps of Engineers planning and management of navigation and beach nourishment projects will:

- Require the corps, in planning navigation projects, to consider benefits to and threats to that environment, to be sure that in years to come we will have the scientific information we need to understand, protect and manage the Nation's coastal and marine resources.

- Strengthen the Clean Water Act

The Clean Water Act amendments will give States more effective powers to prevent threats to the quality and integrity of their waters, and to the resources and activities that depend on clean water—from the habitat vital to many species of fish and wildlife, to swimming and other recreational activities. These amendments will:

- Raise minimum water quality standards for all States;

- Apply efficient limitations to a discharge that would degrade water quality or impair designated uses of a water body even if the source of the discharge is in another State; and

- Give coastal States authority to review, and if necessary restrict, proposed Federal actions, and actions that require Federal licenses or permits, within 12 miles of the coast.

Reducing Hazards from Offshore Oil Drilling

The offshore oil and gas leasing bills will provide new protection for Florida's fragile coastal environment, and make the Federal Leasing Program more environmentally sensitive and more responsive to the concerns of coastal States. They will:

- Permanently prohibit offshore drilling within 100 miles off Florida's coast, and off southwest Florida in the area south of 26 degrees north and east of 86 degrees west;

- Declare that national policy supports "orderly" offshore development, in place of the present policy supporting "expeditious and orderly" development;

- Revise standards for cancellation of existing leases to facilitate decisions that will protect the environment;

- Give Governors of coastal States greater authority over decisions on whether or not their offshore areas should be included in the Federal Leasing Program;

- Require the Secretary of the Interior to make protection of the environment as important as producing oil and gas in determining the national interest in leasing and development;

- Require the Secretary of the Interior to accept the views of the adjacent State's Governor on whether a proposed lease sale provides a reasonable balance between the national interest and the well-being of the citizens of that State; and

- Require that all appropriate environmental studies be completed, peer-reviewed by independent experts, and published at least 6 months before any lease sale is announced for the area containing those studies.

Improving Quality and Protection of Beaches

The proposals for improving Corps of Engineers planning and management of the Nation's coastal and marine environment and threats to that environment, to be

- Effective management and protection of the Nation's coastal environment requires that Federal, State and local agencies have access to high-quality information about that environment, and about the activities, conditions and phenomena that threaten its quality and integrity. As the technologies for coastal and marine activities evolve, so do the potential environmental hazards that must be addressed.

- It is appropriate from time to time to take a fresh look at where we are going, to determine if our actions today are being taken with due regard to the needs of tomorrow. One area that deserves a fresh look is the management of coastal and marine science. The proposal directs the Administrator of the National Oceanic and Atmospheric Administration to conduct a study of, and report to Congress on:

- Coastal and marine environmental information requirements of Federal, State and local regulators and resource managers between the present time and the year 2025;

- Evaluation of existing coastal and marine science activities based on their adequacy to meet those requirements;

- Recommendations for legislation as appropriate to improve the ability of coastal and marine science programs to meet new and evolving requirements; and

- The view of selected reviewers on the validity of the contents of and recommendations in the report.

Mr. President, I ask unanimous consent that a summary of the legislation be printed in the RECORD.

Section-by-Section Summary of the Federal Water Pollution Control Act Amendments

Effluent Limitations.—Clarifies that effluent limitations apply to a discharge that will
degrade water quality or impair designated uses under the laws of a State, whether the discharge occurs in that State or an "upstream" State.

Water Quality Standards and Implementation Plans.—Provides that, when a State has not adopted a water quality standard applicable to a particular pollutant, or has adopted a standard that is less stringent than the Federal standard applicable to that pollutant, the Federal criteria shall provide the presumptively applicable standard for that pollutant within that State.

Certification.—Extends States’ certification authority to 12 nautical miles from the coast, in place of the present 3-mile limit on that authority. Extends certification protection to designated uses of a water body, to protect both water quality per se and those environmental and resource values that depend on water quality. Requires a certification to direct federal actions and federally-sponsored actions, in addition to actions that are federally-licensed or permitted.

Enforcement of Certification Provisions.—Directs EPA to enforce the expanded certification provisions through cease-and-desist orders.

Ocean Discharge Criteria.—Provides a State government with authority to impose conditions or limitations on point-source discharges into ocean waters within 12 miles of the State’s coast, and requires EPA to adopt those conditions or limitations, or to reject the permit application. Nullifies an EPA regulation that established an unwarrented exception to the ocean discharge prohibition.

CORPS OF ENGINEERS PROJECT PLANNING AND MANAGEMENT

Matters to be Addressed in Planning.—Requires that the Corps factor into its cost-benefit analyses for inlet dredging or other navigation projects (1) economic costs to a State of not placing beach quality sand on eroded or eroding beaches, and (2) savings that may be achieved by restoring or renourishing beaches during a dredging or navigation project instead of doing the restoration or renourishment later as a separate project.

Placement on Beaches of Sand Deposits.—Requires the Corps to consider placement of beach quality sand on beaches as being in the "public interest" of the State that sand would otherwise be disposed of offshore.

Cost Sharing.—Clarifies beach project costs for which the Federal government pays the costs for beach nourishment to the extent that the need for nourishment is a direct result of a Federal navigation project.

Long-Range Planning for Beach Nourishment Project.—Directs the Corps to establish a process for development, jointly with each affected State, of long-range plans for financing and execution of beach nourishment projects. Requires analysis of merits of basing project decisions on natural boundary lines, physical oceanographic, meteorological and other processes and phenomena affecting beach erosion and accretion, and on lines of political boundaries. Plans would extend a minimum of ten years, and would be subject to amendment and renewal. Once approved by the Secretary of the Army, the plans would be submitted to Congress for authorization. Upon authorization, plans would govern the Federal-State relationship for beach nourishment in the affected State.

LONG-TERM PLANNING FOR COASTAL AND MARINE ESSENTIAL HABITAT

Directs the Administrator of the National Oceanic and Atmospheric Administration (NOAA) to conduct a set of analyses and report back to Congress within three years. The report will address:

An analysis from the user's perspective of the requirements Federal, State, and local government and resource managers anticipate between the present time and the year 2035;

An evaluation of existing federally conducted or sponsored coastal and marine science programs to meet new and evolving requirements; and

Comments on the validity of the analysis, valuation and recommendations by the Council on Environmental Quality, the National Science Foundation, the Office of Science and Technology Policy, the General Accounting Office, the Congressional Research Service and the Office of Technology Assessment.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS

Constitutional Declaration of Policy.—Extends the "national interest" concept to include "sustainable" development of offshore oil and gas, but preserves policy favoring "orderly" development.

Admission of Leasing.—Revises standards that guide the Department of the Interior (DOI) in deciding when an existing lease ought to be canceled and provides that any compensation for a canceled lease may be in any combination of cash, forgiveness of rents or royalties, or credits against future bonus bids.

Outer Continental Shelf Leasing Program.—Strengthens the degree to which a coastal State’s Governor can influence decisions on whether or not to include tracts off that State in a five-year leasing plan being developed by DOI.

Coordination and Consultation with Affected States and Local Governments.—Requires DOI, in determining the "national interest" in OCS leasing, to give environmental protection equal weight along with oil and gas production. Requires DOI to accept a Governor’s recommendations as to whether a particular lease sale will provide a reasonable balance between the national interest and the well-being of the citizens of the affected State.

Environmental Studies.—Requires that all basic environmental studies related to a lease sale be completed, peer-reviewed, and published at least 180 days before that lease sale is announced.

OIL AND GAS LEASING RESTRICTIONS OFFSHORE FLORIDA

Prohibition of Drilling.—Permanently bars oil and gas activity in the areas south of 36 degrees north and east of 86 degrees west, and elsewhere within 100 miles of Florida’s coast.

Cancellation of Leases.—Requires that all existing leases in the areas described in the previous section be canceled, and that the Secretary of the Interior report to Congress annually on the cancellation process.

Compensation.—Establishes that any compensation due may be entitled to as a result of cancellation will be paid by the Federal Treasury, and that Florida shall incur no costs or other liability as a consequence of cancellation of leases.

Prohibition of Activities other than Environmental Studies Offshore.—For the part of the Eastern Gulf of Mexico outside the permanent prohibition areas (i.e., north of 26 degrees and seaward of 100 miles) this bill prohibits offshore activity until the year 2002, or until a comprehensive set of environmental and other studies are completed, whichever is later.

By Mr. PELL:

S. 738. A bill to designate the Architect of the Capitol as the Director of the National Air and Space Museum; to the Committee on Rules and Administration.

APPOINTMENT OF ARCHITECT OF THE CAPITOL AS DIRECTOR OF THE U.S. BOTANIC GARDEN

Mr. PELL. Mr. President, in my capacity as chairman of the Joint Committee on the Library, I introduce a bill to designate the Architect of the Capitol as the Director of the U.S. Botanic Garden.

This bill is in the nature of a formal technical clarification of the official status of the Architect in relation to the Botanic Garden. It would correct a tentative arrangement, dateline back to 1994, when the Architect of the Capitol and the Office of the Architect of the Capitol was designated the "Acting Director" of the U.S. Botanic Garden.

While there has never been any formal change in the "acting" title of the Architect, specific legislative action has been taken over the years to extend the Architect’s management over the Botanic Garden by providing administrative support. As a result, accounting, personnel, payroll, and budgeting activities for the Botanic Garden are provided as a continuing function of the Architect’s central office.

It seems clear that the Architect of the Capitol has been the de facto director of the Botanic Garden for almost 60 years, and this bill would simply let the legal title of the position conform to the facts. It would also assure better coordination of the Botanic Garden by making the Architect accountable.

The bill would not change in any way the Architect’s relationship with the Joint Committee on the Library, which is responsible for supervision of the Botanic Garden under 40 U.S.C. 216, or with any other congressional committees to which the Architect is accountable.

It should also be noted that the Architect does not receive and has never received any additional compensation for duties in connection with the Botanic Garden, and the bill would make no changes in this regard.

By Mr. PELL:

S. 739. A bill to authorize the Architect of the Capitol to accept certain gifts on behalf of the U.S. Botanic Garden; to the Committee on Rules and Administration.

ACCEPTANCE OF GIFTS ON BEHALF OF THE BOTANIC GARDEN

Mr. PELL. Mr. President, acting in my capacity as chairman of the Joint Committee on the Library, I introduce a bill to authorize the Architect of the Capitol to act as the designated agent of the Botanic Garden in receiving gifts on its behalf.
Committee on the Library, I am introducing a bill to authorize the Architect of the Capitol to accept gifts on behalf of the U.S. Botanic Garden.

This bill is intended to clarify and amplify existing statutory authority enacted as part of the Legislative Branch Appropriation Act of 1989 which authorizes the Architect, on behalf of the U.S. Botanic Garden, and volunteer time for the purpose of constructing the National Garden, created by that legislation, as an adjunct to the Botanic Garden.

This bill would extend that authority to permit the Architect to accept gifts and volunteer time for the Botanic Garden as a whole rather than limiting the authority to acceptance of gifts for the narrow purpose of "construction" of the National Garden. The bill also would clarify the range of gifts which could be accepted. I am advised that similar existing statutory authority provides such authority to other Federal agencies.

Under the existing limited authority, a nonprofit organization has already come into being called the National fund for the U.S. Botanic Garden, to assist the Architect in the solicitation of gifts. Its trustees include Mrs. Hale (Lindy) Boggs, a former Member of the House of Representatives, who has a long-standing interest in the National Garden. Enactment of this legislation would further facilitate the program of the national fund.

By Mr. WIRTH (for himself, Mr. HATFIELD, Mr. DASCHLE, Mr. JEFFFORDS, Mr. BRYAN, Mr. FOWLER, Mr. BINGAMAN, Mr. ADAMS, and Mr. LIEBERMAN):

S. 741. A bill to promote cost-effective energy efficiency improvements in all sectors of the economy, promote the use of natural gas and encourage increased energy production, thereby reducing the Nation’s dependence on imported oil and enhancing the Nation's environmental quality and economic competitiveness; to the Committee on Finance.

By Mr. WIRTH:

S. 742. A bill to promote cost-effective energy efficiency improvements in all sectors of the economy, promote the use of natural gas and encourage increased energy production, thereby reducing the Nation’s dependence on imported oil and enhancing the Nation's environmental quality and economic competitiveness; to the Committee on Energy and Natural Resources.


COMPREHENSIVE ENERGY LEGISLATION

Mr. WIRTH. Mr. President, today I and Senator Mark Hatfield, and other distinguished Republican colleague from Oregon, are introducing a major, broad-sweeping energy policy bill, along with Senators Daschle, Jeffords, Bryan, Fowler, Bingaman, Adams, and Lieberman.

Energy policy is now near the top of the national agenda, and it should be. Our appetite for energy is consuming our future. As we have just seen in the war against Iraq, it already drives our calculations of vital national interest, making Persian Gulf oil literally a life-or-death commodity.

Imported oil may have a low price, but it has a high cost. There is grave economic danger in allowing our economy to depend so heavily on a resource whose price can triple, or be cut in half, at the whim of foreign potentates. Even at stable prices, oil imports are adding a heavy burden to our trade deficit. And of course, imported oil has an environmental cost—in pollution in our cities, on the high seas, and in warming our globe.

To many, myself included, the administration's long-awaited energy program turned out to be a surrender to the hands-off, short-term thinking of the 1980’s. It does not deserve to be called a strategy unless our strategy is to delay and evade.

Such tactics just won't do the job. They are unequal to the emergency we face and to the new-found sense of shared national purpose that the last weeks have brought us.

As we mobilized and united to protect a vital national interest in the Persian Gulf, we should mobilize and unite ourselves and our allies for a new and urgent campaign to protect our common future.

What we need is a real battle plan to defend the global environment and enhance our energy security.

That battle plan has to stick to a few basic concepts: priority for energy efficiency and conservation; support for the development of renewable energy sources; promoting alternative fuels for our cars and trucks; promoting increased use of natural gas, an abundant, inexpensive, clean-burning alternative to imported oil; and, promoting increased domestic production of oil and natural gas, without relying on windfalls from frontier areas.

The Wirth-Hatfield bill follows that battle plan. It addresses what we can do in the short term, what is possible in the midterm, and what we should be doing to prepare for the future.

Much of this legislation was initially in the administration's national energy strategy (NESS) before the White House staff whittled it down. Now, there is no comparison. The NES does next to nothing to increase the efficiency with which we use energy in the United States. It actually prohibits the Secretary of Energy from setting efficiency standards. The major home appliance manufacturers begged the Congress and the Secretary to set standards—because if we didn't the states would.

This legislation deals with product standards; it also provides utilities, State governments, and others incentives to go out and buy energy. A penny saved is a penny earned; the same is true with energy. The energy we save by insulating homes, by using more efficient motors and lights, and by careful management, is energy we have for economic growth.

This legislation includes the strong CAFE standards authored by Senators Bryan and Gorton, to make cars more efficient. Our cars and trucks use 50 percent of our oil, and if we neglect auto efficiency, as the administration does, we won't do the job we need to do.

The efficiency provisions of this legislation alone can save 14.4 quads of energy a year in the United States by 2000. That's the energy equivalent of 7 million barrels of oil a day. The additional provisions to require the use of alternative fuels, to increase the use of natural gas, and to encourage the efficiency of oil-heated homes, can cut our oil consumption by an additional 3.5 million barrels a day.

On the positive side, the NES does add new requirements to the Clean Air Act Program Congress passed last year, to require commercial vehicle fleets—cabs, delivery vans, et cetera. I applaud those, and with now Governor Wilson of California, I advocated similar proposals during debate of the Clean Air Act last year. Today's legislation goes much further, however, by requiring the use of nonpetroleum fuels. My bill includes Senator Jeffords' proposal to ensure that American farmers—who can produce ethanol—and U.S. natural gas are given a place in the auto fuel market, a place that can't be undercut by OPEC.

This bill also provides incentives to bring more natural gas to market. We must reverse a perverse trend in America's energy picture: We have been using less domestic natural gas, and more imported oil. This trend must stop. Not only have the oil and gas wells we have are outside the United States. They are unequal to the emergency we face.

The tax measures in this bill could result in more than 4,000 additional oil wells in the United States over the next 4 years. And they could keep thousands of stripper wells from being shut down if oil prices drop.

That's oil we know is there. This legislation does not depend on opening up the Arctic National Wildlife Refuge, to go out and find new reserves the Congress has protected in the past. The Arctic Refuge should remain just that—a refuge for the caribou, polar bear, musk ox, and for all living things. It is a special preserve that should be kept for future generations.

In summary, Mr. President, there is a great deal we can and should do to put our energy policy house in order. This is an issue on which we must respond.
Good energy policy can be—and must be—good environmental policy, and good economic policy, if it is to be successful.

The American people want a balanced energy policy. They understand that our enormous potential to use energy more efficiently, and they strongly support doing that. They also believe that we can do more to spur our own domestic energy production, not only in renewable energy resources of the sun, wind, and wave, but also in the natural gas, ethanol, and oil that can help us now. They also believe we should do this without sacrificing the quality of our environment, or opening up areas like the Arctic National Wildlife Refuge to development.

That is the kind of policy I have tried to set out in this bill.

When we return from the upcoming recess, the Energy Committee will begin marking up energy policy, preparing to report out energy policy legislation. I hope all the Members of the Senate will give my bill serious study, as I believe this is the type of package that we ought to consider.

Mr. President, I ask unanimous consent that a summary of the bill S. 741, a side-by-side comparison of its provisions with the national energy strategy and with S. 941—the bill introduced by Senators Johnston and Walleys—be printed in the RECORD.

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

NATIONAL ENERGY EFFICIENCY AND DEVELOPMENT (NEED) ACT PROPOSED BY SENATOR TIM WIRTH

Sec. 1—Short Title. "National Energy Efficiency and Development Act of 1991."

Sec. 2—Table of Contents.

Sec. 3—Findings. This section states the importance of an aggressive program to increase energy efficiency in the U.S., the potential role of renewable energy resources in our future, the potential for natural gas to displace petroleum use in the U.S., the potential for replacing energy imports with domestic oil and gas production, and that development of the Arctic National Wildlife Refuge is not needed to provide access to adequate supplies of energy for the U.S.

Sec. 4—Purposes.

Sec. 5—Carbon Dioxide Goals and Planning. The goal of this section is to foster the identification and submission to Congress of an appropriate mix of policies that have the potential, if fully implemented, to stabilize or reduce the concentration of carbon dioxide and other greenhouse gases. Such policies are directed to be consistent with the achievement of other domestic energy, economic, social, and environmental goals.

Sec. 101—Cost-Cost National Energy Strategy. This section would require the Department of Energy to develop a "Least-Cost National Energy Strategy" as part of the national energy planning process. This strategy would be designed to meet the aforementioned CO2 goals and assign priorities among the energy resources that the Secretary determines to be the most cost-effective, taking into consideration the impact of the production and use of these energy resources on global climate change and other environmental problems, as well as the nation's economic, energy and societal objectives.

Sec. 102—Conforming Amendments.

Sec. 103—Purpose of this section. This section would require the Secretary of Energy to appoint a Director of Climate Program and would require DOE and the USEPA to represent DOE in all interagency and multilateral policy discussions on global climate change.

TITLE II—MEASURES TO IMPROVE THE ENERGY EFFICIENCY OF THE AMERICAN ECONOMY

SUBTITLE A—RESEARCH AND DEVELOPMENT

Sec. 201—Energy Efficiency Research and Development Authorizations—This section increases the authorizations for energy efficiency research and development. Currently, appropriations for the research and development program exceed the amounts authorized by P.L. 101-213. This section raises aggregate energy efficiency authorizations to $300 million in FY'92; $375 million in FY'93; and $450 million in FY'94. These increases reflect the high rate of growth proposed by the Administration in its FY'92 budget.

SUBTITLE B—INDUSTRIAL ENERGY EFFICIENCY

Sec. 211—General Provisions—This section would require DOE to institute an appropriate program to encourage and develop energy efficiency measures. For example, DOE would be required to encourage the Secretary of Commerce to set energy efficiency performance standards and to institute similar requirements on existing industrial buildings.

Sec. 212—Energy Intensive Manufacturing Sector-This section would require the Secretary to pursue a research and development program and enter into cost-shared joint ventures to improve efficiency in energy-intensive industries (such as chemical, glass, paper and aluminum). The Secretary would also be required to set requirements for reducing the generation of carbon dioxide and other greenhouse gases.

Sec. 213—Industrial Auditing Program—This section would require the Secretary, in cooperation with utilities and major industries, to establish energy efficiency standards to establish mandatory guidelines for the conduct of energy audits and the installation of insulation in industrial facilities.

Sec. 214—Industrial Reporting Requirements—This section would institute a reporting system for industry to supply annual energy use and energy efficiency information to DOE. This information will be used to expand EIA's demand-side data base. In addition, this section will require DOE to develop and impose voluntary energy-efficiency goals for energy-intensive industries.

Sec. 215—Energy Efficiency Information—This section requires the Energy Information Administration to develop and maintain the collection of energy efficiency information.

SUBTITLE C—RESIDENTIAL AND COMMERCIAL BUILDING EFFICIENCY

Sec. 221—Residential Building Codes—This section directs DOE to provide technical assistance to States in order to bring State codes up to existing DOE standards or those of the Council of American Building Officials Model Energy Code (CAO-MEC). At the end of 4 years, states shall have upgraded to the national standard or provide an explanation of why it has not. DOE is directed to periodically review and update these codes.

Sec. 222—Commercial Building Codes—This section directs DOE to develop and recommend to the States improved commercial building energy efficiency standards. Technical assistance will be provided to the States, by DOE, to help promote the adoption of these standards. At the end of 4 years, States shall have upgraded to the national standard or provide an explanation of why it has not. DOE is directed to periodically review and update these codes.

Sec. 223—Home Energy Efficiency Ratings—This section directs the Secretary to provide financial assistance to support a 4-year voluntary national program that helps States develop consumer-oriented energy rating systems for residential homes at least in accordance with the most recent Council of American Building Officials Model Energy Code (CAO-MEC). At the end of 4 years, all homes must be rated prior to sale and the purchaser notified of the homes energy rating and all federal energy efficient mortgage guarantees. No new home that does not meet the most stringent level of the CAO-MEC standard shall be eligible for federally guaranteed or insured mortgages. DOE would be given the authority to institute similar requirements on existing homes.

Sec. 224—Fund for Upgrading Energy Efficiency of State and Locally-Owned Buildings—This section creates a fund to provide grants to eligible States to undertake energy efficiency projects in State and locally-owned buildings.

SUBTITLE D—ELECTRICAL PRODUCTS

Sec. 223—Manufactured Housing Standards—This section directs DOE to establish an energy efficiency standard for manufactured housing in accordance with section 943 of P.L. 101-213. The Cranston-Gonzalez Housing Act. DOE will recommend energy efficiency standards based on life-cycle cost, and shall test the performance and cost-effectiveness of manufactured housing prototypes constructed to the requirements.

Sec. 225—Fund for Upgrading Energy Efficiency—This section creates a fund to provide grants to eligible States to undertake energy efficiency projects in State and locally-owned buildings.

Sec. 226—Electrical Product Standards—This section directs DOE to set minimum energy efficiency standards for a limited number of incandescent and fluorescent lamps, residential and commercial air conditioning equipment, electric motors and electric utility transformers. This section also directs DOE to establish standards for table lamps. DOE is required to ensure that they can utilize compact fluorescent lamps. In addition, DOE will assist industry in developing testing methods for and labeling of energy-efficient commercial office equipment and fluorescent light fixtures. DOE is directed to increase the number of energy-efficient residential and commercial buildings.

Sec. 227—Taxation of Fuel Efficient Oil Burners (see Title VIII)

Subtitle E—FEDERAL ENERGY EFFICIENCY

Sec. 231—Federal Energy Management Programs. This section amends NECPA to direct the federal government to install all energy-efficiency measures which are cost-effective on a 10-year life-cycle cost basis. In addition, it creates financial incentives for federal agencies to contract for energy-efficiency improvements. This section establishes a fund to finance energy-efficiency improvements. No leased office space could be renewed or acquired unless the facility met the energy-efficiency standards for commercial office space established by DOE. In addition, this section directs the GSA to develop and implement a program to identify products that have the potential to save energy and reduce costs in federal government purchasing programs.

Sec. 232—Federal Energy Management Programs. This section requires agencies to purchase fuel-efficient vehicles.

Sec. 233—Performance Standards for Federal Property—This section directs the General Services Administration to provide information in its product schedule of the most cost-effective (on a life-cycle cost basis) energy equipment.
Sec. 234—Plan for Demonstration of New Technology—This section requires DOE to submit a plan to Congress for demonstrating energy efficiency and renewable energy technologies on military bases and other federal facilities.

Sec. 235—Fuel Cells—This section authorizes $15 million for DOE to conduct a program to promote the early commercial application of fuel cells and fuel cell-powered vehicles through demonstration in Federal buildings.

Sec. 238—Study of Federal Purchase Incentives for Alternative Fuels—This section directs DOE to prepare a study on energy efficiency products that the federal government could purchase to encourage commercialization of technology.

Subtitle E—Utility Energy Efficiency

Sec. 241—Utility Regulatory Reform—This section reformulates certain ratemaking standards in Title I of PURPA applying to regulated electric utilities to encourage public utility commissioners to ensure that utility investments in energy efficiency are as profitable as supply investments. In addition, this section will encourage all states to undertake least-cost planning programs for regulated utilities and consider the external costs of energy use. After a specified period, energy efficiency measures will be considered a qualified facility in states that have failed to consider these requirements, unless the states do not have competitive bidding programs.

In addition, this section encourages states to consider least-cost approaches to energy efficiency improvements in power generation and supply. Fuel adjustment clauses and other ratemaking provisions are to be considered, as are incentives that would increase the average efficiency of power generation and supply, both through better maintenance and through investment in more efficient power generation, transmission and distribution technologies.

Sec. 242—Energy Efficiency at TVA and Power Marketing Authorities—This section would require TVA to develop a least-cost plan to be developed prior to the approval of a long-term purchase from the PMAs. In addition, the PMAs are authorized to implement programs to acquire cost-effective energy efficiency resources. The TVA is instructed to develop a least-cost plan.

Sec. 245—Energy Efficiency at FERC—This section directs the Federal Energy Regulatory Commission to develop an office of energy efficiency. In addition, this section proposes expedited review of any purchase of electricity made in accordance with a least-cost plan.

Removal of Taxation of Utility Rebates (see Title VIII)

Subtitle F—Used Oil Energy Program

Sec. 251—255—Waste Oil Recycling—(S. 399—Helmz-Wirch) Gives EPA authority to set a mandatory “recycling ratio” for used oil. It would require the processor of the original brackish brine recycling oil to annually increase the percentage of oil being recycled either by putting the collected used oil back through the refinery or by purchasing “oil recycling credits” or by purchasing refined oil. Used oil recyclers (permitted refiners or processors) would generate credits for every unit of used oil recycled. The price of the credits would be set by market forces.

Subtitle G—Tire Recycling Incentives

Sec. 261—263—Waste Tires Recycling—(S. 396—Wirch) Producers and importers of waste tires would be required to annually increase the amount of used tires recycled either by retreading, making tire-derived fuel, processed tire products, or whole tire prod-

ucts. They can either recycle the tires themselves, or purchase “tire recycling credits” from approved and licensed recyclers. The price of the credit would be set by market forces.

Sec. 271—Insular Areas Energy Assistance—This section establishes a program of financial assistance for insular areas government to encourage energy efficiency and renewable energy projects.

Title III—Measures to Promote the Development of Renewable Energy

Sec. 301—Renewable Energy Research and Development Programs—This section increases the authorizations for renewable energy research and development. Currently, appropriations for the research and development programs exceed the amounts authorized by P.L. 101-218. This section raises aggregate renewable energy authorizations to $250 million in FY 92; $300 million in FY 93; and $350 million in FY 94.

Sec. 302—304—Renewable Energy Technology Transfer—This section promotes cooperation among the public and private sector to transfer technology developed by the federal government to the marketplace. Specifically, this program would extend the OMB guidelines for demonstrating renewable energy technology. In addition, technology transfer programs from State and federal agencies will be supported.

Sec. 305—Solar Energy Development Fund—This section would promote the commercialization of utility-scale solar electric generation capability by establishing a fund to contribute to utility investments in solar energy generating stations.

Sec. 306—Removal of PURPA Requirements—This section would extend indefinitely technical changes to PURPA designed to encourage the production of renewable energy. Last year, Congress enacted such changes for a 2 year period.

Sec. 311—312—Renewable Energy Exports—This section develops additional programs, carried out by the Committee on Renewable Energy Commerce and Trade (CORRECT) to enhance economic development in less-developed countries. This program would increase the average efficiency of power generation and supply, through better maintenance and through investment in more efficient power generation, transmission and distribution technologies.

Sec. 320—Renewable Energy Fund—This section provides up to $20 million annually in matching funds for the establishment of state programs to demonstrate renewable energy technologies.

Sec. 321—322—Solar Energy Development Programs—This section would fund the commercialization of utility-scale solar electric generation capability. Last year, Congress enacted such changes for a 2 year period.

Sec. 324—Waste Oil Recycling Programs—This section establishes a program of research, demonstration and support for Insular area governments to develop oil recycling programs.

Sec. 326—State Pro—

Removal of Taxation of Utility Rebates (see Title VIII)

Title IV—Measures to Promote the Use of Alternative Motor Vehicles and Fuels

Sec. 401—Alternative Fuel Mass Transit Program—This section provides for cooperative agreements and financial assistance to municipal, county or regional transit authorities in large urban areas to demonstrate the feasibility of using natural gas or other alternative fuels for mass transit. Authorizes $30 million for each of fiscal 1992-94.

Sec. 402—Alternative Fuel Fleet Commercialization Program—This section establishes a joint program to provide financial assistance to encourage the development and commercialization of natural gas and other alternative fuels for commercial vehicle fleets. Light duty trucks and heavy duty trucks. Authorizes $30 million for each of fiscal 1992-94.

Sec. 403—Alternative Fuel Training Program—This section establishes a training and certification program at DOE for technicians who install equipment that converts gasoline or diesel powered vehicles to those capable of operating on natural gas or other alternative fuels. Authorizes $5 million for each of fiscal 1992-94.

Sec. 404—Vehicle RD&D Program—This section establishes a program for research, development and demonstration on techniques related to improving natural gas or other alternative-fueled vehicle technology.

Sec. 405—Federal Pro—

Title V—Transportation Energy Efficiency

Sec. 501—513—Corporate Average Fuel Economy Standards—This section is the title of the “Clean Air Act 1990.” The bill would require that the CAFE standards be improved by 40 percent over the next decade.

Sec. 503—Feebates for Energy Efficient Automatical

Sec. 511—State Energy Efficiency Standards—This section would require states to develop energy efficiency standards for motors, fans, lights, and other devices. These standards would be required to be met by 20 or more must meet these requirements.

Sec. 512—Electric Vehicle Demonstration Projects—This section would establish a program to help industry develop electric vehicles. The program is designed to overcome technical and economic barriers to widespread use of electric vehicles.

Sec. 513—Tradeable Fuel Credits—This section would authorize a $50 million program to help industry develop electric vehicles. The program is designed to overcome technical and economic barriers to widespread use of electric vehicles.

Title VI—Measures to Displace Petroleum as a Vehicle Fuel

Sec. 605—Tradeable Fuel Credits—This section is based on the text of S. 166—Jeffords (11st Cong.), which...
provides that a set percentage of all automotive fuels sold in the United States consist of non-petroleum fuels. Refiners and other sellers of alternative fuels (or manufacturers of electric vehicles). Requires 10% use of alternative fuels by 1998, and 30% or the maximum feasible percentage, as determined by DOE by 2010.

TITLE VII—MEASURES TO PROMOTE THE USE OF NATURAL GAS

SUBTITLE A—PROMOTING NEW USES FOR NATURAL GAS

Sec. 704—Co-Firing R&D—Conduct 3-year $30 million program to research, develop, and demonstrate use of natural gas in co-firing applications to produce electricity in NOx, SO2, and particulates from coal. Federal funding should support 50 percent of program.

Sec. 707—Natural Gas Air Conditioning Demonstration—Provide Federal funding to support 25 percent to 75 percent of cost of gas air-conditioning installation or conversion from electric air conditioners to overcome initial start-up cost problem to realize operating cost and environmental benefits.

SUBTITLE B—PROMOTING ADDITIONAL CAPACITY TO TRANSPORT NATURAL GAS TO MARKET

Sec. 705—Incentive Rate-making—Directs FERC to experiment with incentive rate design which achieve the dual objective of allowing pipelines to earn a fair rate of return and simultaneously provide the correct price signals to the marketplace.

Sec. 709—Fair Return—Provides for pipeline rate orders to reflect the useful value of pipeline facilities, rather than depreciated cost. A substantial portion of the interstate pipeline industry was built during the 1960's, 70's, and 80's. Much of this pipe is highly depreciated. Rates designed on the base of these values result in artificially low rates and prevent competitive barriers to new capacity.

Sec. 710—Deregulated Sales Functions—Provides for FERC to consider reclassification of assets off the balance sheet.

Sec. 711—One-Stop Shopping—Provides a limited exemption from antitrust laws and amends Natural Gas Act to allow pipelines to cooperate to post a near-term rate in existing corridors, so that FERC can approve such projects on the basis of an Environmental Impact Statement.

Sec. 717—Tiering of Environmental Review—Directs FERC to prepare new comprehensive environmental for construction in existing corridors, so that FERC can approve such projects on the basis of an Environmental Impact Statement.

Sec. 719—Designate FERC as Lead Agency for NEPA Review—Provides statutory authority for FERC to lead in the preparation and approval of EISs for natural gas facilities.

Sec. 721—Contract Out NEPA Work—Allows FERC to contract out environmental review at the expense of the applicant, as provided for in CEQ guidelines.

SUBTITLE E—STUDIES

Sec. 722—Study of Global Natural Gas Production Trends and Their Impact on the U.S.

Sec. 723—Study of Regulatory Policies—Directs DOE to identify institutional barriers to increased utilization of natural gas, including federal and local regulatory barriers to open access transportation of natural gas.

TITLE VIII—TAX TREATMENT OF ENERGY RESOURCES

SUBTITLE A—ENERGY EFFICIENCY

Sec. 831—Utility Rebates—This section establishes a revenue-neutral system to provide rebates to purchasers of the most efficient energy efficient vehicles and to assess fees on the purchase of less safe and less energy efficient vehicles.

Sec. 841—Removal of Net Income Limitation on Percentage Depletion—Removes the limitation on depletion allowance to no greater than net income. That limit effectively denies percentage depletion on marginal wells, particularly in times of low oil prices.

Sec. 843—Tax Credit for Maintenance Stripper Well Production—Allows a tax credit for a percentage of costs incurred in maintaining production from marginal properties and oil produced from secondary recovery methods.

Sec. 844—Changes in Calculation of Alternative Minimum Tax for New Exploration Expenditures—Changes the calculation of most drilling costs from the Alternative Minimum Tax calculation.

Sec. 845—Repeal of Taxable Income Limit on Percentage Depletion—Allows producers with low incomes to benefit from percentage depletion.

Sec. 846—Reduction of Corporate Income Tax—Changes requirements of tax code now avoided through partnerships, to reduce transaction costs.

Sec. 846—Section 29 Credit Modifications—Amends the Section 29 credit for production of nonconventional fuels (tight sands gas, etc.) to be credited against the Alternative Minimum Tax (which is the income tax alternative most independent oil and gas producers are forced to pay). This section also would make the Section 29 credits permanent.

SIDE-BY-SIDE COMPARISON

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<th>Carbon dioxide reduction goals</th>
<th>Director of Climate Protection</th>
<th>National Energy Strategy</th>
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<td>None</td>
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Establishes HERS
Industrial
Home energy rating systems
Energy
Shared savings
Training of energy efficiency contractors and
Authorizes standards for
Industrial
Increased
Utility
Improve State residential building
Federal vehicle
Fuel cells
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A mandatory
Amends PURPA, states to consider
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Federal laboratory
Tech transfer from state renewable/efficiency research programs

Fair return :
Electric vehicle research research
Deregulated services : allows
Deregulated sales: allows
equip ,
quirement


Increased R&D authorizations
State/local renewable/efficiency projects
Statute from state renewable/efficiency research programs
Federal laboratory tech transfer
Federal transfer pilot program
Computer network for state/local governments
Solar energy development fund
International renewable energy transfer and trade program

CAFE standards
20 percent improvement by 1996
40 percent improvement by 2000

Equivalent fuel joint-ventures for mass transit
Training program
Alternative fuel joint ventures for fleets
Federal R&D program to promote alternative fuels
Federal regulation of alternative fuel sales; keeps FERC from regulating retail
sales of natural gas and promotes PURPA regulations from being triggered by such sales.
State regulation of alternative fuel sales; prohibits regulation of vehicle fuel
sales as a utility activity
Matching funds for State alternative fuel programs
Alternative fuel use in nonroad vehicles
Purchase requirements for fleets
Electric vehicle research and development

Requires minimum percentage of motor fuel sold in United States to be non-
petroleum fuel 10 percent by 1995, up to 25 percent in 2010. Tradable
credits for sale of non-petroleum fuels go to all users of alcohol or other
blending agents, methane, or natural gas, and to manufacturers of
electric vehicles.

Powerplant siting R&D
Natural gas heating and cooling R&D
Incentive program directs FERC to provide flexible ratemaking to pipeline
Retaining requirements: prohibits delay of appeals of FERC rulings beyond 30
days.
Allows pipelines to develop joint rates for multipipeline transportation routes.
Fair return: allows FERC to consider value of used and unused facilities in set-
tting rates.
Deregulated sales: allows FERC to impose rate proposals fair and reasonable if they are in a competitive market.
Deregulated services: allows FERC to impose rate proposals fair and reasonable if they are in a competitive market.
Abandonment policies: pipelines would not be obligated to continue to sell gas
to buyers who do not renew their contracts.
Producer demand charges: allows producers to charge for gas storage
Competitive impact of imports: requires FERC to examine the impact of imports
Designs of imports on domestic producers.

REDS on exploration, development and production technologies for natural gas.

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<tr>
<td>ENERGY EFFICIENCY</td>
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<tr>
<td>RENEWABLE ENERGY PROGRAMS</td>
<td>Same</td>
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<tr>
<td>ALTERNATIVE FUEL VEHICLES</td>
<td>Same</td>
<td>None</td>
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<tr>
<td>TRADEABLE ALTERNATIVE FUELS CREDIT PROGRAM</td>
<td>Same</td>
<td>None</td>
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<tr>
<td>MEASURES TO PROMOTE THE USE OF NATURAL GAS</td>
<td>Same</td>
<td>None</td>
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Specifically prohibits DOE from setting standards for such products.
Mr. WIRTH. Let me explain to my colleagues that the Wirth-Hatfield bill includes not only provisions in the jurisdiction of the Energy Committee, but also various tax provisions. These include incentives for domestic oil and gas production, and incentives for conservation and renewable resources.

For example, if an employer provides his employees with parking, that parking is given as a nontaxable benefit. But if the employer gives to his employees incentives to ride-share or reimburses them to take a bus downtown, those are taxable. That is just the opposite, probably, of what we want to do. We do not want to encourage more driving and parking and less use of mass transit.

So Mr. President, I am introducing the overall bill so everybody could see what the overall fabric is and how it is put together. For purposes of allowing the Energy Committee the opportunity to consider the nontax matters in this bill, I will also introduce a version of this bill which does not have in it title 8 of the overall bill—the tax matters. And to simplify the work of the Finance Committee, I will introduce title 8 an independent bill that goes to the Finance Committee for its consideration.

For anybody who does not know the procedures of the Congress, that issue of jurisdiction is a very important one, and I think will help us to speed the process of consideration of this bill.

It is my hope the Finance Committee will review these energy-related issues and have that opportunity to do so while the Energy Committee is looking at matters in its jurisdiction so that when we get to the floor we will have the opportunity again to wobble all of this back together into the overall national framework that we want to see.

Mr. President, I appreciate having so much time to do this. I thank my colleagues who have cosponsored this bill, and I hope that other Senators will join us after their staffs have the opportunity over the break to review the Wirth-Hatfield bill.

Mr. President, I thank you very much for your consideration and for including all of those documents in the RECORD. I also would like to submit for appropriate referral the overall energy bill and then two companion pieces of my own.
March 21, 1991

CONGRESSIONAL RECORD—SENATE 7253

Sec. 231. Voluntary Standards for Improvement of Industrial Audits and Standards for Industrial Insulation.

Sec. 234. Industrial Reporting Requirements and Voluntary Efficiency Targets.

Sec. 235. Energy Efficiency Information.


Sec. 221. Residential and Commercial Building Energy Efficiency Codes and Standards.

Sec. 222. Residential Energy Efficiency Ratings.

Sec. 223. Manufactured Housing Energy Efficiency Standards and Training.

Sec. 224. Incentives for the Adoption of Commercial Building Standards.


Sec. 227. Training and Certification of Designers and Contractors.

Subtitle D.—Federal Energy Management

Sec. 251. Federal Energy Management Amendments.

Sec. 232. Purchase of Federal Vehicles.


Sec. 234. Demonstration of New Technology.

Sec. 235. Fuel Cells.

Sec. 236. Study of Federal Purchasing Power Incentives.

Subtitle E.—Utility Energy Efficiency


Subtitle F.—Used Oil Energy Production Act of 1991

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Sec. 253. Requirements for Energy Production from Used Oil.

Sec. 254. Listing of Identification of Used Oil.

Sec. 255. Sunset Provision.

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Sec. 262. Findings.

Sec. 263. Requirements to Recycle Scrap Tires.

Subtitle H.—Insular Areas Energy Assistance

Sec. 271. Insular Areas Energy Assistance Program.

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Sec. 301. Renewable Energy Research and Development Programs.

Sec. 302. State and Local Government Assistance.

Sec. 303. Authorizations for Federal Laboratory Technology Transfer.

Sec. 304. Authorizations for Market Acceptance and Innovation.

Sec. 305. Solar Energy Development Fund.


Sec. 307. Utility Purchasing and Exemptions.

Subtitle B.—Amendments to the Committee on Renewable Energy Commerce and Trade (CORRECT)

Sec. 311. Duties of CORRECT.

Sec. 312. Information and Technical Programs.

Sec. 313. Comprehensive Energy Technology Evaluation.

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Sec. 401. Mass Transit Program.

Sec. 402. Natural Gas and Other Alternative Fuel Use in Fleet Vehicles.

Sec. 403. Training Program.

Sec. 404. Vehicle Research, Development and Demonstration Program.

Sec. 405. Federal Programs to Promote Alternative Fuels.


Sec. 407. State Regulation of the Sale of Alternative Fuels.

Sec. 408. Creation of Matching Fund for State Alternative Fuel Offices and Programs.

Sec. 409. Alternative Fuel Use in Non-road Vehicles and Engines.

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Sec. 412. Acquisition of Alternative Fuel Vehicles.

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Sec. 417. Implementation.

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Sec. 811. Limitation on Exclusion from Gross Income for Parking; Allowance for Exclusion for Employer Subsidies for Mass Transit and Van Pooling.

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Sec. 843. Fuel Economy Tax and Rebate Formula.

Sec. 844. Vehicle Safety Tax and Rebate Formula.

Sec. 845. Publications of Tax and Rebate Formula; Duty to Calculate and Display.

Sec. 846. Collection of Taxes and Disbursement of Rebates.

Sec. 847. Sales-Weighted Average Fuel Consumption.

Sec. 848. Composite Safety Factor and Sales-Weighted Average Composite Safety Factor.
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S. 855. Repeal of Taxable Income Limitation on Percentage Depletion

S. 856. Repeal of Revenue Ruling 77-176

S. 858. Modifications of Section 59 Credit.

Title I—Energy Policy Initiatives

Subtitle A. National Energy Strategy

SEC. 101. LEAST-COST ENERGY STRATEGIES.

(a) The first National Energy Policy Plan (the "Plan")...
CONGRESSIONAL RECORD—SENATE

March 21, 1991

7255

congressional record-seanate

system cost is equal to the estimated system cost of the energy resource.

SEC. 102. CONFORMING AMENDMENT.

(a) Section 227c(b) of the National Energy Policy Act of 1990 (42 U.S.C. 7361, et seq.) is hereby repealed.

(b) JOINT VENTURES.—

(1) The Secretary shall in accordance with the procedures set forth in the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (P.L. 101-218)—

(A) conduct a competitive solicitation for proposals from specialized private firms and investors for joint ventures under subsection (a)(2); and

(B) provide financial assistance to at least five joint ventures.

(2) The purpose of the joint ventures shall be to design, test and demonstrate changes to industrial processes that will result in improving energy efficiency and productivity. The joint ventures may also demonstrate other improvements of benefit to such industries as long as demonstration of energy efficiency improvement is a principal objective of the joint venture.

(3) In evaluating proposals for financial assistance and joint ventures under this section, the Secretary shall—

(A) determine whether the research and development activities conducted under this section (i) improve or reduce the generation of industrial or industrial processes, and (ii) reduce the generation of carbon dioxide and other greenhouse gases into the atmosphere; and

(B) determine the regional distribution of the energy-intensive industries and industrial processes.

(c) The Secretary shall issue such standards as are necessary to support the Congress within one year after the date of the enactment of this Act. The report shall contain information on the amount of energy consumed per unit of output, by fuel type, by the reporting corporation. In addition, the report shall contain information based on energy consumption from a representative reference year that will allow the corporation to determine, in its report, any energy efficiency improvements. The report shall be structured to enable a determination of the energy conserva- tion measures that led to the efficiency improvements.

(2) For purposes of the report, major energy consuming industries shall include:

(a) the cement industry;

(b) iron and steel; and

(c) the chemical industry.

(d) REPORT.—The Secretary shall transmit a report setting forth energy efficiency targets and standards for major energy consuming industries specified under subsection (a) and the scope and minimum energy consumption requirements for major energy consuming industries by December 31, 1992.
on energy use in the United States with the objective of significantly improving the ability to evaluate the effectiveness of the National Energy Information Administration's energy efficiency policies and programs. The Administrator shall take into account reporting burdens and the protection of confidentiality of information as required by law. In expanding the collection of such data to meet this objective, the Administrator shall consider:

(1) Increasing the frequency with which the Energy Information Administration conducts end-use energy surveys among household, commercial buildings, and manufacturers;

(2) Expanding the time period for which fuel-use data is collected from individual survey respondents;

(3) Expanding the scope and frequency of data collection on the energy efficiency and load-management programs operated by electric and gas utilities.

(c) The Administrator shall report annually to Congress on the energy efficiency in classes and sectors of the economy and on the data resulting from the requirements of this section.

Subtitle C.—Energy Efficiency in Commercial and Residential Buildings and Other Products

SEC. 221. RESIDENTIAL AND COMMERCIAL BUILDING ENERGY EFFICIENCY CODES AND STANDARDS.

(a) In General.—Title II of the National Energy Conservation Policy Act is amended by adding at the end the following new part:

"PART 6—RESIDENTIAL AND COMMERCIAL BUILDING ENERGY EFFICIENCY CODES AND STANDARDS.


The Secretary is authorized to be appropriated to carry out this part not more than $500,000 for fiscal year 1992, $1,000,000 for fiscal year 1993, and $1,500,000 for fiscal year 1994.


The National Energy Conservation Policy Act (P.L. 96-19) is hereby amended by adding in the table of contents at the end of title II the following item:

"Part 6—Residential and Commercial Building Energy Efficiency Codes and Standards.


(b) Certification of Residential Building Energy Code Updates.—(1) Not later than four years after the date of the enactment of this part, each State or locality shall certify that it has reviewed and updated its residential building code provisions affecting energy efficiency. This certification shall include a demonstration that the State's building energy code provisions meet or exceed the requirements of the then current version of the Council of American Building Officials' Model Energy Code.

"At the end of the three-year period beginning on the date on which a State makes the certification described in paragraph (1), the State shall certify to the Secretary that all of the new residential buildings constructed in the State during such period meet the requirements of the updated building code referred to in such paragraph.

"(c) Certification of Commercial Building Energy Code Updates.—(1) Not later than four years after the date of the enactment of this part, each State or locality shall certify to the Secretary that it has reviewed and updated its commercial building code provisions affecting energy efficiency. This certification shall include a demonstration that the State's code provisions meet or exceed the requirements of the then current version of the Department of Energy's Commercial Building Standards as required under section 306 of the Energy Policy and Conservation Act (P.L. 94-385, as amended).

"(2) At the end of the three-year period beginning on the date on which a State makes the certification described in paragraph (1), the State shall certify to the Secretary that all of the new commercial buildings constructed in the State during such period meet the requirements of the update building code referred to in such paragraph.

"(d) Extensions.—The Secretary shall permit extensions of the deadlines for the certification described in paragraph (b) and (c) if a State can demonstrate that it has made a good faith effort to comply with such requirements and that it has made significant progress in doing so but that it cannot meet the deadlines set forth in such subsections.

"(e) Task Force.—(1) The Secretary shall establish a task force to advise in the development of the program described in subsection (a) and to review the results of such program.

"(f) Task force shall include representatives from the following groups: building construction industry; building scientists; building and systems; the financial community; code officials; State governments; and commercial building owners, operators and managers.

"(g) Authorization.

(1) Amendments to NECPA.—Title II of the National Energy Conservation Policy Act (P.L. 96-19) is hereby amended by adding in the table of contents at the end of title II the following items:

"PART 6—RESIDENTIAL AND COMMERCIAL BUILDING ENERGY EFFICIENCY CODES AND STANDARDS.


The Secretary is authorized to be appropriated to carry out this part not more than $500,000 for fiscal year 1992, $1,000,000 for fiscal year 1993, and $1,500,000 for fiscal year 1994.


The National Energy Conservation Policy Act (P.L. 96-19) is hereby amended by adding in the table of contents at the end of title II the following item:

"Part 6—Residential and Commercial Building Energy Efficiency Codes and Standards.


(b) Certification of Residential Building Energy Code Updates.—(1) Not later than four years after the date of the enactment of this part, each State or locality shall certify that it has reviewed and updated its residential building code provisions affecting energy efficiency. This certification shall include a demonstration that the State's building energy code provisions meet or exceed the requirements of the then current version of the Council of American Building Officials' Model Energy Code.

"At the end of the three-year period beginning on the date on which a State makes the certification described in paragraph (1), the State shall certify to the Secretary that all of the new residential buildings constructed in the State during such period meet the requirements of the updated building code referred to in such paragraph.

"(c) Certification of Commercial Building Energy Code Updates.—(1) Not later than four years after the date of the enactment of this part, each State or locality shall certify to the Secretary that it has reviewed and updated its commercial building code provisions affecting energy efficiency. This certification shall include a demonstration that the State's code provisions meet or exceed the requirements of the then current version of the Department of Energy's Commercial Building Standards as required under section 306 of the Energy Policy and Conservation Act (P.L. 94-385, as amended).

"(2) At the end of the three-year period beginning on the date on which a State makes the certification described in paragraph (1), the State shall certify to the Secretary that all of the new commercial buildings constructed in the State during such period meet the requirements of the update building code referred to in such paragraph.

"(d) Extensions.—The Secretary shall permit extensions of the deadlines for the certification described in paragraph (b) and (c) if a State can demonstrate that it has made a good faith effort to comply with such requirements and that it has made significant progress in doing so but that it cannot meet the deadlines set forth in such subsections.

"(e) Task Force.—(1) The Secretary shall establish a task force to advise in the development of the program described in subsection (a) and to review the results of such program.

"(f) Task force shall include representatives from the following groups: building construction industry; building scientists; building and systems; the financial community; code officials; State governments; and commercial building owners, operators and managers.

"(g) Authorization.

(1) Amendments to NECPA.—Title II of the National Energy Conservation Policy Act (P.L. 96-19) is hereby amended by adding in the table of contents at the end of title II the following items:

"PART 6—RESIDENTIAL AND COMMERCIAL BUILDING ENERGY EFFICIENCY CODES AND STANDARDS.


The Secretary is authorized to be appropriated to carry out this part not more than $500,000 for fiscal year 1992, $1,000,000 for fiscal year 1993, and $1,500,000 for fiscal year 1994.


The National Energy Conservation Policy Act (P.L. 96-19) is hereby amended by adding in the table of contents at the end of title II, the following item:

"Part 6—Residential and Commercial Building Energy Efficiency Codes and Standards.

"Sec. 271. Certification of Residential Building Energy Code Updates.

(b) Certification of Residential Building Energy Code Updates.—(1) Not later than four years after the date of the enactment of this part, each State or locality shall certify that it has reviewed and updated its residential building code provisions affecting energy efficiency. This certification shall include a demonstration that the State's building energy code provisions meet or exceed the requirements of the then current version of the Council of American Building Officials' Model Energy Code.
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(1) striking the phrase “thermal insulation, energy efficiency” in subparagraph (d)(1)(D); and
(2) inserting a new subparagraph (D) as follows:

(3) the amount of energy and cost savings from projects receiving

SEC. 224.—INCENTIVES FOR THE ADOPTION OF COMMERCIAL BUILDING STANDARDS.

(a) CREATION OF THE FUND.—There is hereby

(b) SEC. 225. ENERGY EFFICIENCY LABELING FOR COMMERCIAL BUILDING STANDARDS.

(4) the amount of energy and cost savings anticipated as a result of the project;

(5) the extent to which the Secretary determines that labeling in accordance with

(c) PROGRAM.—Within one year after the date of the enactment of this Act, the Secretary shall establish a voluntary national window rating program, consistent with the objectives of subsection (a), is not established within two years of the date of enactment of this Act, then the Secretary shall, in consultation with the National Institute of Standards and Technology, develop, within one year, a rating program to establish energy efficiency ratings for windows and window systems under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6239).

(d) REQUIREMENTS.—In setting policies and standards for the Energy Conservation and Production Act (42 U.S.C. 6831); and

(2) the Cooperative Research Projects Program.

SEC. 222.—ENERGY EFFICIENCY LABELING FOR COMMERCIAL BUILDING STANDARDS.

(a) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of the enactment of this Act, the Secretary shall consult with the National Fenestration Rating Council, industry representatives, and other appropriate groups to provide a label which meets, and is displayed in accordance with the requirements of such rule.

(b) SELECTION.—Each quarter the Secretary shall select proposals from Government of eligible States for grants to undertake cost-effective energy efficiency improvement projects in buildings owned and operated by such State, or eligible political subdivisions of such State. The Secretary shall select and provide grants to eligible States for the purpose of promoting and supporting energy efficiency projects in State and locally owned buildings.

(c) PROJECT SELECTION.—Each quarter the Secretary shall select proposals from Government of eligible States for grants to undertake cost-effective energy efficiency improvement projects in buildings owned and operated by such State, or eligible political subdivisions of such State. The Secretary shall select and provide grants of up to $1,000,000 for each project based upon the following factors:

(1) the cost-effectiveness of the project;

(2) the extent to which the Secretary determines that labeling in accordance with subsections (a) or (b) of section 332 of the Energy Policy and Conservation Act, a new covered product to which a rule is prescribed for a product under subsection (c), each manufacturer of the product shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

(3) the Cooperative Research Projects Program.

(a) PROGRAM.—Within one year after the date of the enactment of this Act, the Secretary shall consult with the National Institute of Standards and Technology, develop, within one year, a rating program to establish energy efficiency ratings for windows and window systems under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6239).

(b) PROGRAM.—Within one year after the date of the enactment of this Act, the Secretary shall consult with the National Institute of Standards and Technology, develop, within one year, a rating program to establish energy efficiency ratings for windows and window systems under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6239).
Subtitle D—Federal Energy Management


Part 3 of Title V the National Energy Conservation Policy Act (NECPA) (42 U.S.C. 6251 et seq.), as amended, is further amended as follows:

(a) in section 543:

(1) Strike subsection (a) and insert the following:

"(a) ENERGY MANAGEMENT REQUIREMENT FOR FEDERAL BUILDINGS.—(1) Not later than January 1, 2000, each Federal agency shall, to the maximum extent practicable, install in Federal buildings under the control of such agency in the United States, all energy conservation measures with payback periods of less than ten years as calculated using the present value will be selected. Within two years of acquiring the building or the building under this Act, each agency shall submit to the Secretary a list of projects meeting the ten­ year payback criterion, the energy that each Federal building except to meet the re­ quirements of paragraph (1) any Federal agencies, or installations of the Agency as the Secretary may designate in accordance with regulations pre­ scribed by the Secretary of Energy.

(2) The Secretary shall, after January 1, 1994, shall meet model Federal building standards, or to install alternative conservation improve­ ment that realized the savings may des­ ignate in accordance with regulations pre­ scribed by the Secretary of Energy.

(b) in section 544:

(1) and insert in lieu thereof "National Institute of Standards and Tech­ nology,;"

(2) and strike all after the word "each," in paragraph (2) and insert in lieu thereof "agency shall, after January 1, 1994, fully consider the energy efficiency of all poten­ tial Federal facilities operated by the Department of Defense; and"

(d) in section 546, add after the word "measures" the following: "as needed to meet the requirements of section 563;"
in consultation with the Secretary, shall conduct an analysis of significant energy consuming projects in the Federal Supply Schedule and develop and implement a method to identify those products which offer opportunities to reduce energy consumption and costs. The Administrator shall also issue guidelines for users of the Federal Product Schedule to encourage the purchase of identified energy efficient models.

SEC. 555. FEDERAL ENERGY EFFICIENCY PROJECTS FUNDING.

SEC. 224. DEMONSTRATION OF NEW TECHNOLOGY.—(a) Within one year after the date of the enactment of this Act, the Secretary shall establish a program to reward outstanding facility energy managers, which shall include:

(1) a listing of those technologies with specific candidate sites for the demonstration;

(2) the energy and cost savings anticipated to the Federal government;

(3) the amount of funding committed to the project by the agency requesting financial assistance;

(4) the extent that a proposal leverages financing from other non-Federal sources; and

(5) any other factor which the Secretary determines to be relevant to the net present amount of energy and cost savings to the Federal government.

(b) The Secretary shall report annually to Congress in the supporting documents accompanying the President's budget, on the activities under this section. The report shall include:

(1) a listing of the projects funded and the projected energy and cost savings from the projects that have been funded;

(2) the projects that meet the standards for implementation of the National Energy Efficiency Act of 1991;

(3) the amount of funding committed to the project by the agency requesting financial assistance;

(4) the purpose of the joint venture for the demonstration of fuel cell technology in accordance with the program requirements;

(5) the extent to which the demonstration projects are integrated into the Federal Government's energy efficiency and renewable energy program;

(6) the extent to which a proposal leverages financing from other non-Federal sources; and

(7) any other factor which the Secretary determines to be relevant to the net present amount of energy and cost savings to the Federal government.

(c) The Secretary shall report to the Congress on the Federal energy efficiency and renewable energy program requirements; whether Federal agencies are spending the required levels of funding; and the extent to which a proposal leverages financing from other non-Federal sources.

(d) AUTHORIZATION.—For purposes of this subsection, there is authorized to be appropriated into the Fund, and to remain available until expended, not more than $75,000,000 for fiscal year 1992, $25,000,000 for fiscal year 1993, and $20,000,000 for fiscal year 1994.

SEC. 556. FINANCIAL INCENTIVE PROGRAM FOR ENERGY EFFICIENCY IN BUILDINGS.

(a) The Secretary shall establish a financial incentive program to reward outstanding facility energy managers in Federal agencies.

(b) Not later than June 1, 1992, the Secretary shall issue procedures for the bonus program, including the criteria to be used in selecting outstanding energy managers. Such criteria shall include, but not be limited to, evidence of success in generating utility incentives and shared energy savings contracts and in the amount of energy saved by conservation projects.

(c) Each year the Secretary shall publish and disseminate to Federal agencies a report highlighting the achievements of bonus award winners.

(d) There is authorized to be appropriated to carry out this subsection not more than $250,000 for each of the fiscal years 1992, 1993, and 1994.

SEC. 222. PURCHASE OF FEDERAL VEHICLES.—(a) IN GENERAL.—Section 510(a) of the Motor Vehicle Fuel Conservation and Cost Savings Act (15 U.S.C. 6835) is amended by striking "1990", and inserting in lieu thereof "1991".

(b) Not later than January 1, 1996, the Secretary, in consultation with the Task Force, shall submit a report to Congress on the program authorized by this subsection, which shall include information comparing the cost, efficiency, performance and environmental benefits of electric, fuel cell, and hydrogen-powered vehicles, and the extent that the Secretary has identified opportunities for the commercial application of fuel cell systems for the production of electricity by the demonstration of such systems in Federal buildings.

(c) FUEL CELL PROGRAM.—The Secretary, in consultation with the Task Force, shall develop and implement a national fuel cell program that shall include:

(1) a process for evaluation of the potential benefits and cost-effectiveness of the program;

(2) the extent to which a proposal leverages financing from other non-Federal sources; and

(3) any other factor which the Secretary determines to be relevant to the net present amount of energy and cost savings to the Federal government.

(d) AUTHORIZATION.—For purposes of this program, there is authorized to be appropriated a total of $15,000,000 for fiscal years 1992 through 1994.
(a) The rates allowed to be charged by a State-regulated electric utility shall be such that the utility is encouraged to make investments and expenditures for all cost-effective improvements in the energy efficiency and renewable energy programs of the utility, including the purchase or development of more efficient products. The study shall identify target products, including their specifications, and detail potential purchasing contracts or other incentives for the development of these efficient products. The study shall be conducted in consultation with nonprofit organizations concerned with energy conservation, the utility industry, and product manufacturers.

(b) In considering regulatory changes to achieve the objectives of paragraph (a), the Secretary has not yet certified in a report to the Congress pursuant to paragraph (b) as having implemented the substantive changes.

(c) ANNUAL REPORT.-The Power Marketing Administrations shall submit annual reports to the Congress discussing their progress in acquiring energy-efficiency and renewable-energy resources within the region in conjunction with programs conducted by utilities. The costs of such programs shall be assessed through the costs charged to a utility.

(d) REGULATIONS.-Within six months after the date of the enactment of this Act, the Power Marketing Administrations shall amend their existing regulations to reflect the provisions of subsection (a).

(2) Tennessee Valley Authority Least Cost Planning and Implementation.- (1) The Tennessee Valley Authority shall employ a planning and selection process for new energy resources that evaluates the full range of existing and incremental resources, including new power supplies, energy conservation and efficiency, and renewable energy resources, in order to meet expected future demands at the lowest possible cost to society. The process shall take into account necessary systems for system operation, such as diversity, reliability, dispatchability, and other factors of risk, and shall treat demand and supply resources on a consistent and integrated basis.

(2) All plans or filings before a commission to meet the requirements of subsection (a)(1) must be updated on a regular basis, must provide the opportunity for public participation, and contain a requirement that the plan be implemented to the maximum extent possible after commission approval.

The rates allowed to be charged by a State-regulated utility shall be such that the utility's investments in and expenditures for energy conservation, energy efficiency resources, and other demand-side management programs are at least as profitable, including compensation for income lost from sales lost due to investments in conservation or efficiency, as its investments in and expenditures for the construction of new generating equipment or the acquisition of other new supply-side resources.

(5) Consideration of the External Costs of Resources.- (a) The full cost of an energy resource shall include all direct and quantifiable costs of the resource over its available life, including the costs of production, use, and retirement, waste management, environmental degradation, compliance with environmental laws, and in the case of imported resources, maintenance of access to foreign sources.

(b) Encouragement of Energy Efficiency Improvements in Power Generation and Supply.- (1) The rates allowed to be charged by a State-regulated electric utility shall be such that the utility is encouraged to make investments and expenditures for all cost-effective improvements in the energy efficiency and renewable energy programs of the utility.

(b) In considering regulatory changes to achieve the objectives of paragraph (a), the Secretary shall require state-regulated electric utilities to consider cost-effective improvements in the energy efficiency and renewable energy programs of the utility.

The report shall detail the changes in State regulations made as a result of this section, including the reasons for the failure to make changes in regulations or procedures. In the report, the Secretary shall make a finding and certify which States have implemented the substantive changes required to be considered in paragraphs (7) and (b).

(3) Each long-term firm power contract between a State-regulated electric utility and another entity, whether or not the contract is a qualifying facility and is subject to a rate adjustment clause, shall be included in the report submitted to the Congress pursuant to paragraph (b) as having implemented the substantive changes.

The report shall include an analysis of the direct economic costs and benefits of such actions as well as their environmental effects; and
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(C) provides for review and modification of the programs not less than once every three years.

(4) The Tennessee Valley Authority, using revenues collected from customer utilities through metering and billing systems, shall provide technical assistance to, and oversight of, these customer utility programs. Technical assistance may include publications, workshops, conferences, one-on-one assistance, equipment loans, technology-assessment studies, marketing studies, and other mechanisms to transfer information on energy-efficiency and renewable-energy opportunities and programs to customer utilities. In addition, the Tennessee Valley Authority shall, in cooperation with the customer utilities, establish a data collection and analysis system to monitor the benefits and costs of these new resources. Finally, the Tennessee Valley Authority shall consider provisions of financial incentives to purchase the outputs from energy-efficiency programs and renewable-energy projects undertaken by customer utilities. Such financial incentives may include billing credits and provisions of non-firm power.

(5) The Tennessee Valley Authority shall implement the following directly to promote cost-effective conservation and renewable energy resources in the region in conjunction with programs conducted by utilities. The cost of such programs shall be recovered through the cost charged to a utility.

SEC. 343. FEDERAL ENERGY REGULATORY COMMISSION—ENRICHMENT OF ENERGY EFFICIENCY PROGRAM.

The Federal Energy Regulatory Commission (hereafter, the "Commission"), in consultation with the Secretary, shall develop an office of energy efficiency to coordinate the Commission's activities on energy conservation and efficiency.

The Commission shall establish procedures that would allow expedited review of any interstate power sales conducted by utilities. The cost of such programs shall be recovered through the cost charged to a utility. This subsection and the regulations promulgated hereunder shall not apply to a facility:

(i) producers or importers of lubricating oil;

(ii) generators or collectors of used oil;

(iii) a system, including permits, by which refiners, re-refiners and reprocers of used oil may create credits which may be purchased by producers and importers of lubricating oil for the percentage applicable during the first year that the requirement established by paragraph (i) is in effect, shall be a percentage that is equal to the reuse rate for any other oil that exists on the date of the enactment of the Used Oil Energy Production Act of 1991. Such rate shall be determined by using data for the most recent year for which data are available. Through the year 2000, the percentage shall be an additional two percentage points higher than the actual percentage for the previous year as determined by the Secretary.

(b) REGULATIONS.

(A) In General.—Not later than 18 months after the date of enactment of this subsection, the Commission shall promulgate regulations to implement these requirements. These regulations shall cover:

(i) producers or importers of lubricating oil;

(ii) generators or collectors of used oil;

(iii) a system, including permits, by which refiners, re-refiners and reprocers of used oil may create credits which may be purchased by producers and importers of lubricating oil for the percentage applicable during the first year that the requirement established by paragraph (i) is in effect, shall be a percentage that is equal to the reuse rate for any other oil that exists on the date of the enactment of the Used Oil Energy Production Act of 1991. Such rate shall be determined by using data for the most recent year for which data are available. Through the year 2000, the percentage shall be an additional two percentage points higher than the actual percentage for the previous year as determined by the Secretary.

(iv) enforcement;

(v) record-keeping;

(vi) exemptions.

(B) Definition.—For purposes of this subsection, the term:...

SEC. 344. REQUIREMENTS FOR ENERGY PRODUCTION FROM USED OIL.

Section 383 of the Energy Policy and Conservation Act (42 U.S.C. 6933) is amended—

(i) in subsection (c) by—

(1) striking "As soon as practicable after the date of enactment of this Act" and inserting "Not less than 15 months after the date of enactment of the Used Oil Energy Production Act of 1991"; and

(2) striking "National Bureau of Standards" each place it appears and inserting "National Institute of Standards and Technology";

(B) by adding at the end thereof the following new subsection:

MARKET INCENTIVES FOR THE REUSE OF USED OIL.

(1) REQUIREMENTS.—(A) Beginning not later than 18 months after the date of enactment of this subsection, a producer, processor, importer, or reclaimer of 100,000 gallons or more per year of lubricating oil shall each year either refine, re-refine, or reprocess into petroleum products, including fuels, using a method described in subparagraph (B), an amount of oil equal to at least that amount of oil determined by—

(i) multiplying the lubricating oil produced or imported that year by such person, by

(ii) the percentage established by the Secretary under paragraph (2).

(B) The amount of lubricating oil may comply with this paragraph by—

(i) re-refining, re-refining, or reprocessing used oil for purposes of producing petroleum products, including fuels; or

(ii) purchasing credits under the credit system established pursuant to paragraph (3).

(2) ESTABLISHMENT OF REUSE PERCENTAGE.—The Secretary shall establish, on an annual basis, a percentage for use under subparagraph (B). The percentage applicable during the first year that the requirement established by paragraph (i) is in effect, shall be a percentage that is equal to the reuse rate for any other oil that exists on the date of the enactment of the Used Oil Energy Production Act of 1991. Such rate shall be determined by using data for the most recent year for which data are available. Through the year 2000, the percentage shall be an additional two percentage points higher than the actual percentage for the previous year as determined by the Secretary.

SEC. 345. LIMITING OR IDENTIFICATION OF USED OIL.

Section 301 of the Solid Waste Disposal Act is amended by adding at the end thereof the following new subsection:

(T) U.S.—Notwithstanding any other provision of law, the Administrator shall not list or identify used oil as a hazardous waste under this subtitle, nor shall used oil otherwise be deemed to be a hazardous waste under this subtitle.

SEC. 355. SUNSET PROVISION.

The authority of this Act expires five years after the date of enactment of the National Energy Policy and Development Act of 1991.

Subtitle G.—Tire Recycling Incentives

SEC. 361. SHORT TITLE.

This subtitle may be called the "Tire Recycling Incentives Act".
(1) The generation of solid and hazardous waste has grown to alarming proportions in the United States, with per capita disposal having increased by 80 percent from 1960 to 1989. Each person in the United States today generates 1.6 tons of garbage a year, which is the equivalent of half-way to the moon or roughly 7 times around the Equator.

(2) Frequently, economic incentives are not sufficient to encourage waste minimization and responsible environmental behavior, and such incentives actually may favor increased waste generation and improper behavior.

(3) A system of economic incentives targeted at waste reduction and recycling to achieve a balance between the costs of regulation and the benefits of improved environmental behavior is needed. Such programs are already creating economic incentives to encourage greater recycling of scrap tires. Americans generate more than 250 million scrap tires annually. Scrap tires are stacked one on top of another, which would be 96,000 Empire State Buildings. Less than 30 percent of the currently generated scrap tires are recycled. Currently 2½ to 3 billion scrap tires are stockpiled across America and these scrap tire dumps grow larger every year. Such stockpiling is, itself, a potential health concern.

(4) While worn-out tire casings currently represent only 1.2 percent of the solid waste stream, scrap tires present a special disposal/ re-use problem because of their size, shape, and physical/chemical nature.

(5) Scrap tires, when disposed of whole in a landfill, have a unique tendency to rise back to the surface, thus disrupting the landfill cap and allowing water to infiltrate the landfill.

(6) Of the more than 250 million scrap tires generated annually in the United States each year, 85.4 percent are landfill, stockpiled, or illegally dumped.

(7) The whole scrap tires which are stockpiled represent not only a waste of resources but also a health hazard because they serve as an ideal breeding ground for mosquitoes.

(8) According to the Environmental Protection Agency, mosquito borne diseases, like encephalitis and yellow fever, as a result of stockpiled tires, cost an estimated $5,400,000 a year.

(9) Further, fire hazards as a result of fire stockpiles are both severe and wide-ranging. Such scrap tire fires frequently result in air, surface, and ground water pollution. The major problem of a scrap tire fire hazard is the difficulty in extinguishing the fire due to the fact that 75 percent of tire space is void. This void space makes it difficult to put out fires or quench the oxygen supply.

(10) In addition to the difficulty in putting out tire fires, such fires represent a potential health and environmental risk in the form of both liquid and gaseous emissions from the tires. Burning tires emit solvents and polynuclear aromatic hydrocarbons (PAHs) which are mutagens and carcinogens. The tires also melt while burning, releasing both sooty smoke and oily liquids. The water used to extinguish the fire mobilizes these chemicals into the surface and ground water a recycling system.

(11) Estimated direct annual expenditures for extinguishing tire fires are greater than $2,000,000. One tire fire alone, in Winchester, Virginia, cost over $5,000,000 for control and containment. These estimates say nothing of the additional costs that must ultimately be paid for.

(12) In addition to generating the environmental and health hazards associated with tire piles is to minimize and ultimately eliminate the stockpiling of tires.

(13) Waste tire burning exists to significantly reduce tire stockpiles, scrap tires are underutilized because of adverse economics. It is simply cheaper to throw them away than to recycle. Until economic forces are reversed, tire stockpiling will be the option of choice. Producers and importers of tires may modify their tires into commerce and therefore need to assure that such tires are ultimately managed in a responsible fashion.

SEC. 406. REQUIREMENTS TO RECYCLE SCRAP TIRES.

(a) IN GENERAL.—(1) Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is amended by adding at the end the following new sections:

(14) While adequate technology exists to recycle tires, piled one on top of another, stockpiled tires, cost an estimated $5,400,000 a year.

(15) A producer or importer of tires shall keep records of the quantity of tires produced or imported, the recycling of such tires, or such other means as may be identified by the Administrator. The amount of recycling credit that may be created for one scrap tire handled at a scrap tire recycling facility is as follows:

(i) One-fourth of a credit for one tire burned after shredding.

(ii) Three-fourths of a credit for one tire burned in an approved manner. The recycling credit system.

(16) A producer or importer of tires may purchase recycling credits from such recyclers, for purposes of producing new tires or by retreading, reusing scrap tires through retreading, or crumbling of the whole tire, an additional recycling credit that may be created for one scrap tire handled at a scrap tire recycling facility is as follows:

(17) Methods of reuse may include recovering rubber from the tire to be burned in an approved manner. Reusing scrap tires through retreading, utilizing rubber crumbs made from scrap tires in an asphalt road paving mix, recycling such tires, or such other means as may be identified by the Administrator. The amount of recycling credit that may be created for one scrap tire burned in an approved manner.

(18) Methods of reuse may include recovering rubber from the tire to be burned in an approved manner. Reusing scrap tires through retreading, utilizing rubber crumbs made from scrap tires in an asphalt road paving mix, recycling such tires, or such other means as may be identified by the Administrator. The amount of recycling credit that may be created for one scrap tire burned in an approved manner.

(19) Methods of reuse may include recovering rubber from the tire to be burned in an approved manner. Reusing scrap tires through retreading, utilizing rubber crumbs made from scrap tires in an asphalt road paving mix, recycling such tires, or such other means as may be identified by the Administrator. The amount of recycling credit that may be created for one scrap tire burned in an approved manner.

(20) Methods of reuse may include recovering rubber from the tire to be burned in an approved manner. Reusing scrap tires through retreading, utilizing rubber crumbs made from scrap tires in an asphalt road paving mix, recycling such tires, or such other means as may be identified by the Administrator. The amount of recycling credit that may be created for one scrap tire burned in an approved manner.

(21) Methods of reuse may include recovering rubber from the tire to be burned in an approved manner. Reusing scrap tires through retreading, utilizing rubber crumbs made from scrap tires in an asphalt road paving mix, recycling such tires, or such other means as may be identified by the Administrator. The amount of recycling credit that may be created for one scrap tire burned in an approved manner.

(22) Methods of reuse may include recovering rubber from the tire to be burned in an approved manner. Reusing scrap tires through retreading, utilizing rubber crumbs made from scrap tires in an asphalt road paving mix, recycling such tires, or such other means as may be identified by the Administrator. The amount of recycling credit that may be created for one scrap tire burned in an approved manner.

(23) Methods of reuse may include recovering rubber from the tire to be burned in an approved manner. Reusing scrap tires through retreading, utilizing rubber crumbs made from scrap tires in an asphalt road paving mix, recycling such tires, or such other means as may be identified by the Administrator. The amount of recycling credit that may be created for one scrap tire burned in an approved manner.

(24) Methods of reuse may include recovering rubber from the tire to be burned in an approved manner. Reusing scrap tires through retreading, utilizing rubber crumbs made from scrap tires in an asphalt road paving mix, recycling such tires, or such other means as may be identified by the Administrator. The amount of recycling credit that may be created for one scrap tire burned in an approved manner.

(25) Methods of reuse may include recovering rubber from the tire to be burned in an approved manner. Reusing scrap tires through retreading, utilizing rubber crumbs made from scrap tires in an asphalt road paving mix, recycling such tires, or such other means as may be identified by the Administrator. The amount of recycling credit that may be created for one scrap tire burned in an approved manner.

(26) Methods of reuse may include recovering rubber from the tire to be burned in an approved manner. Reusing scrap tires through retreading, utilizing rubber crumbs made from scrap tires in an asphalt road paving mix, recycling such tires, or such other means as may be identified by the Administrator. The amount of recycling credit that may be created for one scrap tire burned in an approved manner.
dates of the purchases, the price paid for the credits, and the amount. If any, of recycling credits sold or carried over from previous years. The Administrator shall allow for a two-year carryover of credits.

"(3) The Administrator may include such other requirements in the regulations under paragraph (2) with respect to qualifications for recyclers, importers, and producers, methods for auditing compliance with the system, and enforcement of the system as the Administrator considers necessary or appropriate for administering the recycling credit system established under this subsection.

"(d) REPORTS.—(1) Not later than six years after the date of enactment of the Tire Recycling Incentives Act, the Administrator shall submit to Congress an interim report on the establishment of the system, and enforcement of the system as required under subsection (c). The Administrator shall include in such report such recommendations on whether, and at what time, the determination shall be made, and the report submitted to Congress a report on such determination.

"(2) Not later than 10 years after such determination, the Administrator shall submit to Congress a final report on the implementation of this section. The report shall include an updated version of the discussion and evaluation required in the interim report, and shall discuss the extent of the tire recycling industry and shall submit to Congress a report on such determination. With respect to any calendar year occurring after the system is established, the determination shall be made, and the report submitted to Congress, not later than 6 months after completion of an audit of compliance with paragraph (1) during that calendar year, or 6 months after the end of that calendar year, whichever is later. The Administrator shall submit to Congress a report with such recommendations for remedying any potential effects of the credit system, including effects that may be violations of the Shererman Act or the Clayton Act.

"(e) REGULATIONS.—The Administrator shall promulgate regulations to implement this section not later than 18 months after the date of the enactment of the Tire Recycling Incentives Act. If the Administrator fails to promulgate such regulations by that date, the Secretary shall consider subsection under subsection (b) shall be 60 percent until such time as the regulations are promulgated and shall apply retroactively for each year the regulations were not promulgated.

"(f) CIVIL PENALTY.—(1) Whoever violates this section shall be liable to the United States for a civil penalty in an amount not to exceed $250,000 for each violation. Each such civil penalty shall be assessed by the Administrator during that calendar year, or 6 months after the end of that calendar year, whichever is later. The Administrator shall submit to Congress a report with such recommendations for remedying any potential effects of the credit system, including effects that may be violations of the Shererman Act or the Clayton Act.

"(2) After the order for payment and assessment was issued or the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (1) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States in accordance with this section, or after a court in an action brought under this section has entered a final judgment in favor of the Administrator.

"(g) RELATIONSHIP TO OTHER LAW.—The creation of the credit system for purposes of sections 142(a)(6) of the Internal Revenue Code of 1986 (26 U.S.C. 142(a)(6)), a scrap tire recycling or disposal facility shall be considered to be a solid waste disposal facility.

"SEC. 4012. MANAGEMENT STANDARDS FOR SCRAP TIRES AND SCRAP TIRE COLLECTION AND RECYCLING FACILITIES.

"(a) GENERAL REQUIREMENTS.—(1) Not later than 2 years after the date of enactment of the Tire Recycling Incentives Act, the Administrator shall set and enforce such standards for the purposes of minimizing potential health and environmental damages from the improper storage and disposal of tires, as necessary for the purposes of eliminating such standards in implementing and enforcing this section. At a minimum, such standards shall provide for: (A) the establishment and enforcement of emission standards for tire recyclers; (B) the implementation of emission standards for tire processors; (C) the establishment and enforcement of emission standards for tire processors; (D) the implementation of emission standards for tire processors; (E) the establishment and enforcement of emission standards for tire processors; (F) the implementation of emission standards for tire processors; (G) the establishment and enforcement of emission standards for tire processors; (H) the implementation of emission standards for tire processors; (I) the establishment and enforcement of emission standards for tire processors; (J) the implementation of emission standards for tire processors; (K) the establishment and enforcement of emission standards for tire processors; (L) the implementation of emission standards for tire processors; (M) the establishment and enforcement of emission standards for tire processors; (N) the implementation of emission standards for tire processors; (O) the establishment and enforcement of emission standards for tire processors; (P) the implementation of emission standards for tire processors; (Q) the establishment and enforcement of emission standards for tire processors; (R) the implementation of emission standards for tire processors; (S) the establishment and enforcement of emission standards for tire processors; (T) the implementation of emission standards for tire processors; (U) the establishment and enforcement of emission standards for tire processors; (V) the implementation of emission standards for tire processors; (W) the establishment and enforcement of emission standards for tire processors; (X) the implementation of emission standards for tire processors; (Y) the establishment and enforcement of emission standards for tire processors; (Z) the implementation of emission standards for tire processors.

"(2) The Administrator shall publish in the Federal Register a set of minimum requirements, together with a model program for the purposes of use by States implementing this section and establishing such standards in implementing and enforcing this section. Such minimum requirements and model program shall include provisions for: (A) the establishment and enforcement of emission standards for tire recyclers; (B) the implementation of emission standards for tire processors; (C) the establishment and enforcement of emission standards for tire processors; (D) the implementation of emission standards for tire processors; (E) the establishment and enforcement of emission standards for tire processors; (F) the implementation of emission standards for tire processors; (G) the establishment and enforcement of emission standards for tire processors; (H) the implementation of emission standards for tire processors; (I) the establishment and enforcement of emission standards for tire processors; (J) the implementation of emission standards for tire processors; (K) the establishment and enforcement of emission standards for tire processors; (L) the implementation of emission standards for tire processors; (M) the establishment and enforcement of emission standards for tire processors; (N) the implementation of emission standards for tire processors; (O) the establishment and enforcement of emission standards for tire processors; (P) the implementation of emission standards for tire processors; (Q) the establishment and enforcement of emission standards for tire processors; (R) the implementation of emission standards for tire processors; (S) the establishment and enforcement of emission standards for tire processors; (T) the implementation of emission standards for tire processors; (U) the establishment and enforcement of emission standards for tire processors; (V) the implementation of emission standards for tire processors; (W) the establishment and enforcement of emission standards for tire processors; (X) the implementation of emission standards for tire processors; (Y) the establishment and enforcement of emission standards for tire processors; (Z) the implementation of emission standards for tire processors.

"(3) After the date of enactment of the Tire Recycling Incentives Act, the Administrator shall establish and enforce such standards and requirements, together with a model program, as necessary for the purposes of minimizing potential health and environmental damages from the improper storage and disposal of tires, as necessary for the purposes of eliminating such standards in implementing and enforcing this section. At a minimum, such standards shall provide for: (A) the establishment and enforcement of emission standards for tire recyclers; (B) the implementation of emission standards for tire processors; (C) the establishment and enforcement of emission standards for tire processors; (D) the implementation of emission standards for tire processors; (E) the establishment and enforcement of emission standards for tire processors; (F) the implementation of emission standards for tire processors; (G) the establishment and enforcement of emission standards for tire processors; (H) the implementation of emission standards for tire processors; (I) the establishment and enforcement of emission standards for tire processors; (J) the implementation of emission standards for tire processors; (K) the establishment and enforcement of emission standards for tire processors; (L) the implementation of emission standards for tire processors; (M) the establishment and enforcement of emission standards for tire processors; (N) the implementation of emission standards for tire processors; (O) the establishment and enforcement of emission standards for tire processors; (P) the implementation of emission standards for tire processors; (Q) the establishment and enforcement of emission standards for tire processors; (R) the implementation of emission standards for tire processors; (S) the establishment and enforcement of emission standards for tire processors; (T) the implementation of emission standards for tire processors; (U) the establishment and enforcement of emission standards for tire processors; (V) the implementation of emission standards for tire processors; (W) the establishment and enforcement of emission standards for tire processors; (X) the implementation of emission standards for tire processors; (Y) the establishment and enforcement of emission standards for tire processors; (Z) the implementation of emission standards for tire processors.
centives Act, the Administrator shall promulgate regulations to ban the intentional infliction of damage on tire casings that is done to preclude a tire casing from being stored, used, or disposed of without being collected, transported, and ultimately destroyed.

The ban shall apply to importers and operators of tire sale and installation facilities, and transporters covered by

A list of names and numbers of persons to be contacted in the event of a fire, flood, or other emergency involving the tire facility.

A list of the emergency response equipment present at the facility, its location, and how it should be used in the event of an emergency involving the tire facility.

A description of the procedures that should be followed in the event of a fire at the facility, including procedures to contain the fire and such other areas where water resources are critical, such as wetlands, shorelines, and flood plains.

The procedures in the emergency preparedness manual shall be followed in the event of an emergency at the facility. The emergency preparedness manual shall be updated once a year, upon changes in operations at the facility, or if required by the State.

The owner or operator of a scrap tire collection facility shall immediately notify the State in the event of a fire or other emergency at the facility with potential off-site impacts. Within 2 weeks of any emergency involving potential off-site impact, the owner or operator shall submit to the State a report on the emergency. This report shall set forth the origins of the emergency, the actions that were taken to deal with the emergency, the results of the actions that were taken, and an analysis of the success or failure of the actions.

The owner or operator of a scrap tire collection facility shall immediately notify the State in the event of a fire or other emergency at the facility. The emergency preparedness manual shall be updated once a year, upon changes in operations at the facility, or if required by the State.

The procedures in the emergency preparedness manual shall be followed in the event of an emergency at the facility. The emergency preparedness manual shall be updated once a year, upon changes in operations at the facility, or if required by the State.

The owner or operator of a scrap tire collection facility shall immediately notify the State in the event of an emergency at the facility. The emergency preparedness manual shall be updated once a year, upon changes in operations at the facility, or if required by the State.
vehicles as its main activity, if no more than 1,500 unmounted scrap tires are kept on the business premises in any month.

(D) A permitted sanitary landfill that stores more than 10,000 scrap tires at the landfill site.

(E) A person using scrap tires on an agricultural site for legitimate agricultural purposes for a landfill site.

(F) A person who has entered into a scrap tire facility cleanup agreement and is doing work under that agreement.

(4) SCRAP TIRE RECYCLING FACILITIES.—The Administrator shall promulgate regulations for the State to use to issue permits to operate such facilities and shall include such recordkeeping requirements as are necessary to implement this section and section 4011.

(e) FEDERAL RESPONSIBILITY.—

(1) REMEDIATION OF TIRE PILES ON PUBLIC LAND.—The Secretary of the Interior, together with the heads of all Federal departments and agencies with responsibilities for public lands, shall determine the extent of scrap tire piles on such lands or installations and shall develop and implement a plan within 18 months after the date of enactment of the Tire Recycling Incentives Act to remediate such tire piles. The requirements developed in such plan shall also apply to the National Railroad Passenger Corporation.

(2) PROCUREMENT GUIDELINE.—(A) The Administrator, in consultation with the Secretary of Energy, the Secretary of Defense, the Secretary of Transportation, the Administrator of the Federal Highway Administration, and the Administrator of General Services, and shall develop a procurement guideline for procuring items that make use of rubber from scrap or used tires, including asphalt made from crumb rubber from scrap tires, recycled tires, and tires made utilizing crumb rubber from scrap tires.

(B) Such procurement guideline shall require that, in the procurement of such items, the heads of the Federal departments covered by the guideline shall procure such an item if the item is available at the lowest overall cost. Such items shall be procured at a lower cost as alternative items made from recycled rubber other than rubber from scrap or used tires. The cost of such an item shall be determined in accordance with the standards developed by the National Institute for Standards and Technology under paragraph (3).

(C) If the Administrator fails to issue the procurement guideline within 24 months after the date of enactment of the Tire Recycling Incentives Act, then the head of each Federal department shall procure items containing 70 percent or more of postconsumer scrap rubber from scrap tires if such postconsumer scrap rubber is reasonably available within a reasonable period of time at a reasonable price and meets reasonable performance standards of the department.

(f) COST STANDARDS.—The Secretary of Commerce, acting through the Director of the National Institute of Standards and Technology, shall develop and publish standards for the life-cycle costs and benefits of scrap tires made from crumb rubber from scrap tires, tires made utilizing crumb rubber from scrap tires, and other items that make use of scrap or used tires, as compared with items that make use of rubber or other than scrap or used tires. The standards shall be used by Federal departments covered by the procurement guideline developed under paragraph (2) and by States in the portion of the procurement requirements under this section. The standards under this paragraph shall be developed in consultation with the Secretary of Transportation not later than 18 months after the date of enactment of the Tire Recycling Incentives Act.

(g) DETERMINATIONS BY SECRETARY OF TRANSPORTATION.—The Secretary of Transportation, in consultation with the Administrator and through the use of data available from the Environmental Protection Agency, the Department of Transportation, and States, shall determine each of the following:

(i) Whether there are any direct worker environmental health effects relating to asphalt, made from crumb rubber from scrap tires, and what those health effects are.

(ii) The recyclability of asphalt road surfaces made from crumb rubber from scrap tires.

(iii) The estimated life of existing asphalt road surfaces made from crumb rubber from scrap tires.

(iv) Not later than 6 months after the date of the enactment of the Tire Recycling Incentives Act, the Secretary shall submit to Congress a report on the determinations.

(h) IMPORTER.—The term "importer" with respect to tires means any person who imports tires, either wholly or in part, for resale or as part of an automobile or other vehicle.

(i) SCRAP TIRE COLLECTION FACILITY.—The term "scrap tire collection facility" means any facility or entity that voluntarily or involuntarily collects, stores, or otherwise accumulates scrap tires in amounts in tires of 1,000 tires a year, including an auto parts retailer or municipality.

(j) The term "recycler" means with respect to tires the owner or operator of a tire recycling facility who has a permit under section 4012.

(50) The term "recycling credit" means with respect to tires a legal record of a recycling activity undertaken in accordance with this section that represents scrap tires recycled by the owner or operator of the recycling facility in complying with that section and section 4011.

(k) The term "tire sale and installation facility" means a person that sells or installs more than 1,000 tires for operation on the highways of the United States.

(l) The term "tire-derived product" means a product made from the usable materials produced from the chemical or physical processing of a scrap tire. Such term does not include ash from burning a scrap tire.

(m) The term "tire-derived fuel" means tires used to produce heat in an energy recovery combustion device designed to burn fossil fuels (including coal, oil, and natural gas), regardless of the size or shape of the tire upon entering the combustion device.

(n) The term "tire-derived fuel" means tires that are composed of shredded tires from which 50 percent of the metal has been removed.

(o) The term "abatement increment" means the amount of the tire sale and installation facility which is not exempt under sections 4011 and 4012 and may be used to comply with sections 4011 and 4012.

(p) Any tire sale or installation facility which is not exempt under sections 4011 and 4012 may be used to comply with sections 4011 and 4012.

(q) Any landfill which is found to knowingly violate the prohibition on tires in landfills shall be subject to fines of $1,000 per day for each violation.

(r) The term "scrap tire collection facility" means a person who has entered into a consent agreement with the owner or operator of any scrap tire facility and conducting the cleanup and collecting the abatement costs through the United States Claims Court. A court may not issue an abatement order if the owner or operator of such a facility shows justifiable cause for refusing to enter into a consent agreement. States are also authorized to levy fines of $1,000 per day on scrap tire facilities not complying with sections 4011 and 4012. Notwithstanding any other provision of law, in the case of an abandoned scrap tire collection facility, the State or a county government may seize the property, perform the cleanup, and dispose of the property.

(s) Any landfill which is found to knowingly violate the prohibition on tires in landfills shall be subject to fines of $1,000 per day for each violation.
TITLE III—MEASURES TO PROMOTE THE USE OF RENEWABLE ENERGY
Subtitle A.—Renewable Energy Technology Transfer
SEC. 301. RENEWABLE ENERGY RESEARCH AND DEVELOPMENT PROGRAMS.
Section 4 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act (P.L. 100–684) is amended by striking all after the (c)(1) and inserting in lieu thereof the following:

(a) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection.

Subtitle B.—Insular Areas Energy Assistance
SEC. 271. INSULAR AREAS ENERGY ASSISTANCE PROGRAM.
(a) FINANCIAL ASSISTANCE.—(1) The Secretary, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5961, et seq.), may grant financial assistance to Insular area governments for the purpose of carrying out this subsection to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the relative dependence of the Insular area on imported fuels and promote development in the Insular area.

(b) Any applicant for financial assistance under this subsection must evidence coordination and cooperation with, and support from, the affected local energy institutions.

(c) In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider:

(1) whether the measure will reduce the relative dependence of the Insular area on imported fuels;

(2) the ease and costs of operation and maintenance of any facilities contemplated as a part of the project;

(D) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the 1982 Territorial Energy Assessment or are identified by the Secretary as being of potential value to the Insular area and that may determine to be relevant to a particular project.

(2) The Secretary shall require that at least 20 percent of the costs of any project under this section be provided from non-Federal sources. Such cost sharing may be in the form of inkind services, donated equipment, or any combination thereof.

(b) DEFINITIONS.—For the purpose of this section, the term—


"Energy Conservation Audits and New Renewable Energy Technologies Research and Development Act of 1982" means the act approved April 1, 1982 (96 Stat. 1149); and

(c) AUTHORIZATION.—There is hereby authorized to be appropriated for each fiscal year $500,000 to carry out the purposes of this section.

SEC. 302. STATE AND LOCAL GOVERNMENT ASSISTANCE.
(a) STATE CONSERVATION PROGRAMS.—There are authorized to be appropriated for each fiscal year $100,000,000 for purposes of—

(1) renewable energy and energy efficiency research and development programs in existence on March 21, 1991, that have export potential, such as solar desalination, hydrogen electrolysis, water pumping and water purification.

(2) grants to State, local, and tribal governments for the purposes of—

(A) renewable energy and energy efficiency research and development:

(B) renewable energy and energy efficiency technology transfer programs in existence on March 21, 1991; and

(C) any other programs or activities that have export potential.

(3) There are authorized to be appropriated such sums as may be necessary—

(1) to establish at least ten photovoltaic demonstration projects, each project capable of supplying at least ten megawatts in size to supply electric power to a grid grid.

(4) The Secretary shall—

(1) by amending paragraph (A) to read as follows:

(A) "alternative power production facility" means a facility which—

(II) is an "eligible solar, wind, waste, biomass, hydropower, or geothermal facility";

(II) produces electric energy solely by the use, as a primary energy source, of biomass, waste, renewable resources, geothermal resources, or any of those energy sources; and

(3) has the power production capacity which, together with any other facilities located at the same site as determined by the Commission, is not greater than 30 megawatts; and

(2) in paragraph (B)—

(A) by striking "biomas, hydropower, after "waste"each time it appears; and

(B) by striking "and" which would otherwise not qualify and all that follows in such subparagraph down to but not including the period; and

(3) in paragraph (F)—

(A) by inserting "biomass, hydropower, after "waste" each time it appears; and

(B) by striking "and" which would otherwise not qualify and all that follows in such subparagraph down to but not including the period; and

(3) $2,250,000 for fiscal year 1994.

(2) STRATEGIC TECHNOLOGY TRANSFER IMPLEMENTATION PLAN.—Within six months after the date of the enactment of this Act, the Secretary, in cooperation with appropriate State governments and representatives from the renewable energy and energy efficiency industries, shall develop a Strategic Technology Transfer Plan for the national and international transfer of renewable energy and energy efficiency technology based on the needs of the market.

SEC. 394. AUTHORIZATIONS FOR PUBLIC ACHTANCE AND INNOVATION.
(a) RESEARCH AND DEVELOPMENT INFORMATION CENTER—There are authorized to be appropriated such sums as may be necessary to establish a research and development information computer network to provide technical and commercial information to consumers and businesses with information on advances in renewable energy technology and develop applications that have export potential, including, but not limited to, solar desalination, solar desalination, hydrogen electrolysis, water pumping and water purification.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 306. AMENDMENTS TO THE FEDERAL POWER ACT.
Section 7(a) of the Federal Power Act (16 U.S.C. 796(17)) is amended—

(1) by amending paragraph (A) to read as follows:

(A) "small power production facility" means a facility which—

(2) is an "eligible solar, wind, waste, biomass, hydropower, or geothermal facility";

(3) produces electric energy solely by the use, as a primary energy source, of biomass, waste, renewable resources, geothermal resources, or any of those energy sources; and

(4) has the power production capacity which, together with any other facilities located at the same site as determined by the Commission, is not greater than 30 megawatts; and

(2) in paragraph (B)—

(A) by inserting "biomass, hydropower, after "waste" each time it appears; and

(B) by striking "and" which would otherwise not qualify and all that follows in such subparagraph down to but not including the period; and
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(A) promote hybrid fossil-renewable energy systems, and
(B) reduce dependence on the importation of fossil fuels by encouraging the use of sustainable biomass, wind power, hydropower, geothermal power or other renewable energy and energy efficiency resource technologies;

(C) foster rural and urban energy development through the use of reliable and economical renewable energy and energy efficiency resource technologies;

(D) explore mechanisms for assisting in the domestic manufacture, particularly by small business manufacturers, of energy efficiency and renewable energy resource technologies, for export; and

(E) increase staffing to support the new authority and responsibilities described in this section.

(3) Training and Assistance.—In furthering the purposes of this section, the Secretary shall—

(A) provide aggressive in-country technical training for local users and international development personnel;

(B) provide financial assistance to support nonprofit institutions that support the efforts of domestic renewable energy and energy conservation companies to market their products, particularly smaller renewable projects in developing nations;

(C) establish feasibility and loan guarantee programs to facilitate access to capital and credit;

(D) support, through financial incentives, private sector efforts to commercialize and export renewable energy and energy efficiency resource technologies;

(E) work with local individuals to assure the economic viability of projects in lesser-developed countries;

(F) meet the needs of less-developed countries for energy rather than creating new needs in order to ensure immediate income-generating use of the power generated;

(G) work with local individuals to assure that the programs meet specific national and local needs;

(H) use indigenous materials and associated hardware, wherever possible, in order to reduce costs and ensure project duplication;

(4) Authority.—There is authorized to be appropriated for purposes of carrying out this title, $2,750,000 for fiscal year 1992, including $2,750,000 to carry out the purposes of subparagraph (d)(4), in addition to the amount specified in the previous sentence for fiscal year 1992, $2,750,000 for fiscal year 1993, and $2,750,000 for fiscal year 1994.

TITLE IV—MEASURES TO PROMOTE THE USE OF ALTERNATIVE TRANSPORTATION VEHICLES AND FUELS

Subtitle A.—Alternative Transportation Fuels

Section 526 of Title II Part B of the Energy Policy and Conservation Act is amended by inserting, after 'vehicle technologies,' the following new clause:

(1) The report also should include an evaluation of current programs and their priority for meeting program objectives as well as recommendations, for future programs that;

(2) develop and promote sustainable use of renewable energy resources in lesser-developed countries;

(3) given the credit and capital restrictions in lesser-developed countries, focus on technologies that are both appropriate and economically viable;

(4) meet the needs of less-developed countries for energy rather than creating new needs in order to ensure immediate income-generating use of the power generated;

(5) work with local individuals to assure that the programs meet specific national and local needs:

(6) use indigenous materials and associated hardware, wherever possible, in order to reduce costs and ensure project duplication;

(7) provide examples of cost-effective systems and applications for countries in the southern hemisphere and other developing nations.

Subsection 311 of the Energy Policy and Conservation Act is amended by inserting, at the end of that subsection, the following new clause:

(a) The Secretary shall be the Chairman of such group. The group may either be a standing or a temporary commission.

(b) Such group shall include representatives of international, non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(c) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(d) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(e) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(f) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(g) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(h) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(i) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(j) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(k) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(l) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(2) The Secretary shall be the Chairman of such group. The group may either be a standing or a temporary commission.

(3) The group shall include representatives of international, non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(4) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(5) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(6) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(7) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(8) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(9) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(10) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(11) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(12) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(13) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(14) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(15) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(16) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(17) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(18) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(19) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(20) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(21) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(22) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(23) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(24) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.

(25) The Secretary shall provide detailed and comprehensive information on the specific energy needs of lesser-developed countries, an inventory of U.S. and international energy systems and applications for in-country non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.
(b)(1) The Secretary may not enter into any cooperative agreement or joint venture under subsection (a) with any municipal, county or regional transit authority unless such authority or the governing body agrees to provide an amount of funds that is at least 25 percent of the costs of such demonstration.

(2) The Secretary, at its discretion, may grant a cooperative agreement under this section to any entity that demonstrates that the use of natural gas or other alternative fuels used for transportation would have a significant effect on the quality of the ambient air.

(c) There is authorized to be appropriated not more than $23,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 402. NATURAL GAS AND OTHER ALTERNATIVE FUEL USE IN FLEET VEHICLES.

(a) The Secretary, consistent with the Alternative Motor Fuels Act of 1988 (P.L. 100–494), and in consultation with the Administrator of the U.S. Environmental Protection Agency and the Secretary of Transportation, shall establish and carry out a program to provide financial assistance to encourage the development and commercialization of natural gas and other alternative fuels for two-passenger cars, light-duty trucks, and heavy-duty trucks consistent with the purposes of this Act. Such assistance shall provide financial assistance to appropriate parties to provide training programs that will ensure the proper operation and performance of conversion equipment.

(b) The program under this section shall be consistent with the Alternative Motor Fuels Act of 1988 (P.L. 100–494).

(c) There is authorized to be appropriated not more than $5,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 404. VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.

(a) The Secretary shall carry out a program of research and development, and demonstration on techniques related to improving natural gas and other alternative fueled vehicles, transportation systems, and other alternative fuels for vehicles dedicated to the use of natural gas or other alternative fuels and for subsequent use as a fuel in motor vehicles. Such assistance shall provide financial assistance to appropriate parties to provide training programs that will ensure the proper operation and performance of conversion equipment.

(b) The program under this section shall be consistent with the Alternative Motor Fuels Act of 1988 (P.L. 100–494).

(c) There is authorized to be appropriated not more than $5,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 406. FEDERAL REGULATIONS OF THE SALE OF NATURAL GAS.

(a) Section 1 of the Natural Gas Act is amended to add a new subsection (d) as follows:

(d) The provisions of this Act shall not apply to the sale or transport of natural gas for subsequent use as a fuel in motor vehicles.

(b) Non-applicability of the Public Utility Holding Company Act of 1935.

(1) A company shall not be considered to be a gas utility company under section 2(a)(4) of the Public Utility Holding Company Act of 1935 solely because it distributes or sells natural gas as a fuel for motor vehicles.

(2) Notwithstanding section 11(b)(2) of the Public Utility Holding Company Act of 1935, a company registered under such Act solely by reason of direct or indirect ownership of interests in natural gas companies, or any subsidiary of such company, may acquire or retain, in any geographic area, any interest in any company involved in the production, transmission, or sale of natural gas for motor vehicle use or in the manufacture, sale, installation or servicing of equipment to allow the use of natural gas in a motor vehicle.

(3) A company’s activities with respect to the sale of natural gas for motor vehicle use shall not be considered in determining whether such company is subject to regulations under section 3 of the Public Utility Holding Company Act of 1935.

(c) Section 610(f)(2) of the Natural Gas Policy Act of 1978 is amended to read as follows:

1. High Priority User—The term “high priority user” means any person who—

(A) uses natural gas in a residence; or

(B) uses natural gas in a motor vehicle;

(2) High Priority Place of Ultimate Consumption.—For purposes of the purposes of this section—

(A) the term “VNG” means natural gas for ultimate use as a fuel in a motor vehicle, and includes compressed natural gas.

(B) the term “Motor Vehicle” includes any automobile, truck, bus, van, or other on-road or off-road motor vehicle, including a boat.

(3) Persons With Hindshaw Exemptions.—

(a) Place of Ultimate Consumption.—For purposes of section 1(c) of the Natural Gas Act, in the case of any sale of VNG, such VNG shall be deemed to be “ultimately consumed” within the State in which physical delivery of such VNG occurs or any subsequent physical delivery of such VNG occurs in another State.

(b) State Regulation.—For purposes of section 1(c) of the Natural Gas Act, each State shall make no certification from a State commission to the Federal Energy Regulatory Commission that such State commission has regulatory jurisdiction over the sale of VNG in the State of a person (who receives natural gas from another person within or at the boundary of a State all of which natural gas so received...
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SEC. 408. REGULATION OF THE SALE OF ALTERNATIVE FUELS BY SELLERS OF TRANSPORTATION FUELS.

(a) Exempted entities.-For purposes of section 7(f) of the Natural Gas Act, such VNG shall not be deemed to be "consumed" within the State in which such sale for resale occurs, whether by physical delivery or through digital delivery, if such sale does not qualify for funding under this section, an alternative fuel program shall have the effect of displacing imported energy sources could be reduced by at least 10 percent nationwide within a 18-year period.

(b) TANDEM.[...

(c) DEFINITION OF STATE.—For purposes of this section, "State" means any State, the District of Columbia, or any political subdivision thereof that is a Federal agency or instrumentality or a State or District of Columbia, or any political subdivision thereof, that is responsible for administering an alternative fuel program approved or authorized by a State or the District of Columbia.

(d) DEFINITION OF ALTERNATIVE FUELS.—For purposes of this section, "alternative fuels" means natural gas, liquid petroleum gas, any alcohol, and electric power.

(e) MATCHING FUNDS.—No funds shall be available to a State under this section unless such State agrees to provide at least 50 percent of the cost of establishing a State alternative fuel office or such alternative fuel project.

(f) ENERGY SECURITY FUNDING.—Within six months of the date of enactment, the Secretary of Energy shall conduct a study to determine the potential reduction in reliance on imported energy sources that could be achieved if vehicles were no longer required to operate on alternative fuels.

(g) AUTHORIZATION.—There is authorized to be appropriated not more than $20,000,000 in fiscal year 1992 and $40,000,000 in each of fiscal years 1993 and 1994.

SEC. 409. ALTERNATIVE FUEL USE IN NON-ROAD VEHICLES AND ENGINES.

(a) NON-ROAD VEHICLES AND ENGINES.—

(1) The Secretary of the Department of Energy shall study to determine whether the use of alternative fuels in non-road vehicles and engines would contribute to substantially to reduced reliance on imported energy sources. Such study shall be completed within 18 months of the date of enactment.

(2) The study shall consider the potential of non-road vehicles and engines to run on alternative fuels. Taking into account the non-road vehicles and engines for which running on alternative fuels is feasible, the study must assess the potential reduction in reliance on imported energy sources that could be achieved if vehicles were no longer required to run on alternative fuels.

(3) After notice and opportunity for public comment, the Secretary shall publish within 12 months of the completion of the study under paragraph (1), based upon the results of the study, whether reliance on imported energy sources could be reduced by at least 10 percent nationwide within a 18-year period.

(4) If the Secretary makes an affirmative determination under paragraph (3), the Secretary shall, within 12 months of such determination, promulgate (and from time to time revise) regulations that require non-road vehicles and engines for which running on alternative fuels is feasible to run on alternative fuels.

(b) DEFINITION OF NON-ROAD VEHICLES AND ENGINES.—Non-road vehicles and engines, for purposes of this section, shall include, but not be limited to, non-road vehicles and engines used for transportation or principally for industrial or commercial purposes, vehicles used at airports, vehicles or engines used for marine purposes, and other vehicles or engines at the discretion of the Secretary.

Subtitle B.—Alternative Fuel Vehicle Requirement

SEC. 411. DEFINITIONS.—For the purposes of this subtitle:

(1) "alternative fuel" means methanol, ethanol, and other alcohols; mixtures containing 5 percent or more of volume of gasoline or other fuels; natural gas; liquid petroleum gas; hydrogen; and electricity;

(2) "alternative fuel vehicle" means a motor vehicle that—

(A) operates solely on alternative fuel, or

(B) is a flexi-fueled vehicle;

(3) "covered person" means a person to whom section 412 of this subtitle applies;

(4) "fleet" means a number of motor vehicles, all or a part of which are centrally fueled, that are operated or owned, leased, or otherwise controlled by a person. This term does not include—

(A) motor vehicles held for daily lease or rental to the general public;

(B) motor vehicles held for sale by motor vehicle dealers, including demonstration vehicles;

(C) motor vehicles used for motor vehicle manufacturer product evaluations of tests;

(D) law enforcement vehicles;

(E) emergency vehicles;

(F) military tactical vehicles;

(G) non-road, vehicles, including farm and non-road, vehicles;

(5) "flexi-fueled vehicle" means a motor vehicle that—

(A) operates solely on alternative fuel, or

(B) is a flexi-fueled vehicle;

(6) "flexi-fueled vehicle" means a motor vehicle that—

(A) operates solely on alternative fuel, or

(B) is a flexi-fueled vehicle;

(7) "covered person" means a person to whom section 412 of this subtitle applies;

(8) "fleet" means a number of motor vehicles, all or a part of which are centrally fueled, that are operated or owned, leased, or otherwise controlled by a person. This term does not include—

(A) motor vehicles held for daily lease or rental to the general public;

(B) motor vehicles held for sale by motor vehicle dealers, including demonstration vehicles;

(C) motor vehicles used for motor vehicle manufacturer product evaluations of tests;

(D) law enforcement vehicles;

(E) emergency vehicles;

(F) military tactical vehicles;

(G) non-road, vehicles, including farm and non-road, vehicles;

(5) "flexi-fueled vehicle" means a motor vehicle that—

(A) operates solely on alternative fuel, or

(B) is a flexi-fueled vehicle;
(A)(i) contains at least—
(A) 10 automobiles; 
(B) 10 trucks, except multi-unit trucks over 26,000 pounds gross vehicle weight; or 
(C) 10 buses, except intercity passenger buses and urban buses; or

(B)(i) contains at least—
(A) 20 automobiles; 
(B) 20 trucks, except multi-unit trucks over 26,000 pounds gross vehicle weight; or 
(C) 20 buses, except intercity passenger buses and urban buses; or

(IV) a combination of at least 10 motor vehicles of these types; and

(V) the metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of more than 200,000.

(b) The Secretary shall allocate one credit for each alternative fuel vehicle the covered person purchases, leases, or otherwise acquires; or that person has complied with the requirements of this subtitle, as the excess vehicle or earlier purchased vehicle.

(c) At the request of a covered person allocated a credit under this section, the Secretary shall treat the credit as the purchase of one alternative fuel vehicle of the type for which the credit is allocated in the year designated by that person when determining whether that person has complied with this subtitle in the year designated. A credit may be counted toward compliance for only one year.

(d) A covered person allocated a credit under this section or whom a credit is transferred under this section, may transfer freely the credit to whom the credit is transferred when determining whether that person has complied with this subtitle in the year designated. A transferred credit may be counted toward compliance for only one year.

SEC. 415. REPORTS.—(a) The Secretary, in the first month of a violation of the yearly alternative fuel vehicle purchase requirements under this section, may transfer credit as the purchase of one alternative fuel vehicle for each vehicle that is an urban bus complies with the warranty standards for urban buses.

(b) The Secretary may request the Attorney General to commence a civil action for a permanent or temporary injunction or to assess a civil penalty for nonpayment penalty owed the United States, as the case may be.

(c) The Secretary shall report to the Congress an administrative penalty under this section, may transfer credit as the purchase of one alternative fuel vehicle for each vehicle that is an urban bus complies with the warranty standards for urban buses.

(d) The Secretary shall allocate a credit to a covered person if that person purchases an alternative fuel vehicle in excess of the number that person is required to purchase under this subtitle or purchases an alternative fuel vehicle before the date that person is required to purchase an alternative fuel vehicle under this subtitle.

(e) In allocated credits under subsection (a), the Secretary shall allocate one credit for each alternative fuel vehicle the covered person purchases, leases, or otherwise acquires; or that person has complied with the requirements of this subtitle, as the excess vehicle or earlier purchased vehicle.

(f) At the request of a covered person allocated a credit under this section, the Secretary shall treat the credit as the purchase of one alternative fuel vehicle of the type for which the credit is allocated in the year designated by that person when determining whether that person has complied with this subtitle in the year designated. A credit may be counted toward compliance for only one year.

(g) A covered person allocated a credit under this section or whom a credit is transferred under this section, may transfer freely the credit to whom the credit is transferred when determining whether that person has complied with this subtitle in the year designated. A transferred credit may be counted toward compliance for only one year.

SEC. 416. ENFORCEMENT.—(a) A person who violates a requirement or prohibition of this subtitle is subject to a civil penalty of not more than $100,000 per violation. Each month in which a violation occurs constitutes a separate violation.

(b) The Secretary may request the Attorney General to commence a civil action for a permanent or temporary injunction or to assess a civil penalty for nonpayment penalty owed the United States, as the case may be.

(c) The Secretary shall report to the Congress an administrative penalty under this section, may transfer credit as the purchase of one alternative fuel vehicle for each vehicle that is an urban bus complies with the warranty standards for urban buses.
tion proceedings, and a quarterly nonpayment penalty for each quarter during which the failure to pay persists. This nonpayment penalty shall be in an amount equal to 10 percent of the aggregate amount of that person's penalties and nonpayment penalties which are unpaid as of the beginning of the quarter.

(4) In determining the amount of a penalty to be assessed under this section, the Secretary or the court, as appropriate, shall take into consideration, in addition to other factors, the magnitude of the violation, the size of the noncompliance, and the seriousness of the violation.

SEC. 417. IMPLEMENTATION. -The Secretary shall issue regulations to implement this subtitle.

Subtitle C — Electric Vehicle Technology Development and Demonstration

SEC. 421. SHORT TITLE. -This subtitle may be cited as the "Electric Vehicle Technology Development and Demonstration Act of 1991.

SEC. 422. FINDINGS. -The Congress finds that:

(1) electric vehicles may be recharged primarily during times of nonpeak use of electricity, which will permit the most efficient utilization of electrical generating capacity, produce economic benefits for purchasers and producers of electricity, and improve the quality of air;

(2) the development, demonstration, and commercialization of electric vehicles in the United States will enhance the energy security of the United States and will encourage electric vehicle production in the United States;

(3) the use of electric vehicles rather than vehicles powered by conventionally fueled internal combustion engines could significantly improve the quality of air by allowing areas of the country that have not attained a quality of air that meets minimum health standards to meet such standards;

(4) because initial production of electric vehicles will result in economies of scale associated with mass production, the price to a user or owner may be so high as to discourage vehicle purchase and use; and

(5) because of the substantial potential environmental and domestic energy security benefits that will result from the commercialization of electric vehicles, the United States, it is in the public interest for the United States Government to assist in the development demonstration, and commercialization of domestically produced, cost competitive, electric vehicles.

SEC. 423. DEFINITIONS. -For purposes of this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "conventionally fueled vehicle" means a vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source;

(3) "electric vehicle" means a vehicle powered by an electric motor that draws current, and that may include a rechargeable storage battery, fuel cell, or other portable sources of electrical current, in combination with the substantial potential nonfossil fuel source of power designed to charge batteries and components;

(4) "eligible nonattainment area" means a nonattainment area that the Secretary designates as an eligible nonattainment area under section 424(b); and

(5) "life cycle costs" means all costs associated with the purchase, operation, maintenance, and disposal of a vehicle, and includes the substantial potential costs of operating the life cycle costs of an electric vehicle in comparison with operating and maintaining a conventionally fueled vehicle;

SEC. 424. IDENTIFICATION OF NONATTAINMENT AREAS. -The Secretary, in consultation with the Administrator, shall, not later than thirty days after the date of enactment of this Act, designate nonattainment areas eligible to participate in the program authorized by this subtitle.

SEC. 425. SELECTION OF MANUFACTURERS. -The Secretary may select one or more manufacturers eligible to receive reimbursement payments for the development, demonstration, manufacture, and sale of electric vehicles.

(1) The Secretary shall select a manufacturer based upon the overall quality of the proposal, including the following:

(A) Viability. -The viability of the manufacturer, directly or indirectly, to develop, demonstrate, manufacture, distribute, sell and service a significant number of electric vehicles;

(B) Geographic Diversity. -The commitment of the manufacturer to distribute, sell and service electric vehicles in various regions of the country.

SEC. 426. SELECTION OF MANUFACTURERS. -The Secretary shall select a manufacturer based upon the overall quality of the proposal, including the following:

(A) Viability. -The viability of the manufacturer, directly or indirectly, to develop, demonstrate, manufacture, distribute, sell and service a significant number of electric vehicles;

(B) Geographic Diversity. -The commitment of the manufacturer to distribute, sell and service electric vehicles in various regions of the country.

(2) The Secretary shall select one or more manufacturers eligible to receive reimbursement payments for the development, demonstration, manufacture, and sale of electric vehicles.

(b) The Secretary shall select a manufacturer based upon the overall quality of the proposal, including the following:

(1) Viability. -The viability of the manufacturer, directly or indirectly, to develop, demonstrate, manufacture, distribute, sell and service a significant number of electric vehicles;

(2) Geographic Diversity. -The commitment of the manufacturer to distribute, sell and service electric vehicles in various regions of the country.

(3) Suitability. -The suitability of the vehicles for use as a cargo or passenger vehicle; and

(4) Other criteria that the Secretary deems necessary.

SEC. 427. DISCOUNTS TO PURCHASERS. -A manufacturer selected by the Secretary shall offer a purchaser a discount equal to either:

(1) LIFE-CYCLE COST DIFFERENTIAL. -An amount which represents the excess of the estimated life cycle costs of the electric vehicle over the life cycle costs of a conventionally fueled vehicle of comparable type;

(2) PURCHASE PRICE COST DIFFERENTIAL. -An amount equal to the difference between the proposed discount (as defined in section 377), and life cycle costs of the electric vehicle;

(3) Cost associated with mass production, the price to a user or owner may be so high as to discourage vehicle purchase and use; and

(4) Because initial production of electric vehicles will result in economies of scale associated with mass production, the price to a user or owner may be so high as to discourage vehicle purchase and use.

A manufacturer selected by the Secretary shall offer a purchaser a discount equal to either:

(1) LIFE-CYCLE COST DIFFERENTIAL. -An amount which represents the excess of the estimated life cycle costs of the electric vehicle over the life cycle costs of a conventionally fueled vehicle of comparable type;

(2) PURCHASE PRICE COST DIFFERENTIAL. -An amount equal to the difference between the proposed discount (as defined in section 377), and life cycle costs of the electric vehicle;

(3) Suitability. -The suitability of the vehicles for use as a cargo or passenger vehicle; and

(4) Other criteria that the Secretary deems necessary.

In no case shall the discount be greater than 50 percent of the selling price by varying volumes of production.

(b) The Secretary, not later than thirty days after a manufacturer has provided notice in the form and manner specified by the Secretary of the sale of an electric vehicle, shall pay a manufacturer a payment not to exceed the discount for each electric vehicle sold.

(c) To be eligible for payment under subsection (b), a manufacturer shall certify to the Secretary the following:

(1) PURCHASER DISCOUNT LIMITATION. -The discount to the purchaser does not lower the selling price of the electric vehicle below the suggested retail price of a conventionally fueled vehicle of comparable type;

(2) DISCOUNT PASS THROUGH. -The actual selling price of the electric vehicle shall be equal to the selling price specified in the manufacturer's proposal to the Secretary reduced by the full amount of the discount received, calculated as specified above, unless the Secretary
agrees to a request by the manufacturer to adjust the selling price as specified in the contract to reflect higher costs actually incurred in production;

(3) NONATTAINMENT AREA USE.—The vehicle will be used primarily in the eligible nonattainment areas in which the vehicle will be purchased;

(4) INFORMATION FROM PURCHASER.—The purchaser has agreed to provide the manufacturer with information regarding operation, maintenance, and usability of the vehicle for five years after purchase; and

(5) INFORMATION FROM MANUFACTURER.—The manufacturer will provide such information regarding the development, demonstration, manufacture, sale, and maintenance of electric vehicles that the Secretary requests for a period of five years, beginning in fiscal year 1992.

(d) The Secretary may enter into contracts with manufacturers of electric vehicles for purposes of carrying out this Act.

SEC. 428. REPORTS TO CONGRESS.—The Secretary shall report to Congress in fiscal years 1992 and 1994 on the programs and projects supported under this subtitle and the progress being made toward accomplishing the objectives of this subtitle.

SEC. 429. AUTHORIZATIONS.—There is authorized to be appropriated for purposes of this subtitle $10,000,000 for each of the three fiscal years following the date of enactment of this Act.

TITLE V—TRANSPORTATION AND ENERGY EFFICIENCY


"1995 and thereafter . . . . . . . . 27.5,

and inserting in lieu thereof the following:

"1995 through 1996 . . . . . . . . 27.5,

1997 and thereafter . . . . . . . . 27.5.


"as provided in accordance with section 514 of this Act."

and inserting in lieu thereof—

"As provided in accordance with section 514 of this Act."

"(c) Section 503(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)(1)) is amended by striking—

"(1) by striking "passenger" each place it appears;

and inserting in lieu thereof—

"(1) by striking each place it appears;"

"(2) by inserting "or (b), or section 514 or 515" immediately before the period at the end of the first sentence; and

"(3) by striking "(b), or section 514 or 515," immediately before "is more stringent."

SEC. 506. EMERGENCY VEHICLES.

Section 502(g)(v) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(g)(v)) is amended by inserting "and section 514 and 515" immediately before the period in the first sentence.

SEC. 505. CONSULTATION.

Section 502(i) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(i)) is amended by inserting "and sections 514 and 515" immediately before the period in the first sentence.

"MODIFICATIONS OF STANDARDS

SEC. 516. (a)(1) The Secretary may modify any average fuel economy standard established under this section for model year 1996 and thereafter in accordance with this section. In response to a petition from any person; that is filed at least 12 months in advance of the first model year to which the Secretary shall conduct a rulemaking proceeding to determine whether to increase or decrease any average fuel economy standard to the level which the Secretary determines is the maximum feasible average fuel economy for that model year (taking into consideration the factors listed in section 512(e) and the need to reduce carbon dioxide emissions). The Secretary may also conduct such a rulemaking proceeding on the Secretary's own initiative. Under such proceeding, the Secretary shall not reduce any such standard below a level equal to the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988, as multiplied by the applicable percentage set forth in subparagraph (B).

"(B) The applicable percentage referred to in subparagraph (A) is—

(i) 115 percent, for model years 1996 through 2000; and

(ii) 190 percent, for model years 2001 and thereafter.

In determining the maximum feasible average fuel economy during a rulemaking proceeding under this section, the Secretary shall weigh equally each factor in section 512(e) and the need to reduce carbon dioxide emissions.

"(2) In evaluating the technological feasibility of the standard, the Secretary shall—

(A) consider each standard as applied to the vehicles subject to such standard;

(B) the impact of any lessening of passenger car capability of the standard on the economic impact of the standard and the economic impact of such energy savings;

(C) the impact of any lessening of light truck capability of the standard on the economic impact of the standard and the economic impact of such energy savings;

(D) any lessening of the utility or the performance of the vehicles likely to result from the imposition of the standard;

(E) the impact of any lessening of competition or any change in foreign trade that is likely to result from the imposition of the standard;

(F) the total projected amount of reduction in carbon dioxide emissions and the economic impact of such reduction; and

(G) other factors the Secretary considers relevant.

(b)(1) Section 502(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)(1)) is amended by inserting "and section 514" immediately after "(a)(1)"

(b)(2) Section 502(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)(2)) is amended by inserting "and section 514" immediately after "(a)(2)

"SEC. 506. NOTIFICATION.

Section 502(i) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(i)) is amended by inserting "and sections 514 and 515" immediately before "or any modification."
accordance with rules of the EPA Administrator performed in accordance with procedures prescribed by regulations of the Act, to ensure continued future fleet fuel economy testing of passenger automobiles and light trucks.

(b) The Secretary, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall undertake a study of future options for regulating the fuel efficiency of passenger automobiles and light trucks beyond the year 2001. Such study shall utilize the results of the review and assessment required by subsection (a), and shall examine alternative fuel economy regulations. The study shall determine—

(1) the ability of each regulatory strategy to ensure continued future fleet fuel economy improvement;

(2) the economic efficiency of each such strategy; and

(3) the impact of each such strategy on the competitiveness of the United States economy.

The Secretary of Energy shall, not later than 3 years after the date of enactment of this Act, submit a report to the Congress on the results of the study required by this subsection.

Section 504(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2007(a)(1)) is amended by striking "(ii)" and inserting in lieu thereof "(i)".


As used in this Act, the term "passenger automobile" includes all aspects of vehicle design including engines, drive train, component parts, auto body, tires, and any other aspect contributing to the reduction of energy consumption.

The purposes of this Act are—

(1) enhance energy security;

(2) reduce air pollution;

(3) improve our balance of trade;

(4) reduce the budget deficit; and

(5) improve the marketability of alternative and flexible fuel vehicles; and

(6) improve the condition of the national energy economy through the enhancement of the replacement fuel industry and the creation of an alternative fuel industry.

For purposes of this Act—

"(A) The maximum penalty amounts authorized in paragraphs (1) and (3) shall be adjusted for inflation as provided in this paragraph.

"(B) No less than 3 months prior to model year 1992, and no less than 3 months prior to each model year thereafter, the Secretary shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur with respect to the model year immediately following such publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (A)(2) by an amount determined by the inflation adjustment for the preceding model year, as calculated by the Secretary on the basis of the Consumer Price Index.

"(D) For purposes of this paragraph, the term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor."

SEC. 513. DEFINITIONS.

As used in this Act, the term "passenger automobile" has the meaning given that term under section 506 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2007(a)), and the term "light truck" shall have such meaning as the Secretary of Transportation prescribes.

TITLE VI

To establish a replacement fuels and alternative fuels program, and for other purposes.

SEC. 601. SHORT TITLE.

This Act may be cited as the "Replacement Fuels and Alternative Fuels Act of 1991".

SEC. 602. FINDINGS.

The Congress finds and declares that—

(1) United States national security demands that we reduce our dependency on imported oil;

(2) domestic resources are available to eliminate or substantially reduce our dependency on imported oil;

(3) transportation uses account for more than 60 percent of our national oil consumption;

(4) a comprehensive energy program, including the stimulation of the production and use of automobiles capable of using alternative fuels, is necessary to reduce pollution as well as reduce our dependency on imported oil;

(5) such program should be designed to create a positive impact on the economy, our national trade balance, and our national budget;

(6) such program should allow market forces, within appropriate environmental parameters, to affect the selection of replacement or alternative fuels; and

(7) such program should provide long-term stability to industries producing replacement and alternative fuels.

SEC. 603. PURPOSE.

The purposes of this Act are to—

(1) enhance energy security;

(2) reduce air pollution;

(3) improve our balance of trade;

(4) reduce the budget deficit;

(5) improve the marketability of alternative and flexible fuel vehicles; and

(6) improve the condition of the national energy economy through the enhancement of the replacement fuel industry and the creation of an alternative fuel industry.

SEC. 604. DEFINITIONS.

For purposes of this Act—
(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;
(2) the term "alcohol" means methanol or ethanol, which is suitable for use by itself or in combination with other fuels as a motor fuel;
(3) the term "conventional petroleum" means petroleum derived from oil wells, including stripper wells, domestic or imported;
(4) the term "domestic" means derived from resources within the 50 States and the territories of the United States;
(5) the term "motor fuel" means any substance suitable as a fuel for self-propelled vehicles designed primarily for use on public streets, roads, and highways;
(6) the term "alternative fuel" means a motor fuel not designed to be mixed with gasoline, such as alcohol, natural gas, "neat" alcohol, hydrogen, and electricity;
(7) the term "replacement fuel" means a motor fuel capable of mixing with gasoline, including alcohol and liquids not derived from conventional petroleum;
(8) the term "commerce" means any trade, traffic, transportation, exchange, or other commerce (A) between any State and any place outside of such State; or (B) which affects any trade, traffic, transportation, exchange, or other commerce described in subparagraph (A);
(9) the term "refiner" means any person engaged in the refining of crude oil to produce motor fuel, including any affiliate of such person, or any importer of motor fuel; and
(10) the term "Secretary" means the Secretary of Energy.

SEC. 605. REPLACEMENT AND ALTERNATIVE FUELS PROGRAM

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish, pursuant to this Act, a program to promote the development and use of domestically-produced replacement and alternative fuels. Such program shall promote the replacement of conventional petroleum motor fuels with replacement and alternative fuels to the maximum extent practicable. Such program shall, to the extent practicable, ensure the availability of those replacement fuels and alternative motor fuels which will have the greatest impact in improving air quality in urban areas, along transportation corridors, and in other areas.

(b) DEVELOPMENT PLAN AND PRODUCTION GOALS.—Under the program established under subsection (a), the Secretary, in consultation with the Administrator, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of other appropriate agencies, shall review appropriate information and—
(1) estimate the production capacity in the United States for replacement fuel and alternative fuel needed to implement the provisions of this section;
(2) determine the technical and economic feasibility of producing in the United States sufficient replacement and alternative fuels, by the calendar year 2010 to replace 30 percent or more, on an energy equivalent basis, of the projected consumption of motor fuel in the United States for each year. The Secretary shall increase the minimum percentage for any year determined in accordance with the following table:

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(3) The Secretary shall, not later than January 1, 1993, promulgate regulations allowing the sale and other exchange of marketable credits among—
(A) refiners; and
(B) distributors of alternative motor fuels sold into commerce for transportation purposes; and
(C) manufacturers of electricity powered automobiles;

(b) IN ORDER TO SATISFY THE REQUIREMENTS OF THIS ACT. IN DETERMINING THE VALUE OF SUCH CREDITS FOR THE VARIOUS FUEL SOURCES, THE SECRETARY SHALL CONSIDER THE RELATIVE ENERGY CONTENT OF THE FUEL SOURCES.

(4) The Secretary shall, not later than January 1, 1993, promulgate regulations allowing the sale and other exchange of marketable credits among—
(A) refiners; and
(B) distributors of alternative motor fuels sold into commerce for transportation purposes; and
(C) manufacturers of electricity powered automobiles;

(b) IN ORDER TO SATISFY THE REQUIREMENTS OF THIS ACT. IN DETERMINING THE VALUE OF SUCH CREDITS FOR THE VARIOUS FUEL SOURCES, THE SECRETARY SHALL CONSIDER THE RELATIVE ENERGY CONTENT OF THE FUEL SOURCES.

SEC. 606. COORDINATION OF AUTOMOBILES WITH INCREASED FUEL ECONOMY STANDARDS

Subsection (g) of section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) is amended by adding at the end the following: "(3) Notwithstanding any other provision of this subsection, where the fuel economy standard applicable to gasoline-fueled vehicles is increased above 27.5 miles per gallon for any model year, the Secretary may increase the maximum increase in average fuel economy for a manufacturer attributable to dual energy automobiles and natural gas dual energy automobiles to the extent that alternative and replacement motor fuels are used to meet such increased requirements."
March 21, 1991

CONGRESSIONAL RECORD—SENATE

SEC. 7004. NATURAL GAS COFIRING RESEARCH DEVELOPMENT AND DEMONSTRATION.

(a) DEFINITIONS.—For the purposes of this section, the term—
"1. "cofiring" means the injection of natural gas and pulverized coal into the primary combustion zone of an electric utility unit or an industrial boiler and shall include gas reburning technologies and other technologies that utilize natural gas in a manner consistent with the definition of cofiring; and
"2. "gas reburning" means the injection of natural gas into the upper furnace region of an electric utility unit or an industrial boiler to produce a fuel-rich zone thereby reducing nitrogen oxide emissions.

(b) The Secretary shall conduct a program of research, development and demonstration of cofiring in electric utility units and large industrial boilers in order to determine optimal natural gas injection levels for both environmental and operational benefits.

(c) The Secretary may provide financial assistance under this section to public entities or interested or affected private firms to perform the research, development and demonstration of cofiring technologies.

(d) The Secretary may enter into cooperative agreements and a cost-division arrangement with those who agree to fund and bear a portion of the costs of such programs to perform the research, development and demonstration of cofiring technologies.

(e) For purposes of this section, there is authorized to be appropriated to the Secretary not more than $9,000,000 for each of fiscal years 1993 and 1994.

SEC. 7005. NATURAL GAS AND ELECTRIC HEATING AND COOLING TECHNOLOGIES.

(a) The Secretary shall expand the program for research, development, and demonstration for natural gas and electric heating and cooling technologies for residential and commercial buildings.

(b) The natural gas heating and cooling program shall increase research on therally-activated heat pumps including:
"1. Absorption heat pumps; and
"2. Engine-driven heat pumps.
"3. Advanced electrically-driven HVAC (heating, ventilation, and cooling) and refrigeration components of small and large HVAC systems.

(c) The electric heating and cooling program shall increase research on:
"1. Advanced electrically-driven heat pumps;
"2. Thermal storage;
"3. Advanced electrically-driven HVAC (heating, ventilation, and cooling) and refrigeration components of small and large HVAC systems.
"4. Advanced electrically-driven HVAC (heating, ventilation, and cooling) and refrigeration components of small and large HVAC systems.
"5. Advanced electrically-driven HVAC (heating, ventilation, and cooling) and refrigeration components of small and large HVAC systems.

(d) There is authorized to be appropriated to the Secretary not more than $15,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section in addition to current authorizations.

REGULATORY ISSUES

SEC. 7006. INCENTIVE RATEMAKING OPTIONS.

(a) Section 7(a) of the Natural Gas Act (15 U.S.C. 717(a)) is amended by adding the following as subsection (d):
"(d) There is authorized to be appropriated to the Secretary not more than $9,000,000 for each of fiscal years 1993 and 1994 for purposes of this section in addition to current authorizations.

SEC. 7007. REQUIRING TIME LIMITS.

Section 19(a) of the Natural Gas Act (15 U.S.C. 717(a)) is amended by striking the fourth sentence and inserting in lieu thereof the following:
"(3) the Secretary shall have the right to require that the rates for such sale for resale, as approved by the Secretary, be designed to efficiently allocate the costs of such programs to perform the research, development and demonstration of cofiring technologies.

SEC. 7008. FILING OF JUNIOR RATES.

Section 4 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by adding the following new Section 717(a)(3):
"(3) It is amended to provide that for the purposes of this section, there is authorized to be appropriated to the Secretary not more than $15,000,000 for each of fiscal years 1992, 1993, and 1994 for purposes of this section in addition to current authorizations.

SEC. 7009. FAIR RETURN ON INVESTMENT.

Section 4(a) of the Natural Gas Act (15 U.S.C. 717(a)) is amended by adding at the end thereof the following: "Notwithstanding the specific methodology used to set the rates of the natural gas company, the extent to which the dollar value or cost of the natural gas company's investment is a determinant of the allowed rate level, all such plant shall be recognized so long as it is used and useful in discharging the utility benefits of the natural gas company.

SEC. 7010. COMPETITIVE SALES SERVICES.

Title VI of the Natural Gas Policy Act (15 U.S.C. 3435) is amended by adding new Section 3435(a)(1)(B) as follows:
"SALES FOR RESALE BY INTERSTATE PIPELINES.—For purposes of Sections 4 and 5 of the Natural Gas Act, any amount charged for a sale for resale shall be deemed just and reasonable if—
"(1) such amount is charged pursuant to rates approved by the Commission, or
"(2) such amount is charged pursuant to rates determined just and reasonable if—
"(a) such amount is charged pursuant to rates approved by the Commission, or
"(b) such amount is charged pursuant to rates determined just and reasonable if—

appealable Commission order, the original term of effectiveness of which formula has not expired at the time of rate review, or (3) they fell within a Commission-prescribed zone of reasonableness, the upper limit of which shall be the rates prevailing not more than $9,000,000 for each of fiscal years 1993 and 1994 for purposes of this section in addition to current authorizations.
subject to such rules and standards for determin­
ing such workable competition as the Commis­
sion may prescribe, including but not limited to adequate comparability be­
tween the sale services and the transporta­tion services of the seller. If such charges are deemed just and reasonable pursuant to this para­graph, profits and losses occasioned by such sale for resale shall not be taken into consideration in any way in the seller’s rates for other services, and the rates for such sale for resale are exempt from the tariff posting authority of the Commission pursuant to Title I (§ 801(c)).

SEC. 7011. COMPETITIVE SERVICES.
(a) Services provided by facilities con­
structed under Section 311 of the Natural Gas Policy Act shall not require a certificate of public convenience and necessity.
(b) Any new service proposed and imple­
mented which is not part of the construction of major new fa­
cilities shall be authorized by the acceptance of tariff sheets and shall not require a cer­
tificate of public convenience and necessity.
(c) Any new service offered by a natural gas company which can be fully supplemented with other pre-existing services subject to tariff and rate review under Sections 3 and 5 of the Natural Gas Act shall be exempt from the tariff and rate review provisions of Section 7(a). But if such service is offered under this subsection in subsequent rate cases, in setting rates for other services.

SEC. 7012. PIPELINE ABANDONMENTS.
Section 7(b) of the Natural Gas Act (U.S.C. 717(b)) is amended by adding the following: “TAKING OF INTERSTATE PIPELINE FACILITIES.
(a) Any new service offered by a natural gas company which can be fully supplemented with other pre-existing services subject to tariff and rate review under Sections 3 and 5 of the Natural Gas Act shall be exempt from the tariff and rate review provisions of Section 7(a).
(b) The Commission may consider the impact of any new services offered under this subsection in subsequent rate cases, in setting rates for other services.

SEC. 7013. PIPELINE CONSTRUCTION.
(a) The Secretary shall expand and con­
tinue a program of research, development, and demonstration on techniques to increase the availability of natural gas from:
(1) intensive recovery of natural gas in place in discovered reservoirs or formations; and
(2) economic recovery of nonconventional sources of natural gas, including gas from tight formations, gas from less permeable formations, coals, and geopressed brines.
(b) The Secretary shall seek to enter into joint ventures with persons engaged in the production, transportation, distribution, or major use of natural gas to implement the program under subsection (a).
(c) There is authorized to be appropriated not more than $250,000,000 for each of the fis­
cal years 1992, 1993, and 1994 for purposes of this section.

SEC. 7014. REGULATION OF NATURAL GAS IM­
PORTS.
Section 3 of the Natural Gas Act (15 U.S.C. 717(b)) is amended by adding at the end of the section the following language: "The Secretary shall condition the approval of any import application pursuant to this sec­
tion upon the Commission to re­

dress any anticompetitive impacts on U.S. gas producers including, but not limited to, competitive disparities resulting from dif­
dergent rates charged by the interra­
taneous natural gas usage, and make recommendations as to

SEC. 7015. NATURAL GAS RECOVERY, RESEARCH, AND DEMONSTRATION PROGRAM.
(a) The Secretary shall expand and con­
tinue a program of research, development, and demonstration on techniques to increase the availability of natural gas from:
(1) intensive recovery of natural gas in place in discovered reservoirs or formations; and
(2) economic recovery of nonconventional sources of natural gas, including gas from tight formations, gas from less permeable formations, coals, and geopressed brines.
(b) The Secretary shall seek to enter into joint ventures with persons engaged in the production, transportation, distribution, or major use of natural gas to implement the program under subsection (a).
(c) There is authorized to be appropriated not more than $250,000,000 for each of the fis­
cal years 1992, 1993, and 1994 for purposes of this section.

SEC. 7016. PIPELINE CONSTRUCTION WITHOUT EMERGENCY DOMAIN.
(a) Section 1(b) of the Natural Gas Policy Act of 1968 (15 U.S.C. 3371) is amended to add the following:
(1) The provisions of the Natural Gas Act that authorize the Commis­sion, except as specifically provided herein, shall not apply to the construction or operation of any facilities constructed by a natural gas company when the construction is authorized by the Commission pursuant to Section 7 of the Natural Gas Act and pursuant to which the natural gas company has agreed to provide open access transportation service; and (b) the natural gas company agrees that the provisions of such certificate shall apply to transportation service provided through facilities con­
structed under this Section.
(b) All facilities constructed under this Section shall be constructed in accordance with applicable laws and regulations govern­ing environmental and safety factors; pro­
vided, however, the provisions of the Na­tional Environmental Policy Act of 1969, 42 U.S.C. 437, et seq., shall not apply to the construction or operation of facilities provided for in this subsection.
(c) Nothing in this Section shall pre­
clude a natural gas company from fil­
ing for and/or preclude the Commis­sion from issuing a certificate of public convenience and neces­sity pursuant to Section 7 of the Natural Gas Act for the operation of the facilities con­
structed under this section.

SEC. 7017. RECONSTRUCTION PRESUMPTION OF NO SIG­
IFICANT IMPACT.
The Commission shall create an environ­
mental review process under the National Environmental Policy Act and the jurisdiction of the Commission, and other matters, and shall constitute a final order on such matters.

SEC. 7021. PIPELINE SUBMISSION OF ENVIRON­
MENTAL ASSESSMENTS.
The Commission shall revise its environ­
mental review procedures to allow pipelines to submit Environmental Assessments ("EA") at the time of filing for approval of proposed facilities, utilizing general standards for review and approval of environmental impacts identified by the Commission. The revised procedures shall provide that such EA's shall be considered as environmental assessments of an environmental impact statement on connection with an appli­
cation for authority to construct or extend facilities described in the EA, and shall be made public and available to other agencies.

SEC. 7022. GLOBAL PRODUCTION TRENDS.
The Office of Technology Assessment, in conjunction with the Department, shall study and report to Congress on the global trends of production, usage, and transpor­
tation of natural gas, and shall report on which of these trends can affect domestic energy pol­

cies of the United States and the ways in which these trends can affect domestic energy pol­
icy and the U.S. natural gas industry.

SEC. 7023. REMOVAL OF STATE AND LOCAL BAR­
IER.
The Office of Technology Assessment, in conjunction with the Department, shall iden­
tify, study and report on Congress on State­
and local barriers to the development of new natural gas usage, and make recommendations as to
March 21, 1991
the establishment of a uniform national policy to enhance the use of natural gas.

TITLE VIII—TAX TREATMENT OF ENERGY RESOURCES
Subtitle A.—Renewable Energy Production Incentive

SEC. 301. (a) IN GENERAL.—Subpart B of part IV of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end thereof the following new section:

SEC. 30. RENEWABLE ENERGY PRODUCTION CREDIT.

(1) ALLOWABLE CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an applicable amount otherwise determined under subsection (a) with respect to any qualified technologies property—

(A) sold by the taxpayer to an unrelated person during the taxable year;

(B) the production of which is attributable to the taxpayer;

(C) sold by the taxpayer to another unrelated person who is using the property for the production of electricity, for such production for which there is a contractual obligation to purchase the electricity; or

(D) sold by the taxpayer to a governmental unit engaged in the sale of electricity.

(2) REDUCED APPLICABLE AMOUNT FOR GEO-ENERGY PRODUCTION.—The applicable amount shall be reduced by the sum of the credits allowed to any other person with respect to such property produced for sale to such person.

(3) QUALIFIED TECHNOLOGIES DEFINED.—For the purposes of this section:

(A) QUALIFIED TECHNOLOGIES.—The term ‘qualified technologies’ means:

(a) any renewable energy technologies, as defined in section 48(e)(2)(B) of the Code, and

(b) any geothermal technologies, as defined in section 48(e)(2)(C) of the Code.

(B) BIOMASS.—The term ‘biomass’ means:

(A) any organic material, including wood and other agricultural crops, which:

(i) is available on a sustainable basis; or

(ii) is produced by a facility that produces energy for sale to the public, where the energy is for commercial and industrial use, and apply only to systems installed in the last three years after enactment of this section.

(C) QUALIFIED TRANSPORTATION.—For purposes of this section, the term ‘qualified transportation’ means:

(i) transportation provided by the employer (whether by payment or reimbursement) for the taxpayer (whether an employee or an independent contractor), or

(ii) transportation provided by the employer (whether by payment or reimbursement) for the employee’s residence and place of employment.

(4) FOLLOW-THROUGH FOR PUBLIC UTILITIES.—(A) IN GENERAL.—The Secretary, after consultation with the Secretary of Energy, shall prescribe regulations within one year of the date of the enactment of this section for the follow-through of credits allowed under this section for public utilities.

(B) PUBLIC UTILITY.—For the purposes of paragraph (A), the term ‘public utility’ means a person, State, agency, or local unit of government engaged in the sale of electricity.

(5) CREDITS FOR SOLAR THERMAL.—Solar energy systems that produce thermal energy for commercial and industrial applications will be provided with a performance tax credit of $0.05 cents per thermal kilowatt-hour. This credit would be tied to production and applied only to solar thermal energy systems metered for thermal energy delivery, where the energy is for commercial and industrial use, and applied only to systems installed in the first five years after enactment of this section.

(C) EXTENSION OF SOLAR AND GEOTHERMAL ENERGY CREDITS.—Section 48 (a)(2)(B) of the Internal Revenue Code of 1986 (relating to term ‘qualified technologies’) is amended by striking ‘1991’ and inserting ‘1996’.

(D) CEREAL AMENDMENT.—The table of sections for subpart B of part IV of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

30. Renewable Energy Production Credit.

(E) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle B.—Transportation

SEC. 311. LIMITATION ON EXCLUSION FROM GROSS INCOME FOR PARKING ALLOWANCES TO EMPLOYER SUBSIDIES FOR MASS TRANSIT AND VAN POOLING.

(a) IN GENERAL.—Paragraph (4) of section 122(h) of the Internal Revenue Code of 1986 (relating to special rule for parking) is amended to read as follows:

"(4) WORKING CONDITION FRINGE INCLUDES CERTAIN TRANSPORTATION SUBSIDIES AND PARKING.—(A) IN GENERAL.—For purposes of this section, the term ‘working condition fringe’ includes:

(i) parking provided to an employee at a parking facility;

(ii) which is located on the premises of the employer,

(iii) which is operated by the employer, and

(iv) substantially all the use of which is by employees of the employer, and

(B) LIMITATION.—Subparagraph (A)(i) shall only apply to the extent the qualified transportation provided during any calendar month does not exceed $75.

"(C) QUALIFIED TRANSPORTATION.—For purposes of this paragraph, the term ‘qualified transportation’ means:

(i) transportation furnished in a commuter highway vehicle operated by or for the employer, and

(ii) transportation provided by the employer (whether by payment or reimbursement) on buses, trains, boats, or subways but only if such transportation is furnished in a commuter highway vehicle operated by or for the employer, and

(iii) transportation that is included in the definition of ‘qualified transportation’ for purposes of section 132(a)(9) of the Code.
(II) is scheduled and along regular routes.  (D) COMMUTER HIGHWAY VEHICLE.—For purposes of subparagraph (C), the term ‘commuter highway vehicle’ means any highway vehicle—

(i) the seating capacity of which is at least eight adults (not including the driver), and

(ii) at least 80 percent of the mileage use of which can reasonably be expected to be (I) for purposes of transporting the taxpayer’s employees between their residences and their place of employment, and (II) on trips during which the number of employees transported for such purposes is at least 1/4 the adult seating capacity of such vehicle (not including the driver).

(4) EFFECTIVE DATE.—The amendment made by this section shall apply to parking and transportation provided after December 31, 1991, in taxable years ending after such date.

Subtitle C.—Buildings and Housing Tax Credits

SEC. 821. TAX CREDIT FOR RETROFIT OF HOME OIL HEATERS.

(a) AMENDMENT OF INTERNAL REVENUE CODE.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to non-refundable personal credits) is amended by inserting after section 22 the following new section:

“SEC. 23. OIL RETROFIT CONSERVATION CREDIT.

“(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified oil retrofit conservation expenditures.

“(b) DOLLAR LIMITATION.—The amount of the credit under subsection (a) shall not exceed the excess (if any) of—

(1) $100 ($50 in the case of a married individual filing a separate return), over

(2) the aggregate amount of the credits allowed under subsection (a) for all preceding taxable years.

“(c) QUALIFIED OIL RETROFIT CONSERVATION EXPENDITURE.—For purposes of this section:

(1) IN GENERAL.—The term ‘qualified oil retrofit conservation expenditure’ means an expenditure by the taxpayer for the installation of an oil retrofit component in or on a dwelling unit which—

(A) is located in the United States; and

(B) is used as a principal residence by the taxpayer.

(2) OIL RETROFIT COMPONENT.—The term ‘oil retrofit component’ means an item:

(A) which is a flame retention replacement burner for an oil burner or a similar item specified by the Secretary as using comparable conservation technologies;

(B) which increases the insulation value in or on a dwelling unit, including the insulation value on a water heater;

(C) which is an automatic thermostat control;

(D) which increases the insulation value of a window;

(E) the original use of which begins with the taxpayer; and

(F) which can reasonably be expected to remain in operation for at least 20 years.

(3) SPECIFICATION OF ITEMS.—The Secretary, after consultation with the Secretary of Energy, shall prescribe performance and quality standards, and procedures, for the specification of items as oil retrofit components.

(4) SPECIAL RULES.—For purposes of this section:

(1) WHEN EXPENDITURES MADE; AMOUNT OF EXPENDITURES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to any item shall be treated as made when original installation of the item is completed.

“(B) AMOUNT.—The amount of any expenditure shall be treated as equal to the aggregate amount of the credits allowed with respect to any dwelling unit, these shall not be included in a person’s return who is a member of a condominium association which he owns, such individual shall be treated as having made his tenant-stockholder’s proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

“(C) TENANT-STOCKHOLDER IN HOUSING CORPORATION.—In the case of an tenant-stockholder in a cooperative housing corporation (as defined in section 216), such individual shall be treated as having made his tenant-stockholder’s proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

“(D) SPECIAL ADJUSTMENTS.—For purposes of this paragraph, the term ‘condominium management association’ means—

(1) any condominium management association described in section 710(b)(5) of the National Energy Conservation Policy Act of 1988 (42 U.S.C. 5281(1))

(2) any other measure designed to reduce energy or water consumption.

(II) is scheduled and along regular routes.  (D) COMMUTER HIGHWAY VEHICLE.—For purposes of subparagraph (C), the term ‘commuter highway vehicle’ means any highway vehicle—

(i) the seating capacity of which is at least eight adults (not including the driver), and

(ii) at least 80 percent of the mileage use of which can reasonably be expected to be (I) for purposes of transporting the taxpayer’s employees between their residences and their place of employment, and (II) on trips during which the number of employees transported for such purposes is at least 1/4 the adult seating capacity of such vehicle (not including the driver).

(4) EFFECTIVE DATE.—The amendment made by this section shall apply to parking and transportation provided after December 31, 1991, in taxable years ending after such date.

Subtitle C.—Buildings and Housing Tax Credits

SEC. 821. TAX CREDIT FOR RETROFIT OF HOME OIL HEATERS.

(a) AMENDMENT OF INTERNAL REVENUE CODE.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to non-refundable personal credits) is amended by inserting after section 22 the following new section:

“SEC. 23. OIL RETROFIT CONSERVATION CREDIT.

“(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified oil retrofit conservation expenditures made by any individual with respect to any dwelling unit, these shall not be included in a person’s return who is a member of a condominium association which he owns, such individual shall be treated as having made his tenant-stockholder’s proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

“(B) DOLLAR LIMITATION.—The amount of the credit under subsection (a) shall not exceed the excess (if any) of—

(1) $100 ($50 in the case of a married individual filing a separate return), over

(2) the aggregate amount of the credits allowed under subsection (a) for all preceding taxable years.

“(c) QUALIFIED OIL RETROFIT CONSERVATION EXPENDITURE.—For purposes of this section:

(1) IN GENERAL.—The term ‘qualified oil retrofit conservation expenditure’ means an expenditure by the taxpayer for the installation of an oil retrofit component in or on a dwelling unit which—

(A) is located in the United States; and

(B) is used as a principal residence by the taxpayer.

(2) OIL RETROFIT COMPONENT.—The term ‘oil retrofit component’ means an item:

(A) which is a flame retention replacement burner for an oil burner or a similar item specified by the Secretary as using comparable conservation technologies;

(B) which increases the insulation value in or on a dwelling unit, including the insulation value on a water heater;

(C) which is an automatic thermostat control;

(D) which increases the insulation value of a window;

(E) the original use of which begins with the taxpayer; and

(F) which can reasonably be expected to remain in operation for at least 20 years.

(3) SPECIFICATION OF ITEMS.—The Secretary, after consultation with the Secretary of Energy, shall prescribe performance and quality standards, and procedures, for the specification of items as oil retrofit components.

(4) SPECIAL RULES.—For purposes of this section:

(1) WHEN EXPENDITURES MADE; AMOUNT OF EXPENDITURES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to any item shall be treated as made when original installation of the item is completed.

“(B) AMOUNT.—The amount of any expenditure shall be treated as equal to the aggregate amount of the credits allowed with respect to any dwelling unit, these shall not be included in a person’s return who is a member of a condominium association which he owns, such individual shall be treated as having made his tenant-stockholder’s proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

“(C) TENANT-STOCKHOLDER IN HOUSING CORPORATION.—In the case of an tenant-stockholder in a cooperative housing corporation (as defined in section 216), such individual shall be treated as having made his tenant-stockholder’s proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

“(D) SPECIAL ADJUSTMENTS.—For purposes of this paragraph, the term ‘condominium management association’ means—

(1) any condominium management association described in section 710(b)(5) of the National Energy Conservation Policy Act of 1988 (42 U.S.C. 5281(1))

(2) any other measure designed to reduce energy or water consumption.

(b) TECHNICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 22 of the following new item:

“'Sec. 23. Oil Retrofit Conservation Credit.'

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle D.—Utilities

SEC. 831. EXCLUSION FROM GROSS INCOME FOR ENERGY AND WATER CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to taxable years beginning after December 31, 1990) is amended by inserting in section 219 after the item relating to subsection (11) the following new item:

“(12) any other measure designed to reduce energy or water consumption.

(b) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of any subsidy excluded under subsection (a) which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount of any subsidy excluded under subsection (a) which was provided with respect to such property.

“(c) ENERGY OF WATER CONSERVATION MEASURE.—For purposes of this section, the term ‘energy or water conservation measure’ means—

(1) any residential energy conservation measure described in section 219(b)(11) of the National Energy Conservation Policy Act (42 U.S.C. 5281(11))

(2) any commercial energy conservation measure described in section 710(b)(5) of the National Energy Conservation Policy Act (as in effect on the day before the date of the enactment of the Conservation Service Reform Act of 1988)

(3) any specifically defined energy property (as defined in section 68(b)(5) as in effect before the day on which the Revenue Reconciliation Act of 1990, and

(4) any other measure designed to reduce energy or water consumption.


§ 844. Fuel Economy Tax and Rebate Formula
(a) The fuel economy tax or rebate for each new motor vehicle which shall be determined according to the following formula.

\[ \text{Tax/ Rebate} = 10 \times \left[ \frac{S}{M} - \frac{S'}{M'} \right], \]

where:

\( S \) means the sales-weighted average fuel consumption of such vehicle and shall be equal to 10,000 divided by the MPG rating of such motor vehicle, as determined by the EPA Administrator under 15 U.S.C. section 2003(d).

\( S' \) means the sales-weighted average fuel consumption of all motor vehicles in the same class, as determined by the EPA Administrator and reported to the Secretary under 15 U.S.C. section 2003(d).

(b) If the result of the calculation is a positive number, it shall be a tax. If the result of the calculation is a negative number, it shall be a rebate.

§ 845. Vehicle Safety Tax and Rebate Formula
(a) The safety tax or rebate for each new motor vehicle shall be determined according to the following formula:

\[ \text{Tax/ Rebate} = 10 \times \left[ S - S' \right], \]

where:

\( S \) means the composite safety factor for such vehicle, based on the formula established by the EPA Administrator under 15 U.S.C. section 2003(d).

\( S' \) means the sales-weighted average composite safety factor of all motor vehicles in the same class, as determined by the EPA Administrator and reported to the Secretary under 15 U.S.C. section 2003(d).

(b) If the result of the calculation is a positive number, it shall be a tax. If the result of the calculation is a negative number, it shall be a rebate.

§ 846. Publication of Tax and Rebate Formula; Duty to Calculate and Display
(a) Not later than July 31, 1992, and not later than July 31 of each year thereafter, the Secretary shall submit to the Congress the following information:

(A) The fuel economy tax or rebate, as applicable, to each such vehicle under 15 U.S.C. section 2006 and in any proposed or final sales contract the following information.

(B) The safety tax or rebate, as applicable, and

(C) The net tax or rebate, as applicable.

The label shall also include graphic figures showing the relative rank of such motor vehicle to other vehicles in the same class, displayed separately for fuel economy and safety.

(A) The fuel economy tax or rebate, as applicable,

(B) The safety tax or rebate, as applicable,

(C) The net tax or rebate, as applicable.

The label shall also include graphic figures showing the relative rank of such motor vehicle to other vehicles in the same class, displayed separately for fuel economy and safety.

§ 847. Sales-weighted average fuel consumption
(a) There are established, as determined according to section 4, sales-weighted average composite safety factor of all new motor vehicles within the same class.

§ 848. Motor Vehicle Fuel Economy and Safety Taxes and Rebates
(a) There are established, as determined according to section 4,

1. A tax on the sale of each new motor vehicle sold in the United States whose fuel economy is less than the sales-weighted average fuel economy of all new motor vehicles within the same class, and

2. A rebate for the purchase of each new motor vehicle purchased in the United States whose composite safety factor is greater than the sales-weighted average composite safety factor of all new motor vehicles within the same class, and

3. A rebate for the purchase of each new motor vehicle purchased in the United States whose composite safety factor is greater than the sales-weighted average composite safety factor of all new motor vehicles within the same class.

§ 849. Sale of Vehicles for which a Tax is Due
(a) Whenever any person sells a new motor vehicle for which a tax is due under this subchapter, the person shall collect from the purchaser of such vehicle at the time of purchase the net tax due.

(b) Whenever any person sells a new motor vehicle for which a rebate is due under this subchapter, such person shall give to the purchaser of such vehicle at the time of purchase a voucher for the net rebate due.

(c) Any quarterly lessee or a person who has sold a new motor vehicle subject to this subchapter in the preceding quarter shall submit to the Secretary (1) all taxes collected from purchasers during such period, and (2) an accounting of all rebate vouchers issued to purchasers during such period. The Secretary shall place all receipts of such taxes in a special account dedicated exclusively to the purposes of this subchapter.

(d) Whenever any person purchases a rebate voucher from the Secretary, the Secretary shall pay to such purchaser within thirty days the rebate amount due. Such payments shall be drawn from the special account established under subsection (c). If at any time funds in the special account are not sufficient to meet rebate obligations, the Secretary shall transfer to the account such funds as are necessary to meet such obligations. Such transfers shall be promptly repaid from the special account balance in surplus. Except to repay any such transfers, the Secretary may not apply funds in the special account to any purpose other than the payment of rebates.

(e) The Secretary shall publish such forms and issue such regulations as are necessary to carry out this subchapter.

(f) Any rebate issued under this subchapter shall be considered an adjustment to the purchase price of the motor vehicle and shall not be considered income for the purposes of Chapter I of the Internal Revenue Code.

(g) There are authorized to be appropriated such sums as are necessary to carry out the provisions of this subchapter.

§ 850. Sales-weighted average fuel consumption
(a) There are established, as determined according to section 4, sales-weighted average fuel economy of all new motor vehicles sold in the United States in the twelve-month period covering the first half of the current model year and the last half of the prior model year.

(b) For the purposes of determining fuel economy taxes and rebates due under subchapter of Title 26 of the United States Code later than July 1, 1992, and each July 1 thereafter, the Secretary shall, for each vehicle class as defined in this paragraph—

(A) The fuel economy tax or rebate, as applicable,

(B) The safety tax or rebate, as applicable,

(C) The net tax or rebate, as applicable.

(D) The result of such calculation by the percentage change in sales-weighted average fuel consumption as compared with the prior twelve-month period; and

(E) The result of the calculation by the Secretary of the Treasury for use as the term "\( M' \)" in the formula set forth in 28 U.S.C. section 4.

§ 851. For the purposes of the preceding paragraph there shall be two vehicle classes. The "Light-duty class" shall include all light-duty vehicles and all light-duty trucks up to and including 4,500 lbs. gross vehicle weight rating. The "Medium-duty class" shall include all light-duty trucks between 4,500 and 8,500 lbs. gross vehicle weight rating.
(6) For any vehicle that is powered by a fuel other than gasoline, the Administrator shall determine an MPG rating which reflects the amount of carbon dioxide emitted by such vehicle, taking into account the total fuel cycle, as compared to gasoline-powered vehicles.

(7) Beginning the first year that fuel economy standards or taxes and rebates come into effect, the EPA Administrator shall include a complete schedule of such fees and rebates for each vehicle model in the fuel economy booklet required to be published each year under section 2006(b).

4. Composite safety factor and sales-weighted average composite safety factor

(a) Section 1392 of Title 15 of the United States Code is amended to add the following new subsection:

(1)(I) For the purposes of determining safety taxes and rebates due under subchapter of Title 26 of the United States Code, there is hereby established a "composite safety factor" to be calculated for each model of motor vehicle within the vehicle classes defined in section 5.

(2) The composite safety factor shall be based on injury criteria specified in regulations of the Secretary codified at 49 CFR §571.206, using crash test data from tests conducted according to the test protocol set forth in such regulations, except that such crash testing shall be conducted at 35 miles per hour. The formula for the composite safety factor shall be:

\[ F = 0.6 \times \text{(Driver's Injury Factor)} + (0.5 \times \text{Passenger's Injury Factor}) \]

where "\( F \)" is the composite safety factor for any motor vehicle not available as the result of tests conducted by the Secretary of Transportation, the manufacturer or importer of such vehicle, or both. Such a vehicle shall be necessary to determine such factor before such vehicle is offered for sale. Any such tests shall be conducted according to test protocol specified in 49 CFR §571.206 (except that they shall be carried out at 35 miles per hour) and shall be verified by confirmatory tests conducted by the Secretary before the end of the model year. The Secretary may determine that data from a previous model year may be used if the structural specifications of a model have not been altered.

(5) For the purposes of this subsection there shall be two vehicle classes. The "light-duty class" shall include all light-duty vehicles and all light-duty trucks up to and including 4,500 lbs. gross vehicle weight rating. The "medium-duty class" shall include all light-duty trucks between 4,500 and 6,000 lbs. gross vehicle weight rating.

TITLES VIII

SEC. 385. NET INCOME LIMITATION ON PERCENTAGE TAX NOT TO APPLY TO OIL AND GAS WELL.

(a) In General.—The second sentence of subsection (a) of section 633 of the Internal Revenue Code of 1986 (relating to percentage depletion) is amended by striking out "Such allowance" and inserting in lieu thereof "Except in the case of an oil or gas well, such allowance".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 385A. CRUDE OIL PRODUCTION CREDIT FOR MAINTAINING ECONOMICALLY MARGINAL WELLS.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting at the end thereof the following new section:

SEC. 613A. CRUDE OIL PRODUCTION CREDIT FOR MAINTAINING ECONOMICALLY MARGINAL WELLS.

(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year to the producer of eligible crude oil an amount equal to 10 percent of the qualified cost of each barrel of such oil (or fractional part thereof) produced during the taxable year.

(b) QUALIFIED COST.—For purposes of this section, the term 'qualified cost' means—

(1) the lease operating expenses (other than business overhead expenses) paid or incurred by the producer of such barrel during the taxable year in which such barrel was produced.

(2) the amount allowed to such producer for such taxable year for depreciation under section 167 and 168 with respect to the property used in the production of such barrel.

(c) The amount allowed to such producer for such taxable year for depreciation under section 167 and 168 with respect to the property used in the production of such barrel.

(d) Limitation Based on Amount of Tax.—

(1) LIABILITY FOR TAX.—The credit allowable under subsection (a) shall be a credit against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 (relating to income taxes), but not in excess of the income tax as established by the Secretary in the Revenue Act of 1971.

(2) APPLICABILITY OF MINIMUM TAX.—The credit allowable under subsection (a) shall be a credit against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 (relating to income taxes), but not in excess of the income tax as established by the Secretary in the Revenue Act of 1971.
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year determined without regard to this section.

"(1) the taxpayer's regular tax liability for such taxable year (as defined in section (b)), over

"(B) the sum of the credits allowable against the taxpayer's regular tax liability under part IV (other than section 43 and this section).

"(2) APPLICATION OF THE CREDIT.—Each of the following amounts shall be reduced by the full amount of the credit determined under paragraph (1):

"(A) the taxpayer's tentative minimum tax under section 56(c) for the taxable year, and

"(B) the taxpayer's regular tax liability (as defined in section 26(b)) reduced by the sum of the credits allowable under part IV (other than section 43 and this section).

If the amount of the credit determined under paragraph (1) exceeds the amount described in subparagraph (B) of paragraph (2), then the excess shall be deemed to be the adjusted minimum tax for such taxable year for purposes of section 56.

"(3) CARRYBACK AND CARRYFORTH OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the amount of the credit allowed under subsection (a) for any taxable year exceeds the limitation under paragraph (1) for such taxable year (herein-after in this paragraph referred to as the 'unused credit'), such excess shall be:

"(i) an oil production credit carryback to each of the 7 taxable years preceding the unused credit year,

"(ii) an oil production credit carryforward to each of the 15 taxable years following the unused credit year, and

"(iii) a deduction for any taxable year following the unused credit year.

"(B) LIMITATIONS.—The amount of the unused credit which may be taken into account under subparagraph (A) for any succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the taxpayer's regular tax liability for such taxable year (as defined in section 26(b)),

"(ii) the taxpayer's regular tax liability for such taxable year for purposes of section 56(c),

"(iii) the amount of the unused credit which may be taken into account under subparagraph (A) for such taxable year, and

"(iv) the amounts which, by reason of this paragraph, are added to the amount allowable under section 43 and this section.

"(C) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 58A. CRUDE OIL AND NATURAL GAS EXPLORATION AND DEVELOPMENT CREDIT.

(a) CRUDE OIL AND NATURAL GAS EXPLORATION AND DEVELOPMENT CREDIT.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by section 9, is amended by adding at the end thereof the following new section:

"SEC. 36A. CRUDE OIL AND NATURAL GAS EXPLORATION AND DEVELOPMENT CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the crude oil and natural gas exploration and development credit determined under this section for any taxable year shall be an amount equal to the sum of—

"(1) 20 percent of so much of the taxpayer's qualified investment for the taxable year as does not exceed $1,000,000, plus

"(2) 10 percent of so much of such qualified investment for the taxable year as exceeds $1,000,000.

"(b) QUALIFIED INVESTMENT.—For purposes of this section, the term 'qualified investment' means amounts paid or incurred in taxable years beginning after March 21, 1991, in connection with activities which are intended to result in the exploration or production of crude oil and natural gas within the United States, or investments in mineral exploration or production credits determined under subpart B of part IV (other than section 43 and this section).

"(c) LIMITATION ON AMOUNT OF TAX.—

"(1) LIABILITY FOR TAX.—The credit allowable under subsection (a) for any taxable year shall not exceed the amount (if any) of—

"(i) the taxpayer's tentative minimum tax liability under section 56(b) for such taxable year determined without regard to this section, plus

"(ii) the taxpayer's regular tax liability for such taxable year (as defined in section 26(b)) reduced by the sum of the credits allowable under part IV (other than section 43 and this section),

"(2) APPLICATION OF THE CREDIT.—Each of the following amounts shall be reduced by the full amount of the credit determined under paragraph (1):

"(A) The taxpayer's tentative minimum tax under section 56(b) for the taxable year, and

"(B) the taxpayer's regular tax liability (as defined in section 26(b)) reduced by the sum of the credits allowable under part IV (other than section 43 and this section).

If the amount of the credit determined under paragraph (1) exceeds the amount described in subparagraph (B) of paragraph (2), then the excess shall be deemed to be the adjusted net minimum tax for such taxable year for purposes of section 56.

"(D) CARRYBACK AND CARRYFORTH OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the amount of the credit allowed under subsection (a) for any taxable year exceeds the limitation under paragraph (1) for such taxable year (herein-after in this paragraph referred to as the 'unused credit'), such excess shall be:

"(i) an oil production credit carryback to each of the 7 taxable years preceding the unused credit year, and

"(ii) an oil production credit carryforward to each of the 15 taxable years following the unused credit year, and

"(iii) a deduction for any taxable year following the unused credit year.

"(B) LIMITATIONS.—The amount of the unused credit which may be taken into account under subparagraph (A) for any succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the amount of the unused credit which may be taken into account under subparagraph (A) for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable under section 43 and this section.

"(C) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.
(2) Conforming Amendments.—(A) Paragraphs (2) and (3) of section 29(b)(1) of such Code are each amended by striking out "29(b)(2), 61(a)(1)," and inserting in lieu thereof "29(b)(1), 61(a)(1)."
(B) Section 29(b)(2) of such Code is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).
(C) The heading of section 29(b)(1) of such Code is amended by striking out "INTANGIBLE DRILLING COSTS AND"
(D) Clause (i) of section 66(c)(4)(D) of such Code is hereby repealed.
(E) Section 66(e)(2) of such Code is amended by striking out subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D).
(F) Section 263(c) of such Code is amended by striking out the last sentence.

(c) Effective Date.—The repeal made by this section shall apply to costs paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 555. Repeal of Taxable Income Limitation on Percentage Depletion.

(a) In General.—Section 61(d)(1) of the Internal Revenue Code of 1986 is amended by deleting "65 percent" and inserting in lieu thereof "100 percent.

(b) Effective Date.—The amendments made by this section shall apply to the taxable years beginning after the date of the enactment of this Act.

SEC. 556. Extent to Carry Forward Depletion Deduction in Excess of Amounts Determined Under Section 61.(1). (a) In General.—Section 59 of the Internal Revenue Code of 1986 (relating to other deductions) is amended by inserting at the end thereof the following new subsection:

"(k) Optional Carryforward of Excess Depletion Allowances.

(1) In General.—For purposes of this title, a taxpayer may elect to treat any portion of the excess amount described in section 59(a)(1) for any taxable year as a deduction arising in the succeeding taxable year.

(2) No Other Deduction Allowed.—No deduction shall be allowed under any other section for any amount to which an election under this subsection applies for the taxable year.

(b) Election Preference Items.—Rules similar to the rules of paragraph (4) and (6) of subsection (a) shall apply to amounts to which this subsection applies.

(c) Effective Date.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 557. Repeal of Revenue Ruling 77-176

(a) With respect to mineral sharing arrangements, the application of chapter 1 the Internal Revenue Code of 1986 shall be determined—

(1) without regard to Revenue Ruling 77-176 (and without regard to any other regulation, ruling, or decision reaching the same result as Revenue Ruling 77-176, the result set forth in such Revenue Ruling; and (2) with his regard to the rules in effect before Revenue Ruling 77-176.

SEC. 558. Nonconventional Source Fuels Credit Allowed to Offset Alternative Minimum Tax Liability—Section 29(b)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(d) Application with Other Credits.—The credit allowed by subsection (a) for any taxable year shall not exceed the greater of—

(A) the regular tax liability for the taxable year reduced by the sum of the credits allowable under part A and sections 27 and 28, or

(B) the tentative minimum tax liability under section 55(b) for the taxable year determined without regard to this section.

(c) Effective Date.—The provisions of this section shall apply to the tax year beginning after December 31, 1991.


(a) Findings.—The goal of this section is to foster stabilization or reduction of carbon dioxide and other greenhouse gases.

(b) Effective Date.—The amendments made by this section shall apply to costs paid or incurred after the date of the enactment of this Act.

"(k) Optional Carryforward of Excess Depletion Allowances.

(1) In General.—For purposes of this title, a taxpayer may elect to treat any portion of the excess amount described in section 59(a)(1) for any taxable year as a deduction arising in the succeeding taxable year.

(2) No Other Deduction Allowed.—No deduction shall be allowed under any other section for any amount to which an election under this subsection applies for the taxable year.

(b) Election Preference Items.—Rules similar to the rules of paragraph (4) and (6) of subsection (a) shall apply to amounts to which this subsection applies.

(c) Effective Date.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 555. Repeal of Taxable Income Limitation on Percentage Depletion.

(a) In General.—Section 61(d)(1) of the Internal Revenue Code of 1986 is amended by deleting "65 percent" and inserting in lieu thereof "100 percent.

(b) Effective Date.—The amendments made by this section shall apply to the taxable years beginning after the date of the enactment of this Act.

SEC. 556. Extent to Carry Forward Depletion Deduction in Excess of Amounts Determined Under Section 61.(1). (a) In General.—Section 59 of the Internal Revenue Code of 1986 (relating to other deductions) is amended by inserting at the end thereof the following new subsection:

"(k) Optional Carryforward of Excess Depletion Allowances.

(1) In General.—For purposes of this title, a taxpayer may elect to treat any portion of the excess amount described in section 59(a)(1) for any taxable year as a deduction arising in the succeeding taxable year.

(2) No Other Deduction Allowed.—No deduction shall be allowed under any other section for any amount to which an election under this subsection applies for the taxable year.

(b) Election Preference Items.—Rules similar to the rules of paragraph (4) and (6) of subsection (a) shall apply to amounts to which this subsection applies.

(c) Effective Date.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 557. Repeal of Revenue Ruling 77-176

(a) With respect to mineral sharing arrangements, the application of chapter 1 the Internal Revenue Code of 1986 shall be determined—

(1) without regard to Revenue Ruling 77-176 (and without regard to any other regulation, ruling, or decision reaching the same result as Revenue Ruling 77-176, the result set forth in such Revenue Ruling; and (2) with his regard to the rules in effect before Revenue Ruling 77-176.

SEC. 558. Nonconventional Source Fuels Credit Allowed to Offset Alternative Minimum Tax Liability—Section 29(b)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(d) Application with Other Credits.—The credit allowed by subsection (a) for any taxable year shall not exceed the greater of—

(A) the regular tax liability for the taxable year reduced by the sum of the credits allowable under part A and sections 27 and 28, or

(B) the tentative minimum tax liability under section 55(b) for the taxable year determined without regard to this section.

(c) Effective Date.—The provisions of this section shall apply to the tax year beginning after December 31, 1991.


(a) Findings.—The goal of this section is to foster stabilization or reduction of carbon dioxide and other greenhouse gases.

(b) Effective Date.—The amendments made by this section shall apply to costs paid or incurred after the date of the enactment of this Act.

"(k) Optional Carryforward of Excess Depletion Allowances.

(1) In General.—For purposes of this title, a taxpayer may elect to treat any portion of the excess amount described in section 59(a)(1) for any taxable year as a deduction arising in the succeeding taxable year.

(2) No Other Deduction Allowed.—No deduction shall be allowed under any other section for any amount to which an election under this subsection applies for the taxable year.

(b) Election Preference Items.—Rules similar to the rules of paragraph (4) and (6) of subsection (a) shall apply to amounts to which this subsection applies.

(c) Effective Date.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 555. Repeal of Taxable Income Limitation on Percentage Depletion.

(a) In General.—Section 61(d)(1) of the Internal Revenue Code of 1986 is amended by deleting "65 percent" and inserting in lieu thereof "100 percent.

(b) Effective Date.—The amendments made by this section shall apply to the taxable years beginning after the date of the enactment of this Act.

SEC. 556. Extent to Carry Forward Depletion Deduction in Excess of Amounts Determined Under Section 61.(1). (a) In General.—Section 59 of the Internal Revenue Code of 1986 (relating to other deductions) is amended by inserting at the end thereof the following new subsection:

"(k) Optional Carryforward of Excess Depletion Allowances.

(1) In General.—For purposes of this title, a taxpayer may elect to treat any portion of the excess amount described in section 59(a)(1) for any taxable year as a deduction arising in the succeeding taxable year.

(2) No Other Deduction Allowed.—No deduction shall be allowed under any other section for any amount to which an election under this subsection applies for the taxable year.

(b) Election Preference Items.—Rules similar to the rules of paragraph (4) and (6) of subsection (a) shall apply to amounts to which this subsection applies.

(c) Effective Date.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 557. Repeal of Revenue Ruling 77-176

(a) With respect to mineral sharing arrangements, the application of chapter 1 the Internal Revenue Code of 1986 shall be determined—

(1) without regard to Revenue Ruling 77-176 (and without regard to any other regulation, ruling, or decision reaching the same result as Revenue Ruling 77-176, the result set forth in such Revenue Ruling; and (2) with his regard to the rules in effect before Revenue Ruling 77-176.

SEC. 558. Nonconventional Source Fuels Credit Allowed to Offset Alternative Minimum Tax Liability—Paragraph (5) of section 29(b)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(d) Application with Other Credits.—The credit allowed by subsection (a) for any taxable year shall not exceed the greater of—

(A) the regular tax liability for the taxable year reduced by the sum of the credits allowable under part A and sections 27 and 28, or

(B) the tentative minimum tax liability under section 55(b) for the taxable year determined without regard to this section.

(c) Effective Date.—The provisions of this section shall apply to the tax year beginning after December 31, 1991.


(a) Findings.—The goal of this section is to foster stabilization or reduction of carbon dioxide and other greenhouse gases.

(b) Effective Date.—The amendments made by this section shall apply to costs paid or incurred after the date of the enactment of this Act.
Sec. 223—Manufactured Housing Standards—This section directs DOE to assist HUD develop energy standards for manufactured housing. With the cooperation of P.L. 101-625, the Cranston-Gonzalez Housing Bill, DOE shall recommend energy efficiency standards based on life-cycle cost, and shall test the energy efficiency of currently manufactured housing prototypes constructed to the required standards.

Sec. 224—Fund for Upgrading Energy Efficiency—This section requires DOE to establish a fund to provide grants to eligible States to undertake energy efficiency projects in State and locally-owned buildings.

Sec. 225—Electrical Product Standards—This section requires DOE to set minimum energy efficiency standards in accordance with section 4.63 of P.L. 101-625, the Cranston-Gonzalez Housing Bill. DOE shall recommend energy efficiency standards based on life-cycle cost, and shall test the energy efficiency of currently manufactured housing prototypes constructed to the required standards.

Sec. 226—Fund for Upgrading Energy Efficiency—This section requires DOE to establish standards for table lamps in order to ensure that they can utilize compact fluorescent lamps. In addition, DOE will develop electronic ballasts for use in compact fluorescent lamps and direct DOE to increase staff capability to accommodate these standards requirements.

Sec. 227—Training and Certification of Contractors—This section establishes a DOE program to train and certify energy efficiency contractors in accordance with its standards of performance and training.

Sec. 228—Federal Energy Management Program—This section requires DOE to establish a program to train and certify energy efficiency contractors in accordance with its standards of performance and training.

Sec. 229—Taxation of Fuel Efficient Oil Burners—This section establishes a Federal Energy Efficiency Program (see Title VIII).

SUBTITLE D—FEDERAL ENERGY EFFICIENCY

Sec. 230—Federal Energy Management Program—This section establishes a Federal Energy Management Program (see Title V E). This program will require States to develop energy efficiency programs to establish residential and commercial buildings codes.

Sec. 231—Federal Energy Management Program—This section requires DOE to develop and implement a Federal Energy Management Program in accordance with its standards and training requirements.

Sec. 232—Energy Efficiency—This section requires DOE to develop and implement a Federal Energy Management Program in accordance with its standards and training requirements.

Sec. 233—Manufactured Housing Standards—This section requires DOE to submit a plan to Congress for demonstrating energy efficiency and renewable energy technologies. Congress may require DOE to establish a Federal Energy Management Program in accordance with its standards and training requirements.

Sec. 234—Energy Efficiency—This section requires DOE to submit a plan to Congress for demonstrating energy efficiency and renewable energy technologies. Congress may require DOE to establish a Federal Energy Management Program in accordance with its standards and training requirements.

Sec. 235—Fuel Cells—This section requires DOE to submit a plan to Congress for demonstrating energy efficiency and renewable energy technologies. Congress may require DOE to establish a Federal Energy Management Program in accordance with its standards and training requirements.

Sec. 236—Study of Federal Purchase Incentives—This section requires DOE to prepare a study on energy efficient products and financial assistance for Insular area governments to carry out energy efficiency and renewable energy projects.
quires DOE to promote the use of alternative fuels by distributing information to the public, identifying barriers to government purchases of alternative fuel vehicles, identifying ways in which preferential treatment of alternative fuel vehicles under tax, credit, and control measures may help adoption of alternative fuel vehicles, and designing and federal and state loan programs to aid the conversion of existing vehicles to operation on alternative fuels, repaying such loans out of savings on fuel costs.

Section 407—Federal Regulation of the Sale of Alternative Fuels—This section clarifies that sale of natural gas as a vehicle fuel shall not be construed to be an interstate sale of natural gas by a refiner. Refiners and non-refiners alike could be subject to regulations by the Federal Energy Regulatory Commission.

Section 408—Federal Regulation of Alternative Vehicle Fuels—This section exempts sellers of alternative vehicle fuels from regulation as public utilities (unless they are a utility by virtue of other activities).

Section 409—Matching Funds for State Programs—This section provides up to $40 million annually in matching funds for the establishment of state programs to aid in increasing the use of alternative vehicle fuels.

Section 410—Non-road Vehicles—Vehicle fuel requirements under traffic control.

Section 411—Alternative Fuel Fleet Requirements—This section requires DOE to study the potential contribution toward reduced oil imports of converting non-road vehicles to alternative fuels, and authorizes DOE to require use of alternative fuels by non-road vehicles where feasible. This covers industrial and commercial vehicles including airport vehicles, trains, etc. Farm vehicles are excluded.

Section 412—Electric Vehicle Demonstration Program—This subtitle authorizes a $50 million program to help industry develop electric vehicles. The project is designed to overcome technical and economic barriers to widespread use of electric vehicles.

Title V—Transportation Efficiency Standards—Section 501—Corporate Average Fuel Economy Standards—This section is entitled the "Bryan-Gorton Motor Vehicle Fuel Economy Act of 1991." Identical to the language of the Vermont bill H.R. 2685, this bill would require the Corporate Average Fuel Economy (CAFE) standards to be improved by 40 percent over the next decade.

Subtitle A—Energy Efficiency

Automobile Purchases (See Title VIII)

Section 601—Alternative Fuels Credit Program—This title is based on the text of S. 2395—Jeffords (101st Cong.), which provides that a set percentage of all automobiles sold in the United States consist of non-petroleum fuels. Refiners and other covered fuel wholesalers can accumulate credits by selling alternative fuels, by blending alternative fuels with other components to convert the gasoline they sell, or by purchasing credits from other sellers of alternative fuels (or manufacturers of electric vehicles). Requires 10% use of alternative fuels by 1998, and 30% (or the maximum feasible percentage, as determined by DOE) by 2010.

Title VII—Measures to Promote the Use of Natural Gas

Subtitle A—Promoting New Uses for Natural Gas

Section 701—Findings, Purposes, Definitions—Provides for DOE to conduct research and development to design strategies for encouraging use of alternative fuel vehicles under traffic control.

Section 702—Co-Firing R&D—Conduct 3-year, $30 million program to research, develop, and demonstrate use of natural gas in co-firing applications, to achieve near-term reduction in NOx, SOx and particulates from coal. Federal funding should support 50 percent of program.

Section 703—Natural Gas Air Conditioning Demonstration—Provides Federal funding to support 25 percent to 75 percent of cost of gas-air-conditioning installation or conversion from electric. Help overcome initial capital-cost problem to realize operating cost and environmental benefits.

Subtitle B—Promoting Additional Capacity to Transport Natural Gas to Market

Section 706—Incentive Ratemaking—Directs FERC to experiment with incentive rate designs which achieve the dual objective of allowing pipeline rate-regulatory rate of return and simultaneously provide the correct price signals to the marketplace.

Section 708—Energy Requirements—Eliminates FERC’s ability to delay decision-making on ratemaking orders beyond the 30-day rehearing requirement without cause.

Section 709—Energy Pricing—Provides for a limited exemption from antitrust laws and amends Natural Gas Act to allow pipelines to cooperate to post a single rate for a well-defined service, with one of the pipelines acting as an agent to execute contracts.

Section 709—Fair Return—Provides for pipeline rate orders to reflect the useful value of pipeline facilities, rather than depreciated cost. A substantial portion of the interstate pipeline industry was built during the 1940’s, 50’s, and 60’s. Much of this pipe is highly depreciated. Rates designed on the basis of these values result in artificially low rates and represent prohibitive competitive barriers to new capacity.

Section 710—Deregulated Sales Function—Provides for FERC to use a finding of competitive market conditions, under which pipelines may be unbundled, as a basis for determining percentage of new vehicle purchases. In all cities, fleets of 20 or more must meet these requirements.

Section 421—Electric Vehicle Demonstration Program—This subtitle authorizes a $50 million program to help industry develop electric vehicles. The project is designed to overcome technical and economic barriers to widespread use of electric vehicles.

Section 711—Deregulated Competitive Services—Allows pipelines to offer new services without regulatory review provided that the customer has a competitive alternative which has been certified by the FERC.

Section 712—Open-Access Policy—Amends section 7(b) of the Natural Gas Act to provide automatic abandonment of the sales obligation upon contract expiration, subject to a pipeline right to extend. The statutory service obligation for the underlying firm transportation would continue, subject to FERC rules.

Subtitle C—Promoting Additional Supplies of Natural Gas

Section 713—Producer Demand Charges—Allows "as-billed" flow-through by pipelines of demand charges paid to producers, subject to such reasonable regulatory control standards as the FERC shall prescribe.

Section 714—Competitive Impact of Imports—Makes the competitive impact on similarly situated U.S. pipeline facilities the criteria for approval of any natural gas imports. If the rate design of the imported supply is found to cause significant competitive distortion, the Secretary or FERC are directed to take steps to correct the distortion.

Section 715—Research for New Exploration, Development and Production Technologies—Directs additional federal support of geology and development technologies for recovery of natural gas.

Section 716—Incentives for Independent Oil and Gas Exploration (See Title VIII)

Subtitle D—Accelerating New Pipeline Construction

Section 717—Incentive for NEPA Review—Provides statutory authority for FERC to lead in the preparation and approval of EISs for natural gas facilities.

Section 718—Matching Funds for State Programs—This section provides up to $40 million annually in matching funds for the establishment of state programs to aid in increasing the use of alternative vehicle fuels.

Section 719—Federal Regulation of Alternative Vehicle Fuels—This section exempts sellers of alternative vehicle fuels from regulation as public utilities (unless they are a utility by virtue of other activities).
HOW MUCH OIL IS SAVED?

CAFE saves approximately 2.8 million barrels a day by 1998. The oil-heating improvement tax breaks could save 25,000 barrels a day within the next few years.

The oil producer fuel programs back out 700,000 barrels/day by 1996, and perhaps as much as 2.1 million barrels/day by 2010 (those are the targets of the legislation introduced by Senator Jeffords—all the other provisions just help us get there).

The natural gas measures will displace additional oil. Over the last two decades gas prices have increased such that we may displace as much as 2.1 million barrels of oil a day. That's just 1.3 million barrels of oil a day.

The total could be 6 million barrels/day by 2010, or about 40% of our oil use.

The Wirth-Hatfield bill also increases oil production. We estimate that the tax measures in this bill could result in more than 4,000 additional oil wells in the U.S. over the next four years, and will keep thousands of stripper wells from being shut down if oil prices drop.

HOW MUCH DOES THIS COST?

The programs in this bill increase spending authority $342 million over the Administration's budget. By the end of the next three years, it is perhaps a $1.9 billion increase.

We have yet to receive the estimates for the tax items in the bill, but they are big—perhaps $2.1 billion annually. Of that, there are about $300 million a year in tax incentives for conservation and renewables; perhaps $500 million a year in new income from renewable energy for auto use (parking subsidies); and about $2.3 billion in tax incentives for domestic energy production, focused on independent oil and gas producers.

HOW DO YOU PAY FOR ALL THIS?

Most of the cost can be paid for out of existing energy programs at DOE. The legislation will save the government perhaps as much as $800 million on its annual $3.5 billion energy bill for buildings. The government pays $310 million a year for gasoline. A 29% increase in fuel efficiency means saving $60 million a year.

How much does it cost not to do this? The more dependent we are on oil, the more we are politically and economically at the mercy of the Middle East—because that's where the world's oil is.

It may be that we may have to find some additional funding for this bill. We can do that, once the Congress confronts the fact that, there are things that must be done for the benefit of our economy and our national security.

CAFE meets the tax measures in this bill could result in more than 4,000 additional oil wells in the U.S. over the next four years. And they could keep thousands of stripper wells from being shut down if oil prices drop.

DOESN'T SOME OF THIS CHANGE ENVIRONMENTAL LAWS?

The bill includes some changes in procedures, but it does not change the substance of any environmental law. We do not have to do this to have an effective energy policy.

Some people in the environmental community are worried about the incentives we have included for new oil production. But we need them to have an effective energy policy. And this is a very good bill for the environment. For one thing, it sets up a process to deal with an environmental challenge we face—controlling carbon dioxide emissions to fight global warming.

HOW DOES THIS COMPARE WITH THE N.E.S.?

Much of what is in this bill was in the N.E.S. before the White House staff whittled it down. Now, there is little comparison. The N.E.S. does next to nothing to increase the efficiency with which we use energy in the first place, or to provide the incentives to get the Congressman Energy from setting efficiency standards. Yet 2 years ago, the major home appliance manufacturers begged the Congress and the Administration to get standards—because if we didn't the states would.

The Wirth-Hatfield bill directs the Secretary to set standards. It also gives utility ratepayers, independent energy producers, and other parties to encourage the Secretary to go out and find ways to save energy. A penny saved is a penny earned; the same is true with energy. The energy that we save by insulating homes, by using more efficient motors and lights, and by careful management, the more energy we have for economic growth.

The bill includes a very strong CAFE standard (Senators Bryan and Gorton's bill), to make cars more efficient. Cars are where we use 30% of our oil, and if we neglect cars—as the Administration does—we won't do the job we need to do.

It adds the tax requirements to the Clean Air Act program Congress passed last year, to require commercial vehicle fleets (cabs, delivery vans, etc.) to use electricity, natural gas, etc. to be credited against the Alternative Minimum Tax (which is the income tax alternative most independent oil and gas producers are forced to pay). This section would remove from taxable income, utility fees on the purchase of less safe and less energy efficient vehicles.

Questions and answers about the Wirth-Hatfield bill

This bill is good energy policy, good environmental policy, and good economic policy. That is the kind of balance we need to have in order to pass an energy policy bill in this Congress.
Mr. President, I would like to clarify that my support of this bill in no way will prevent me from supporting other energy strategy bills or amendments that may come before the Senate for consideration. For example, Senators JOHNSTON’S and WALLOP’S comprehensive energy legislation contains many provisions of which I am very supportive. The Administration’s National Energy Security Act of 1991 also includes several provisions that would make our Nation much less dependent on imported oil, and I am supportive of many of these.

While I am predominantly interested in advancing conservation and renewable energy resources, I also realize that any comprehensive national energy package must contain a variety of provisions to effectively reduce our dependence on foreign oil—including provisions to increase the production of our own domestic oil resources. If we continue to rely predominantly on imported oil to meet our energy needs, the day will come once again when we will send our military into battle in the Persian Gulf region.

Clearly, Mr. President, the time has come for us to work toward developing an energy policy that will ensure our Nation’s future security, and I believe the legislation I am cosponsoring today will, if passed, contribute significantly to that goal.

Mr. ADAMS, Mr. President, today I am pleased to be an original cosponsor of the National Energy Efficiency and Development Act—a bill that presents a significant alternative to the administration’s National Energy Strategy. Unlike the administration bill, this bill does not call for the development of nuclear energy or the exploitation of the Arctic National Wildlife Refuge, nor does it seek to squeeze the last drops of oil out of the earth.

This bill seeks instead to reign in the U.S. appetite for oil. The United States is far and away the greatest consumer of fossil fuels in the world—and this is not a fact we should be proud of. We are also heavily dependent on foreign countries for the oil we consume. If U.S. citizens are willing to go to war over oil they should be happy to embrace conservation as another path toward energy security. This bill would provide that path.

The bill that I join with Senator WIRTH in sponsoring today would establish tough fuel economy standards for our cars. Mr. President, I started on that program 20 years ago, and you kind of hope that after that period of time, we would begin to get results. Instead we have started to slide back the other way. Because more than half of our oil consumption is used in transportation, with the auto being the largest factor. For this reason, fuel economy standards are essential to any energy plan and, frankly, it is unconscionable that the administration omitted them from its plan. If enacted, this section of the Wirth bill could conserve 15 billion barrels of oil in the United States by the year 2020.

This bill would also make the global environment a factor in our energy planning. With the United States being the single largest contributor of carbon dioxide emissions in the world, it is time to take greenhouse gas generation into account in our energy strategy. This would be a leadership position worthy of the United States in this new world order.

The Wirth bill also requires Federal Power Marketing Administrations to adopt conservation measures. The administration has been doing for years—promote the acquisition of efficient and renewable energy resources for themselves and their customers. In a big bow to Bonneville, BPA is not even included in the list of PMAs that must adopt conservation measures. It is gratifying to see the Pacific Northwest leading the way on this legislation.

The National Energy and Efficiency Act calls on the Department of Energy to guide consumers into energy efficient homes; it would promote the development of alternative energy sources, like wind and solar energy; it would allow for tax-exempt mass transit vouchers.

The United States must move forward with its energy plan. It is time to apply our technical know-how toward reducing our energy consumption as we continue to grow. This bill moves us toward lower pollution levels and reduced dependence on foreign oil without great national sacrifice. We all need this kind of improvement in our standard of living. I am proud to join with Senator WIRTH in introducing this bill today.

We were doing all of this up until a few years ago, and then things became plentiful again, and we forgot the lessons of the oil embargo. So I hope that this bill will pass, and I hope it will improve the administration’s policy on energy.

Mr. LIEBERMAN. Mr. President, I am pleased to be a co-sponsor of the National Energy Efficiency and Development Act introduced by my colleague from Colorado, Senator WIRTH. The act is the most comprehensive energy policy that reduces our country’s dependence on oil and is environmentally sound. This legislation begins to move our country in this direction. It calls for least-cost planning so that utilities companies will be encouraged to use conservation measures rather than build new electrical generating plants. The bill also fills a void in the area of energy conservation in homes and industries. The standards to be developed for industrial appliances in this legislation will save millions of dollars in energy costs while at the same time reducing demand on electrical generating systems thereby reducing pollution from these systems. Millions of homeowners have benefited from similar standards on home appliances such as dish washers and refrigerators. It is now time for industry to have these same advantages. I think it is disgraceful that the administration’s National Energy Strategy prohibits the Secretary of Energy from developing the standards proposed in Senator WIRTH’s legislation.

The act is the most comprehensive to date in encouraging energy development and demonstration of alternative and renewable energy technologies. These new technologies will be the electrical generating source of the very near future that will move us away from polluting forms of energy generation.

While this bill is the type of energy legislation the Senate should be considering, I do have concerns about titles VII and VIII. Of course this country needs domestic sources of energy, but giving tax incentives to oil companies and deregulating natural gas pipelines are questionable means for achieving this. While these two alternatives are preferable to the shortsighted policies of opening the Arctic National Wildlife Refuge and the Outer Continental Shelf to drilling, I am hopeful that in the debate to follow we can develop better means to securing or creating domestic energy sources.

Senator WIRTH’S bill is solid. It is comprehensive. It requires the private sector, but most importantly, the Federal Government itself to conserve energy and be more energy wise. I am pleased that Senator WIRTH included provisions from legislation I have sponsored this year requiring the Federal Government to implement energy saving devices in all Federal buildings. If the government reduces its light bill by 10 percent, we save the taxpayers nearly a billion dollars. I am also pleased that the legislation calls for demonstration of fuel cells in Federal buildings. These efficient and clean...
sources of electricity will be an important power source for our country next century. This demonstration by the Federal Government will go far to make this type of power a reality.

I am pleased to join Senator Wirth in introducing this legislation. It is the type of energy legislation that the Senate should be focusing. It moves us a long way toward an energy policy that will make the United States truly energy independent and environmentally sound.

By Mr. DANFORTH:

S. 744. A bill to extend the temporary suspension of duty on 0,0-dimethyl-S-(4-oxo-1,2,3-benzotriazin-3-(4H)-yl)methyl) phosphorodithioate, to the Committee on Finance.

S. 745. A bill to extend the temporary suspension of duty on 4-fluoro-3-phenoxy benzaldehyde, to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DANFORTH. Mr. President, today I am introducing two miscellaneous tariff bills. The first would extend the temporary suspension of duty on 0,0-dimethyl-S-(4-oxo-1,2,3-benzotriazin-3-(4H)-yl)methyl) phosphorodithioate. The second bill would extend the temporary suspension of duty on 4-fluoro-3-phenoxy benzaldehyde.

I ask unanimous consent that the texts of these bills be printed in full in the RECORD.

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

S. 744

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

SECTION 1. 0,0-DIMETHYL-S-(4-oxo-1,2,3-BENZOTRIAZIN-3-(4H)-YL)METHYL PHOSPHORODITHIOATE.

Heading 9902.31.09 of subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 2077) is amended by striking out the date in the effective period column and inserting "12/31/94".

S. 745

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

SECTION 1. 4-FLUORO-3-PHENOXY BENZALDEHYDE.

Heading 9902.30.54 of subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 2077) is amended by striking out the date in the effective period column and inserting "12/31/94".

By Mr. DANFORTH:

S. 746. A bill to extend the duty education on certain unwhore lead for a period of 2 years; to the Committee on Finance.

TARIFF EXTENSION

Mr. DANFORTH. Mr. President, today I am introducing a miscellaneous tariff bill to extend the current import duty arrangement on unalloyed, un- wrought lead for a period of 2 years. This temporary arrangement was put into place on January 1, 1980, and has had the effect of stabilizing the effective tariff on these lead imports. The arrangement reduced the previously existing ad valorem tariff rate from 3.5 percent to 3 percent but also established as a specific duty floor a minimum tariff of 2.3424 cents per kilogram of lead content.

The underlying purpose of the extension is to ensure the continued operation of this lead duty arrangement pending the conclusion of the Uruguay round tariff negotiations. In these negotiations, the United States has proposed the elimination of U.S. and foreign import duties on this product. However, in the event that these multilateral negotiations are not concluded by the time of the scheduled expiration of the current duty arrangement on December 31, 1992, the extension would continue the duty arrangement for a period during which the U.S. industry hopes that negotiations can be completed.

The duty arrangement aids both the domestic producers and consumers of primary lead by contributing to stability in the primary lead market. During periods of relatively high lead prices, the reduction in the ad valorem rate reduces the duty cost for consumers, while the specific rate duty floor assists the domestic producers when lead prices are relatively low and the domestic industry is vulnerable to cyclical pressures.

I ask unanimous consent that the text of this 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. 746

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

SECTION 1. UNWORTH LEAD.

Heading 9902.78.01 of the Harmonized Tariff Schedule of the United States is amended by striking out the date in the effective period column and inserting "12/31/94".

By Mr. PRYOR (for himself, Mr. BURDICK, Mr. HOLLINGS, Mr. SHELEY, Mr. INOUYE, Mr. LEVIN, Mr. CHAFFEE, Mr. COCHRAN, and Mr. BREAUX):

S. 747. A bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity and cost of bringing workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes; to the Committee on Finance.

CHURCH RETIREMENT BENEFITS SIMPLIFICATION ACT OF 1991

- Mr. PRYOR. Mr. President, I am pleased to introduce today the Church Benefits Simplification Act of 1991—the act—legislation which I also introduced and held hearings on in the 101st Congress. The act provides much needed clarification of the rules that apply to certain retirement and welfare benefit programs under current law. In developing this important legislation, we have worked closely with leaders of the pension boards of 28 mainline Protestant and Jewish denominations. The employee benefit programs of these mainline denominations are among the oldest programs in our country. Several dates from the 1700's, and their median age is in excess of 50 years. These programs provide retirement and welfare benefits for several hundred thousand ministers and lay workers employed by thousands of churches and church ministry organizations serving the spiritual needs of over 66 million members.

Retirement and welfare benefits programs began in recognition of a denomination's mission to care for its church workers in their advanced years. Several church retirement and welfare benefit programs were initially formed to provide relief and benefits for retired, disabled, or impoverished ministers and families as particular cases of need were identified. As time passed, church denominations began to provide retirement programs for ministers and lay workers on a current and systematic basis. Today, church retirement and welfare benefit programs provide benefits for ministers and lay workers employed in all forms of pastoral, healing, teaching, and preaching ministries and missions, including, among others, local churches, seminaries, old-age homes, orphanages, mission societies, hospitals, universities, church camps, and day care centers.

The goal of the act is to clarify the rules that apply to church employee benefit plans. Under current law, these rules are generally lengthy and complex and are, for the most part, designed for for-profit, commercial employers. Most denominations are composed of thousands of work units, each having only a few employees, and the budgets of these work units are marginal at best. These organizations rely almost completely on contributions from the offering plate to support their missions, including the salaries and retirement and welfare benefits of their ministers and lay workers. Unlike for-profit business entities, churches cannot pass operating costs on to customers by raising prices. Churches are also much more loosely structured than most for-profit business organizations, and many denominations cannot impose requirements on their constituent parts. For example, hierarchically organized denominations may be able to control the provision of employee benefits, but churches may not.
The cornerstone of the act is a re­ codification of the rules applicable to church retirement and welfare benefit plans.

The act would also ensure that church retirement plans, whether described in the new section 401a—applicable only to these church section 401(a) plans that want to be subject to it—or section 403(b), are subject to the same coverage and related rules. In 1986, Congress determined that the section 403(b) plans of churches and so-called qualified church controlled organizations should not be subjected to the expense of complying with coverage and related rules. The act would extend this same relief to church section 401a plans and would also elim­ nate the troublesome qualified church controlled organization approach in favor of a provision that only subjects church-related hospitals and universities to applicable coverage and relat­ ed rules. The act, consistent with the law that now applies to church section 401(a) plans, would also clarify that the coverage rules that will apply to the section 401(b) programs of church-related hospitals and universities are those that were applicable prior to the enactment of the Employee Retirement and Income Security Act of 1974.

The act also would resolve a number of other problems many church pension plan boards face under current law. For ex­ ample, under present law there is a question as to whether self-employed ministers and chaplains who work for nonchurch employers are able to par­ ticipate in their denomination’s retire­ ment and welfare benefit programs. The act would make it clear that such ministers may participate in such pro­ grams.

The act would also:

- Provide relief that will result in bet­ ter retirement income for foreign mis­ sionaries;

- Simplify the required distribution rules that apply to church retirement plans;

- Eliminate an unworkable require­ ment under the so-called section 403(b) catch-up contribution rules; and

- Make relief granted under section 457 consistent with coverage relief pro­ posed for church retirement and wel­ fare benefit plans.

Mr. President, I ask unanimous con­ sent 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:

SEC. 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the “Church Retirement Benefits Simplification Act of 1991”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is ex­ pressed 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 Internal Revenue Code of 1986.

SEC. 2. NEW QUALIFICATION PROVISION FOR CHURCH PLANS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by add­ ing, after section 401 the following new sec­ tion:

“SEC. 401A. QUALIFIED CHURCH PLAN.

“(a) GENERAL RULE.—For purposes of the United States Code following this title, a qualified church plan shall be treated as satisfying the requirements of section 401(a), and all references in (or pertaining to) this title and such Code to a plan described in section 401(a) shall include a qualified church plan. Except as otherwise provided in this section, no paragraph of section 401(a) shall apply to a qualified church plan.

“(b) DEFINITION OF QUALIFIED CHURCH PLAN.—A plan is a qualified church plan if such plan meets the following requirements:

“1. CHURCH PLAN REQUIREMENT.—The plan is a church plan (within the meaning of sec­ tion 414(e), and the election provided by sec­ tion 414(d) has not been made with respect to such plan.

“2. EMPLOYEE CONTRIBUTIONS ARE NONFORFEITABLE.—An employee’s rights in his accrued benefit derived from his own con­ tributions are nonforfeitable.

“3. VESTING REQUIREMENTS.—The plan satisfies the requirements of subparagraph (A) or (B).

“(A) 10-YEAR VESTING.—A plan satisfies the requirements of this paragraph if an em­ ployee who has at least 10 years of service has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions.

“(B) 5-TO 15-YEAR VESTING.—A plan satisfies the requirements of this paragraph if an employee who has completed at least 5 years of service has a nonforfeitable right to a per­ centage of his accrued benefit derived from employer contributions which percentage is not less than the percentage determined under the following table:

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<th>Years of Service</th>
<th>Nonforfeitable percentage</th>
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March 21, 1991

CONGRESSIONAL RECORD—SENATE

7289

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O—95 Vol. 137 Pt. 54 44
the requirements of this section, such plan shall not be treated as failing to satisfy the requirements with respect to such plan and so treated with respect to such plan and so treated with respect to such plan.

"(E) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this subsection, the term 'employee' shall include a duly ordained, commissioned, or licensed minister of a church within the meaning of section 401(c)(3), and which is exempt from tax under section 501(a)(3), and which is described in section 403(b)(1)(A).

"(F) MINISTERS OF CHURCHES, ETC.—For purposes of this subsection, the term 'employee' shall not include a minister of a church if the minister

"(G) TIME FOR DISTRIBUTION.—For purposes of this section, any distribution described in this subsection shall be treated as a plan or contract disaggred with the employees of such organization, in the same manner as under section 415(d).

SEC. 2. CHANGE IN DISTRIBUTION REQUIREMENTS FOR RETIREMENT INCOME ACCOUNTS.

(a) IN GENERAL.—Section 403(b)(11)(A) is amended to read as follows:

"(A) There shall be excluded from income any amount paid in cash for the tax year.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1988.

SEC. 3. REQUIRED BEGINNING DATE FOR DISTRIBUTIONS UNDER CHURCH PLANS.

(a) IN GENERAL.—The second sentence of section 401(a)(9)(C) is amended to read as follows:

"(C) EFFECTIVE DATE.—The amendment made by this section shall be effective as if included in the provision of Public Law 99–514 to which such amendment relates.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as if included in the provision of Public Law 99–514 to which such amendment relates.

SEC. 7. PARTICIPATION OF MINISTERS IN CHURCH PLANS.

(a) IN GENERAL.—Section 414 is amended by adding the following new subsection:

"(A) SPECIAL RULES FOR MINISTERS.—Notwithstanding any other provision of this title or any provision of section 401(a)(9)(C) which is described in section 401(c)(3) and which is exempt from tax under section 501(a)(3), and which is described in section 403(b)(1)(A), any amount paid in cash for the tax year shall be treated as a plan or contract

"(B) USE OF MINISTERS.—For purposes of this section, any distribution described in this section shall be treated as a plan or contract disaggred with the employees of such organization, in the same manner as under section 415(d).

"(C) EFFECTIVE DATE.—The amendment made by this section shall be effective as if included in the provision of Public Law 99–514 to which such amendment relates.
which is not a mandatory contribution (within the meaning of section 414(o)(3));

"(C) DESIGNATION.—For purposes of determining whether or not an individual has made a designation described in subparagraph (B), in the case of a distribution during any calendar year under a church plan, such individual shall be treated as having made such designation if he notifies the plan administrator of such plan, not later than the earlier of—

"(1) April 15 of the succeeding calendar year.

"(ii) the time prescribed by the plan administrator, that the individual does not want such contribution taken into account under this section.

"(ii) the manner in which reports to the plan administrator of a plan receiving such contributions shall be made consistent with those reported required of the administrator of an individual

"(C) QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTIONS.—The second sentence of section 415(c)(3) (relating to annual additions) is amended to read as follows:

"(C) REQUIRED DISTRIBUTIONS NOT ELIGIBLE FOR ROLLOVER TREATMENT.—Subparagraph (A) shall not apply to any distribution to the extent such distribution is required under section 401(a)(9) or 401(b)(10)."

"(E) ANNUAL ADDITIONS NOT TO INCLUDE QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTIONS.—The provisions of sections 79 with respect to employee pension which are excludable from gross income under section 401(a)(9) are not treated as a single plan maintained by a person other than such employee unless such contributions do not exceed the exclusion allowance of such employee, determined under section 401(k)(2)."

"(F) EFFECTIVE DATE.—The amendment made by this section shall be effective for tax years beginning after December 31, 1990.

"(G) EFFECTIVE DATE.—The amendments made by this section shall become effective for taxable years beginning after December 31, 1990.

"(H) EFFECTIVE DATE.—The amendment made by this section shall be effective for tax years beginning before, on, or after December 31, 1990.

"(I) SECTION 457 NOT TO APPLY TO DEFERRED COMPENSATION OF A CHURCH.—(a) IN GENERAL.—Section 457(e) is amended to read as follows:

"(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for tax years beginning after December 31, 1978.

"(c) CHURCH PLAN MODIFICATION TO SEPARATE ACCOUNT REQUIREMENT OF SECTION 415.—(a) EXCEPTION TO SEPARATE ACCOUNT REQUIREMENT.—(1) In general. A plan described in section 415(c)(1)(C) is amended to read as follows:

"(2) ANNUAL ADDITIONS TO RETIREMENT INCOME ACCOUNTS.—(A) IN GENERAL.—Section 415(c)(1)(C) is amended by adding the following after paragraph (i):

"(i) any portion of the balance of the credit of an employee in a plan described in subparagraph (A), (B), or (C) of subsection (e)(1) is paid to him.

"(ii) the employee transfers any portion of the property he receives in such distribution to another plan described in such subparagraph, under a plan maintained by another employer, and in a taxable year beginning after the date such other distribution is made.

"(iii) in the case of a distribution of property other than money, the property so transferred consists of the property distributed to the employee by the plan in which such distribution is made, and such distribution is transferred to any plan which is described in section 403(b)(9) and not by a person other than such minister, such contributions shall be treated as a mandatory contribution (within the meaning of section 401(a)(9)) from tax under section 501(a) of a plan which is described in section 401(a) and shall be deductible under this subsection when such contributions do not exceed the exclusion allowance of such minister, determined under section 401(k)(2)."

"(b) APPLICATION OF SECTION 415.—(1) In general. Section 415(e)(1) is amended by modifying paragraph (1) thereof to read as follows:

"(2) SPECIAL RULE FOR EMPLOYEES.—The term 'employee' includes a self-employed individual who is a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry."
"(11) paid under a pension or annuity plan that is a church plan (within the meaning of section 414(e));

"(12) paid under a plan maintained by more than one employer; and

"(iv) payable solely to an employee who is a key employee for purposes of section 415 and is a highly compensated employee within the meaning of section 416(i)(1)(A) (relating to officers prescribed by the regulations prescribed under such section).

Subparagraph (B) of section 416(i)(1)(A) shall not apply to any amount treated as an annual addition under the preceding sentence.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1984.

SEC. 15. REPEAL OF ELEPTIVE DEFERRAL CREDIT LIMITATION FOR RETIREMENT INCOME ACCOUNTS.

(a) IN GENERAL.—Clause (11) of section 402(g)(8)(A) is amended to read as follows: "(11) PLANS OF CHURCHES.—This subsection shall not apply to a plan maintained by a church (within the meaning of section 414(e))."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1990.

SEC. 16. REPEAL OF ELECTIVE DEFERRAL CREDIT LIMITATION FOR RETIREMENT INCOME ACCOUNTS.

(a) IN GENERAL.—Clause (11) of section 402(g)(8)(A) is amended to read as follows: "(11) PLANS OF CHURCHES.—This subsection shall not apply to a plan maintained by a church (within the meaning of section 414(e))."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1990.

SEC. 17. CHURCH PLANS MAY ANNUITIZE BENEFITS.

(a) IN GENERAL.—A retirement income account described in section 403(b)(9) of the Internal Revenue Code of 1986, a church plan (within the meaning of section 414(e) of such Code) that is a plan described in section 401(a) of such Code, or an account comprised of qualified voluntary employee contributions described in section 219(a)(5) of such Code shall not fail to be described in such sections merely because it pays benefits from a pool of assets administered or funded by an organization described in section 414(e)(3)(A) of such Code, rather than through the purchase of annuities from an insurance company.

(b) EFFECTIVE DATE.—This provision shall be effective for years beginning before, on, or after the date of the enactment of this Act.

SEC. 18. CHURCH PLANS MAY INCREASE BENEFIT PAYMENTS.

(a) IN GENERAL.—A retirement income account described in section 403(b)(9) of the Internal Revenue Code of 1986, a church plan (within the meaning of section 414(e) of such Code) that is a plan described in section 401(a) of such Code, or an account comprised of qualified voluntary employee contributions described in section 219(a)(5) of such Code shall not fail to be described in such sections merely because it increases benefit payments to participants (and their beneficiaries) pursuant to a method not described in section 401(a)(9) of such Code or the regulations prescribed under such section.

(b) EFFECTIVE DATE.—This provision shall be effective for years beginning before, on, or after December 31, 1990.
March 21, 1991

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Mr. President, increasingly the challenges faced by our hemisphere's indigenous peoples are being met by a coalition of indigenous groups themselves and environmental activists.

In November 1989, the First Inter-American Indigenous Congress on Natural Resources and the Environment was organized by the Kuna Indians of Panama. Unlike most representatives from 17 countries, the primary concern of the meeting was the protection of native-held lands. The participants were interested in marking off and securing territories from the seemingly endless stream of loggers, ranchers, and landless peasants who were stampeding onto their lands. And last year, two important events took place. One was a meeting of the Inter-American Indigenous Parliament in Guatemala City, sponsored by the respected Center for Democracy. The meeting brought together elected officials from indigenous communities to discuss their common problems and to prepare strategies for their empowerment in their own nations' democratic systems.

Another trend is that their voices be heard in the debate over the future of the Amazon. As Joe Kane, a representative of the San Francisco-based Rainforest Action Network noted, the meeting "established a true alliance between indigenous peoples and conservationists. To help save the Amazon, we will now make securing land rights for indigenous peoples a priority." The Pan-American Cultural Survival Act of 1991 seeks to build upon existing efforts to ensure a fair shake for indigenous peoples and a new partnership between nations in efforts to foster sustainable development.

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It will also assist them to protect their land and cultures.

The bill would require the Secretary of State, together with the Director of the Agency for International Development, to issue a report to Congress on the status of indigenous peoples in Central and South America. It would also mandate the inclusion of the plight of indigenous people as a topic in and of itself in the State Department's yearly human rights report.

It will also require AID to create, where appropriate, the position of cultural survival officers. Modeled after the recently created women-in-development posts, the cultural survival officers will work with indigenous peoples to develop strategies for their political empowerment and cultural survival.

The bill also directs the Secretary of State and the Secretary of the Treasury to include, where appropriate, the question of cultural survival in all bilateral and multilateral debt reduction efforts and in other developmental initiatives.

Mr. President, I urge my colleagues in the strongest possible terms to support this bill. It is an important step in making the protection of indigenous peoples and the lands where they live an integral part of U.S. foreign policy. It will also help make more effective—the empowerment of people still shut out of the political process—the emerging democracies of Latin America.

Mr. President, I ask unanimous consent for a copy of the bill to be printed in the RECORD, as follows:

S. 748
Be it enacted by the Senate and House of Representat­ives of the United States of America in Congress assembled,

TITLE I: STATEMENT OF FINDINGS AND PURPOSE.

FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that, so in 1989, the nations of the American Hemisphere will be marking the 500th anniversary of the arrival of Europeans to our common shores;

(2) in the past 15 years, the nations of Latin America have been in the forefront of the trend towards democratic rule by the developing nations;

(3) the indigenous peoples of Latin America are underrepresented in their nations' democratic institutions and are marginalized for the social and economic benefits of democratic rule and emerging free-enterprise systems;

(4) many indigenous peoples live in areas whose economic and strategic significance is overshadowed by their importance and contribution to the environment, and thus an effort to save the land must necessarily take into account the needs of indigenous people's tradition of protecting the land and their interest that these fast-depleting natural resources are not despoiled, and (5) the first step to the empowerment of the indigenous peoples within the new democratic context of Latin America is the ability of native peoples to protect their land and their cultures, and to acquire and utilize the political power necessary to preserve their land and cultures.

(b) PURPOSE.—Recognizing that strengthening democracy and the self-determination and human rights of all peoples is fundamental to United States foreign policy, as is protecting the Western Hemisphere's natural inheritance from depletion, it is the purpose of this Act to establish a U.S. foreign policy of democratic development in the Western Hemisphere by assisting indigenous peoples to take meaningful and representative roles in their nations' democratic institutions and practices, as well as assisting them to protect their land and cultures.

SEC. 3. POLICY.

It shall be the policy of the United States Government to support indigenous peoples in the Western Hemisphere.

SEC. 4. REPORTING REQUIREMENT.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of State, together with the Administrator of the Agency for International Development, shall submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report which describes—

(1) the numbers, relative to the entire national population, of indigenous peoples in each of the Western Hemisphere's republics;

(2) the extent to which indigenous peoples are currently represented within the Western Hemisphere's democratic institutions, such as the number of indigenous peoples who are members of cabinets, political party leaders, parliamentary representatives, members of the diplomatic service, provincial or territorial governors, military officers, ranking members of the judiciary, and representatives of local government;

(3) all current United States Government initiatives designed to promote the well-being of native peoples as such, and those meant to safeguard their property, cultures, and languages;

(4) the extent to which current initiatives, both private and governmental, have sought to promote the preservation of the environment by safeguarding the rights of indigenous peoples;

(5) specific actions which may be taken to empower indigenous peoples politically, as well as to safeguard their property, cultures, languages, and physical well-being;

(6) the solicitation of nongovernmental organizations such as Cultural Survival, Inc., the Inter-American Foundation, for help in drawing up strategies for achieving these goals; and

(7) on a nation-by-nation basis, the laws and covenants concerning the status of native peoples.

(b) INCLUSION IN ANNUAL HUMAN RIGHTS RE­PORT.—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period and inserting in lieu thereof "; and" at the end of paragraph (3); and

(3) by adding at the end thereof the following new paragraph:

"(4) the treatment and status of indigenous peoples of all foreign countries of the Western Hemisphere."

SEC. 5. CULTURAL SURVIVAL OFFICERS.

(a) ESTABLISHMENT OF POSITIONS.—The Ad­ministrator of the Agency for International Development (AID) shall establish the position of cultural survival officer in the AID mission in any country in which the Admin­istrator determines that indigenous peoples—

(1) are underrepresented in that country's political life; or

(2) could benefit from the development of measures designed to preserve areas of ecological or environmental significance.

(b) DUTIES OF THE OFFICER.—The duties of the cultural survival officers, who shall have relevant experience in democratic development or cultural survival issues, shall be to develop, to improve, and to implement strategies to assist the indigenous peoples of the Americas in promoting and protecting the cultural survival of indigenous peoples.

SEC. 6. REQUIREMENTS OF THE CUL­TURAL SURVIVAL QUESTION.

(a) IN GENERAL.—The Secretary of State, together with the Secretary of the Treasury, shall ensure, where appropriate, the principle of cultural survival for indigenous peoples in all bilateral or multilateral debt reduction efforts, and efforts should be made to include in debt-­for-nature exchanges as defined in section 4(5) of the Foreign Assistance Act of 1961, in which the role of indigenous peoples in protecting and safeguarding the environments is recognized and fostered.

(b) WITHIN THE ENTERPRISE FOR THE AMER­ICAN INITIATIVE.—Is the sense of the Congress that President, in determining whether to conduct any program, project, or activity of environmental protection assistance for a country in Latin America, should consider the results that will be obtained in the promotion of cultural survival of indigenous peoples.

SEC. 7. DEFINITION.

For the purposes of this Act, the term "indigenous peoples" means those nations, tribes, bands, or people thereof—

(1) who are native to the Western Hemi­sphere;

(2) who are listed as "Indian" in national records; or

(3) who are recognized as Indian by the indigenous communities themselves.

LA RUTA MAYA CONSERVATION FOUNDATION
P.O. Box 9423
427 New York Avenue, N.W.
Washington, D.C. 20017

DEAR SENATOR CRANSTON: Your proposed legislation to assist the indigenous people of Central and South America is most appro­priate and timely. As democracy seems to be taking root slowly in these areas it is important to emphasize that democracy be extended to all elements of society.

In many ways the segregation practiced in some countries to the south is similar to our own racial segregation of the past but with an even more violent edge. My particular knowledge of the people of Mexico, Guatemala, Belize, Honduras and, to a smaller extent, El Salvador.

From my personal viewpoint the problem in Latin American cultural survival but cultural evo­lution. But that is more a semantic differ­ence between the two.

In Guatemala more than half the popula­tion is of Maya origin. These people have little state in the overall economic or political picture. Because indigenous people tend to be subsistence farmers with little
March 21, 1991

CONGRESSIONAL RECORD—SENATE

7295

Neither Petroecuador, the state oil company, nor the Ministerio de Energía y Minas has the capacity or will to establish meaningful environmental guidelines. Its weakness is particularly worrisome in view of the pressure on Ecuador to speed up its bloated foreign debt and the current oil exploration and exploitation by multinational firms. Petroecuador and nine multinational firms are exploring more than 3 million hectares; Conoco, Occidental, and British Gas are already negotiating terms of production.

Much of the area of proposed production overlaps the boundaries of Yasuní National Park, Cuyabeno Wildlife Reserve, and Límoncocha Biological Reserve, as well as traditional indigenous lands. All the more troubling are three other matters. First, the World Bank is preparing a loan to Ecuador of $100 million, which would be substantially increased by anticipated co-financing, for expanded oil activities. Second, in the near future the government is expected to grant millions of hectares of new concessions spanning the region. The survival of indigenous peoples is threatened by the rush to exploit their territories quickly as possible and to invest little in maintenance.

Regarding the latter problem, Conoco, which is preparing to extract oil from the lands of the Huaroni Indians, predicts production will peak at 65,000 barrels per day and then decline to less than 50,000 per day when transferred to Petroecuador. Similarly the facilities Petroecuador recently took over from Texaco have been left in a state of horrific disrepair, and severely contaminated. No oil company has complied with a new requirement by the Ministerio de Energía y Minas that it submit a plan to mend the region’s ecological and sociocultural damage. Such promises, nonetheless, fall short of the minimum requirements in the U.S. and Canada.

LOCAL IMPACT

The petroleum industry damages the ecology of the Ecuadoran Amazon at every stage of development—from seismic exploration and exploratory drilling through production, transport, and refining. Furthermore, the industry poses a grave threat to the physical and cultural survival of the region’s indigenous peoples. Their traditional economies, which depend on forest products and small-scale shifting agriculture, are being undercut by deforestation and pollution.

For example, the oil-producing areas of the northern Oriente are home to the Quechua, Siona, Secoya, and Cofan peoples. Once a zone of pristine rain forest, the northern Oriente is now the site of an industrial corridor, several boom towns, uncontrolled colonization, extensive pollution, and severe poverty. The opening of an oil road has even spread these conditions into the Cuyabeno Wildlife Reserve, which was previously set aside for the conservation of its striking diversity of plant and animal life. The colonists of the northern Oriente, who migrate to the Amazon frontier in search of land and the mountain areas, find rain forest soil is generally unsuitable for the cultivation of cash crops such as coffee, mananilla, and coca. In addition, they find the petroleum industry generates few employment opportunities.

As stated in Section 3, (5), one of the key indices of successful democratization will be the inclusion of actions “to empower indigenous peoples politically, as well as safeguard their property, culture, language and physical well-being.” Particularly worthy of consideration is the provision contained in Section 5 that directs AID to establish the position of cultural survival officer in AID missions.

Finally, I would like to commend you for linking the environmental goals of the Enterprise for the Americas Initiative with the protection of the cultural survival of indigenous peoples.

In conclusion, please accept my heartfelt thanks for this initiative.

Sincerely,

M. CHARITO KRUANT.
President, CEO.

[From Hemisphere, Fall 1990]

POISONING ECUADOR'S ORIENTE

(By Judith Kimerling and the Natural Resources Defense Council)

Since the early 1970s, Ecuador's Oriente— an Amazonian region of vast tropical rain forests and a diverse indigenous population—has yielded a wealth of oil export earnings to both the government and multinational firms. The damage inflicted on the Oriente, however, has been massive. An estimated 1 million hectares of rain forest have been opened to colonization by incoming settlers. Spills from the Trans-Ecuadorian Pipeline have dumped an estimated 16.8 million gallons of oil—compared to the 10.8 million-gal­ lon oil Valdez, Alaska, and British Gas are already negotiating terms of production.

Much of the area of proposed production overlaps the boundaries of Yasuní National Park, Cuyabeno Wildlife Reserve, and Límoncocha Biological Reserve, as well as traditional indigenous lands. All the more troubling are three other matters. First, the World Bank is preparing a loan to Ecuador of $100 million, which would be substantially increased by anticipated co-financing, for expanded oil activities. Second, in the near future the government is expected to grant millions of hectares of new concessions spanning the region. The survival of indigenous peoples is threatened by the rush to exploit their territories quickly as possible and to invest little in maintenance.

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M. CHARITO KRUANT.
President, CEO.

[From Hemisphere, Fall 1990]
ciency of cars to 40 miles per gallon and light trucks to 30 miles per gallon.


INTRODUCTION: THE VALUE OF BIOLOGICAL AND CULTURAL DIVERSITY

Seemingly everywhere, populations are growing and the amount of land used to feed the planet is shrinking. In the Third World, especially, there is fretful talk of water, food, and fuel shortages to come. As the ecological strength; with an increasing tempo, individual families scramble to meet subsistence needs and governments desperately search for foreign exchange to pull themselves out of hock. To meet these needs, rain forests are being plundered, cut down, and burned away through unchecked erosion—to the planet is shrinking. In the Third World, countries are not just facing exhaustion of hock. To meet these needs, rain forests are being plundered, cut down, and burned away through unchecked erosion—to the

The picture is bleak, yet a few signs of hope should be signalled. First, with their backs to the void and the chain saws and tractors moving closer, many indigenous groups have begun to organize and fight back. Since the 1970s, and picking up steam through the 1980s, numerous groups have formed at the local, national and international levels—and the issues that have brought them together are invariably land, natural resources, and cultural autonomy. These are the primary concerns of the Confederation of Indigenous Nationalities of Ecuador (Ecuador), Mopawi in the Mosquitia of Honduras (Herlihy and Leake), and the O'Dham of the US-Mexican Sonoran Desert (Flores, Valentine, and Nahban). Even in the Paipai of the Washo tribe in Baja California that has lost nearly all of its land, are now coming forth with demands for redress (Alvarez). Most of these groups are new and lack self-confidence and organizational capacity. Yet at least they have made the decision to stand firm and defend their territories in which they live. Now, as they struggle to mark off and secure their territories from the stampede of loggers, cattle ranchers, and landless peasants streaming onto their lands.

Recently the Coordinating Body of Indigenous Peoples of the Amazon Basin (COICA; see p. 82), made up of groups from Brazil, Bolivia, Peru, Ecuador, and Colombia, proposed to the bilateral and multilateral funders the need to establish a relationship of collaboration and is the only Federal area preserving ancient cultural and archeological treasures from imminent destruction. One of the few sites that this bill will protect is currently scheduled to be bulldozed for a gravel pit.

My bill will protect four sites recommended by the Park Service midwest region for addition to the Mound City Group National Monument in southern Ohio.

Mound City was established in 1923 and is the only Federal area preserving and interpreting remains of the Ohio Hopewell, a culture which archeologists tell us thrived in eastern north America between 200 B.C. and A.D. 500. Part of the Hopeton Earthworks site is within the national historic landmark which is the only area preserving and interpreting remains of the Ohio Hopewell, a culture which archeologists tell us thrived in eastern north America between 200 B.C. and A.D. 500.

In the process they uncovered human bones at the site. Park Service and State officials were notified and the bones verified as ancient. Native Americans removed and reinterred the bones elsewhere.

Further mining operations have been halted—for the moment—while representatives of the Park Service, the trust for public land, the Archeological Conservancy, the private owner, and of the public work to secure the right to prevent the landmark from further destruction.

Mr. President, this legislation is necessary to protect these ancient cultural resources. If the gravel company resumes mining the area, this ancient site will be destroyed.

I am proud of this unique part of North America's pre-Columbian his-
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March 21, 1991

sionary and the obligation to preserve.
I am confident that the bill will pass and that the site will be protected. The important thing is to get that word to the gravel company and those working to preserve the site. With the help of my colleagues on the Senate Committee on Energy and Natural Resources we can send that message by setting this bill for a hearing at the earliest possible time.

The Hopewell culture of southern Ohio was characterized by a highly developed prehistoric goods exchange system that linked populations throughout much of eastern North America in its day. The Hopewell culture is best known from southern Ohio where earthwork and mound sites are particularly abundant. Archaelogical investigations of these mortuary and ceremonial centers have yielded substantial data on the ritual components of Hopewellian life. The culture is characterized by elaborate burial ritual and the presence of exotic mortuary offerings. Much less is known about the daily life of these people.

My bill will protect four of the best preserved, diverse, and archeologically rich sites chosen by archeologists from among over 600 sites in Ohio. Many other sites of cultural importance have been identified in this area through archaelogical investigations dating back to the early 18th century. Unfortunately, many of these important archeological resources have been destroyed through the years by railroads, highways, and agricultural and commercial development.

In recognition of these factors and the significance of the remaining Hopewellian resources, the National Park and Recreation Act of 1980, Public Law 96-607, authorized up to 150 acres at the nearby Hopeton Earthworks to be added to the Mound City Group National Monument in Ross County, OH. Many other sites of cultural importance have been identified in this area through archeological investigations dating back to the early 18th century. Unfortunately, many of these important archeological resources have been destroyed through the years by railroads, highways, and agricultural and commercial development.

In recognition of these factors and the significance of the remaining Hopewellian resources, the National Park and Recreation Act of 1980, Public Law 96-607, authorized up to 150 acres at the nearby Hopeton Earthworks to be added to the Mound City Group National Monument in Ross County, OH. Many other sites of cultural importance have been identified in this area through archeological investigations dating back to the early 18th century. Unfortunately, many of these important archeological resources have been destroyed through the years by railroads, highways, and agricultural and commercial development.

Pursuant to the 1980 act, the midwest region of the Park Service conducted a study that recommended the addition of two additional sites to the Mound City Group National Monument in Ross County, OH. My bill follows the Park Service midwest region's recommendation and protects the four sites—Hopeton Earthworks, High Banks Works, Hopewell Mound Group, and the Seip Earthworks.

The sites recommended for addition by the Park Service and included in my bill were selected because they represent major Hopewell earthwork complexes which still retain a reasonable degree of integrity. There is also sufficient data from earlier surface collections and excavations at these sites to document that the sites contain significant Hopewellian remains. Each of the sites included in the study represents a ceremonial center which contains substantial information about the culture. Each of the ceremonial centers is unique in its configuration of mounds and earthworks, and it is likely that the role each site played in the Hopewellian culture was somewhat different. While it would be desirable to also preserve Hopewell sites other than mounds or earthworks, and it is very likely that significant sites of this type are present in the study area, the Park Service found that there is insufficient data to justify a recommendation to preserve such other sites at this time.

My bill authorizes the Park Service to study two additional sites for possible inclusion in the Mound City Group National Monument. One of these sites, High Banks Works, that is currently listed on the National Register of Historic Places and which because of its unique design, good state of preservation, its association with protected sites, and the threat of possible destruction should be studied and considered for possible future inclusion. My bill would also rename the monument to the Hopewell Culture National Historical Park to more accurately reflect its full scope and purpose.

Since the first Europeans entered the Ohio Valley the unique remains of a great prehistoric culture has mystified and intrigued Americans. While a great deal of excavation was carried out in the 19th and early 20th century on some of these great moundbuilder sites, it is still a mystery as to who the Hopewellians were, where they came from, and where they went. The great moundbuilder culture left a wealth of information for us to explore.

Scientists know little of the technology or use of the building of vast and accurate circles, squares, and hexagons. In the future, perhaps archaeologists will be able to use new techniques including carbon-14 dating, obsidian hydration, aerial and other remote sensors will unravel the mysterious legacy that remains from ancient times. Future research could provide much new information to the visiting public and scholars, and greatly improve interpretation at the park.

My bill adds a great deal of information to the sites at the park, and includes some of these unique ancient sites today for present education and enjoyment and for future research. Among those groups supporting my bill are the Archeological Conservancy, the National Parks and Conservation Association, the Wilderness Society, the Nature Conservancy, the Ohio Historical Society, and the Ohio State Historic Preservation Office. I urge my colleagues to support this bill.

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

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

S. 496
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RENAMING.
The Mound City Group National Monument established by proclamation of the President (Proclamation No. 1658, 42 Stat. 2296) and expanded by section 701 of Public Law 96-607 (94 Stat. 3540), shall, on and after the date of enactment of this Act be known as the "Hopewell Culture National Historical Park". Any reference to the Mound City Group National Monument, population, map, document, record, or other paper of the United States shall be considered a reference to the Hopewell Culture National Historical Park.

SEC. 2. EXPANSION OF BOUNDARIES.
(a) In General.—The boundaries of the Hopewell Culture National Historical Park (referred to as the "park") are revised to include the lands within the areas marked for inclusion in the monument as generally depicted on—
(1) the map entitled "Hopeton Earthworks" numbered 353-80025 and dated July 1987;
(2) the map entitled "High Banks Works" numbered 353-80026 and dated July 1987;
(3) the map entitled "Hopewell Mound Group" numbered 353-80029 and dated July 1987; and
(4) the map entitled "Seip Earthworks" numbered 353-80033 and dated July 1987.
(b) PUBLIC INSPECTION OF MAPS.—Each map described in subsection (a) shall be on file at the headquarters of the National Park Service and at the office of the Director of the National Park Service in Washington, DC. The Public Inspection of Maps Act shall apply to the map in the same manner.

(c) ACQUISITION OF LANDS.—Subject to section 701 of Public Law 96-607 (94 Stat. 3540), the Secretary may acquire lands or interest in lands within the areas added to the park by subsection (a) and other areas of the park except to the extent that an adjustment would cause the total acreage of the park to exceed more than 10 percent the total acreage of the park as of the date of enactment of this Act.

(d) ADJUSTMENT OF BOUNDARIES.—The Secretary of the Interior may, by notice in the Federal Register after receipt of public comment, make minor adjustments in the boundaries of areas added to the park by subsection (a) and other areas of the park except to the extent that an adjustment would cause the total acreage of the park to exceed more than 10 percent the total acreage of the park as of the date of enactment of this Act.

(e) ACQUISITION OF LANDS.—Subject to paragraph (2), the Secretary may acquire lands or interest in lands within the areas added to the park by subsection (a) by donation, purchase, or acquisition with donated or appropriated funds, or exchange.

(f) Lands and interests in land owned by the State of Ohio or a political subdivision thereof may be acquired only by donation or exchange.

(g) Lands and interests in land may be acquired by purchase at a price based on the market value thereof as determined by independent appraisal, consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 7001 et seq.).
SEC. 3. COOPERATIVE AGREEMENTS.

The Secretary may enter into a cooperative agreement with the Ohio Historical Society, the Ohio Historical Society, and other public and private entities for consultation and assistance in the interpretation and management of the park.

(a) AREAS ADDED BY THIS ACT.—The Secretary shall conduct archeological studies of the areas added to the park by section 2(a) and adjacent areas to ensure that the boundaries of those areas encompass the lands that are needed to provide adequate protection of the significant archeological resources of those areas.

(b) OTHER AREAS.—The Secretary shall conduct archeological studies of the areas described as the "Spruce Hill Works", the "Cedar Hill Works", and "Cedar Bank Works", and may conduct archeological studies of other areas significant to Hopewellian culture, to evaluate the desirability of adding them to the park, and shall report to Congress on any such areas that are recommended for addition to the park.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary for the acquisition of lands and interests in land within the park, the conduct of archeological studies on lands adjacent to the park, and the development of facilities for interpretation of the park.

By Mr. BENTSEN (for himself and Mr. Packwood):

S. 750. A bill to make technical corrections relating to the Revenue Reconciliation Act of 1990, and for other purposes; to the Committee on Finance.

TECHNICAL CORRECTIONS ACT OF 1991

Mr. BENTSEN. Mr. President, today I am introducing the Technical Corrections Act of 1991. This bill makes technical changes to the revenue, Medicare/Medicaid, and income security provisions of the Omnibus Budget Reconciliation Act of 1990. It also makes several technical changes in the trade area, mainly to provisions of the Customs and Trade Act of 1990. As I mentioned last summer, I am joined in this effort by the distinguished ranking minority member of the Finance Committee, Senator Packwood. The chairman of the Ways and Means Committee, Mr. Rostenkowski, and I introduced an identical bill today in the House of Representatives.

Last year’s budget reconciliation bill was made up of over 1200 pages of statutory and report language. Many provisions were drafted under great time pressure. Not surprisingly, clerical and technical errors were made. This bill represents a joint product. It was assembled as a cooperative effort of the majority and minority staffs of the Finance, Ways and Means and Energy and Commerce Committees, the Joint Committee on Taxation, and the Department of the Treasury. On the trade items, the Finance and Ways and Means Committee staffs worked closely with officials of the International Trade Commission, Customs Service, Department of Commerce, and Office of the U.S. Trade Representative. The staffs were directed to include only those provisions that were truly technical in nature.

This bill is intended to make policy changes. Instead, it is intended to correct mistakes and eliminate uncertainties about certain provisions in last year’s bills, to make sure that the policy decisions made last year are carried out properly.

The bill is intended to provide important and necessary clarifications to taxpayers, who are seeking guidance in interpreting last year’s bills, and to help ensure a smoother administration of the tax, Medicare and income security provisions enacted last year.

In the trade area, the bill clarifies the proper tariff treatment on several products. In addition, it makes a small number of other technical changes that we believe are appropriate.

The introduction of this bill is the first step in putting those corrections into law. The bill is not intended to be the final word on corrections. Instead, it is intended to generate discussion and comments from the public about the proposed corrections in this bill, as well as other necessary corrections that may have been overlooked. In the tax area, I’d like to point out in particular that a number of technical issues concerning chapter 14, the estate freeze reform provisions in last year’s legislation, have been raised in comments by the tax bar. This bill does not address all of those issues because administrative guidance is expected to be issued by the Treasury Department in the near future. Additional technical corrections to these provisions may be necessary following the issuance of such guidance.

I ask unanimous consent that 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 "Technical Corrections Act of 1991".

TITLE I—REVENUE PROVISIONS

SEC. 101. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, 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 Internal Revenue Code of 1986.

SEC. 102. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1990

(a) AMENDMENTS RELATED TO SUBTITLE A.—

(1) Subparagraph (b) of section 280B(3)(B) is amended by striking "section 180B(3)(B)" and inserting "section 180B(3)(B)".

(2) Paragraph (2) of section 960(a) is amended by striking "21" in the heading of such paragraph and in subparagraph (A) and inserting "28".

(3) Clause (i) of section 32(b)(1)(B) is amended by inserting a comma after "greatly".

(4) Section 541 is amended by striking "28 percent" and inserting "31 percent".

(5) Subsection (c) of section 32 is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF MORTGOING MEDICAL INSURANCE OF SELF-EMPLOYED.—In determining the amount of adjusted gross income for purposes of this section, the amount of the deduction under section 162(l) shall be determined without regard to section 162(l)(3)(B)."

(6) Clause (i) of section 151(d)(3)(C) is amended by striking ".(i) ‘joint of a return’ and inserting ‘joint return’.

(b) AMENDMENTS RELATED TO SUBTITLE B.—

(1) Paragraph (1) of section 11212(e) of the Revenue Reconciliation Act of 1990 is amended by inserting "paragraph (1) of section 6724(d)" and inserting "Subparagraph (B) of section 6724(d)".

(2) Subsection (b) of section 4092 is amended to read as follows:

"(b) TAX ON CERTAIN USES.—If any person uses (other than in the production of gasoline or special fuels referred to in section 4041), such uses shall be of sufficient to become a removal."

(3) Subparagraph (c)(2) of section 4093 is amended by inserting before the period "unless such fuel is sold for exclusive use by a State of any political subdivision thereof".

(4) Paragraph (4) of section 6427 is amended by striking "section 32 or by section 4051" and inserting "section 31 or 32".

(5) Paragraph (1) of section 9606(e) is amended to read as follows:

"(1) INCREASES IN TAX REVENUES BEFORE 1990 TO REMAIN IN GENERAL FUND.—In the case of the Revenue Reconciliation Act of 1990, the amounts required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) of section 31 or 32, shall be determined without regard to any increase in a rate of tax enacted by the Revenue Reconciliation Act of 1990."

(6) Section 7012 is amended—

(A) by striking "tax on importation of gasoline" and inserting "taxes on gasoline and diesel fuel", and

(B) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(c) AMENDMENTS RELATED TO SUBTITLE C.—

(1) Paragraph (4) of section 565(g) is amended by redesignating subparagraph (1) as subparagraph (H).

(2) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking "or" at the end of clause (x),

(B) by striking the period at the end of the clause added by section 6752 of the Revenue Reconciliation Act of 1990 and inserting ", or", and

(c) by redesigning the clause added by section 6752 as clause (x)

(3) Subsection (g) of section 6802 is amended by inserting "22", after "chapters 21", and inserting "22", after "chapters 21".

(4) The earnings and profits of any insurer anxious to company to which section 1333(b)(3) of the Revenue Reconciliation Act of 1990 applies shall be determined without regard to any deduction allowed under such section; except that, for purposes of applying sections...
(5) Paragraph (2) of section 55(c) is amended by striking "29(b)(5)" and inserting "29(b)(5) or (6)".

(6) Subparagraph (C) of section 38(c)(2) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) is amended by striking the period at the end of the first sentence the following: "and without regard to the deduction of section 29(b)(5) to the extent permitted under subsection (c)(3) thereof.".

(7) Clause (ii) of section 53(d)(1)(B) is each amended by striking "section 29(b)(5)" and inserting "section 29(b)(5) or (6)".

(8) Subparagraph (B) of section 56(h)(4) is amended by striking "For purposes of subparagraph (A), the" and inserting "The".

(9) Clause (5) of section 6621(c)(2) is amended by striking "the alternative tax net operating loss deduction" and inserting "the alternative qualified payments described in subparagraph (B)".

(10) Section 2701(d)(4) is amended by adding at the end thereof the following new subparagraph:

"(4) The time for making an election under the second sentence of section 2701(c)(3)(C)(i) and the Internal Revenue Code of 1986 (as amended by subparagraph (A)) shall not expire before the due date (including extensions) for filing the transferor's return of the tax imposed by section 2601 of such Code for calendar year 1991.".

(11) Section 2701(e)(3) is amended by striking "such transfer to the extent that such transfer is not inconsistent with the purposes of this section.".

(12) Section 2701(e)(3) is amended by striking "the alternative qualified payments described in subparagraph (B)" and inserting "the qualified payments described in clause (ii) of section 6621(c)(2)".
corporation exchanges stock of the 10-percent corporate shareholder for stock of the foreign corporation, such 10-percent corporate shareholder shall recognize gain in the same manner as if the stock of the foreign corporation received in such exchange had been issued to the 10-percent corporate shareholder, and the gain shall be treated as income from a passive activity.

"(A) issued to the 10-percent corporate shareholder, and

(B) must be distributed by the 10-percent corporate shareholder to such shareholder in redemption or liquidation (whichever is appropriate).

The amount of gain recognized by such 10-percent corporate shareholder under the preceding sentence shall not exceed the amount treated as a dividend under this section.

Section 897 is amended by striking subsection (f).
and by striking the period and quotation marks at the end of subparagraph (B) and inserting a comma.

(14) Paragraph (3) of section 13164(c) is amended by striking "section 6626(a)" and inserting "section 6626(a)(1)".

(15) Paragraph (2) of section 5206(b) is amended by striking "section 6702(e)" and inserting "section 16652(e)".

(16) Paragraph (1) of section 6050(b)(1)(C) is amended by striking "section 66(b)" and inserting "section 66(b)(2)".

(17) Subparagraph (A) of section 6106 is amended by striking paragraph (6).

(18) Subsection (e) of section 6214 is amended to read as follows:

"(25) Paragraph (2) of such Act is amended by striking "section 6050H(b)(1)" and inserting "section 6050H(b)(2)(A)".

(26) Paragraph (10) of section 7212 of such Act is amended by striking "section 6626(b)(2)(C)(1)(I)" and inserting "section 6626(b)(2)(C)(1)(II)".

(27) Subparagraph (A) of section 7811(b)(2) of such Act is amended by inserting "the first place it appears" before "in clause (I)".

(28) Paragraph (10) of section 7814(d) of such Act is amended by striking "section 381(a)" and inserting "section 381(c)".

(29) Paragraph (2) of section 7901 of such Act is amended by inserting "the second place it appears" before "and inserting".

TITLE II—MEDICARE MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 200. REFERENCES TO OBRA-1990; EFFECTIVE DATE.

(a) REFERENCES TO OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—In this title, the term "OBRA-1990" means the Omnibus Budget Reconciliation Act of 1990.

(b) EFFECTIVE DATE.—Except where otherwise provided, the amendments made by this title and the provisions of this title shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.

Subtitle A—Amendments Relating to Part B of the Medicare Program

SEC. 201. EXCLUDING DISTINCT PSYCHIATRIC AND NEUROLOGIC UNITS FROM ADJUSTMENT TO PAYMENT AMOUNTS FOR PRO-FREESTY HOSPITALS (SECTION 4005 OF OBRA-1990).

(a) IN GENERAL.—Section 1886(c)(1)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(ii)), as amended by section 4005(a)(1) of OBRA-1990, is amended by striking "(ii) in the case of and inserting "(ii) for a hospital that is not a subsection (d) hospital (other than a unit of a hospital described in subsection (b)(1)(B)(ii)), in the case of;

(b) CONFORMING AMENDMENT.—Section 1886(d)(1)(B) of such Act (42 U.S.C. 1395ww(d)(1)(B)), as amended by section 4005(a)(1) of OBRA-1990, is amended by striking "(i) in accordance with regulations of the Secretary, a psychiatric or rehabilitation hospital (as defined by the Secretary);" and (ii) by amending clause (i) to read as follows:

"(i) in accordance with regulations of the Secretary, a psychiatric or rehabilitation hospital (as defined by the Secretary), and

(ii) by striking clause (ii)."

SEC. 202. CLARIFICATION OF DRIG PAYMENT WINOW EXPANSION.

The first sentence of section 1866(a)(4) of the Social Security Act (42 U.S.C. 1395w(a)(4)) is amended by striking "section 1819(b)(3) of OBRA-1990, and inserted by section 1886(d)(1)(B) of OBRA-1990, amended by striking "not later than" and inserting "14 days,"

Subtitle B—Amendments Relating to Part B of the Medicare Program

SEC. 211. PHYSICIAN PAYMENT PROVISIONS (SECTIONS 4101 THROUGH 4118 OF OBRA-1990).

(a) OVERVALUED PROCEDES (SECTION 4101 OF OBRA-1990).—

(1) Section 1842(b)(16)(B)(ii) of the Social Security Act, as added by section 4101(b) of OBRA-1990, is amended—

(A) by striking "" and inserting "simple and subcutaneous;";

(B) by striking ";" and inserting "and;";

(C) by striking "treatments:" the first place it appears and inserting "and;"

(D) by striking "" and inserting """

(E) by striking "euterectomy; colecystectomy;";

(F) by striking "" and inserting """

(G) by striking "" and inserting """

(H) by striking "" and inserting """

(I) by striking "" and inserting """

(2) Section 4101(b)(2) of OBRA-1990 is amended—

(A) in the matter before subparagraph (A), by striking "1842(b)(16)" and inserting "1842(b)(16) and (16)(B), and";

(B) in subparagraph (B)—

(i) by striking "simple and subcutaneous;"

(ii) by striking "" and inserting """

(iii) by striking all that follows "" and inserting " yapılacak."

(b) RADIOLIGY SERVICES (SECTION 4102 OF OBRA-1990).—

(1) Section 1842(b)(4)(F) of the Social Security Act, as amended by redesignating subparagraphs (E) and (F) as previously redesignated by section 4102(a)(1) of OBRA-1990 as subparagraphs (E) and (F), respectively.

(2) Section 1842(b)(4)(D) of the Social Security Act, as inserted by section 4102(a)(2) of OBRA-1990, is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (ii), be reduced to the adjusted conversion factor for the locality determined as follows:";

(B) in clause (iv), by striking "LOCAL ADJUSTMENT.—Subject to clause (ii)," and inserting "and (1) by striking "LOCAL ADJUSTMENT.—Subject to clause (ii)," and inserting

(b) ADJUSTMENT CONVERSION FACTOR.—the adjusted conversion factor for;" and

(C) in clause (iv), by striking "" and inserting """

(D) in clause (v), by inserting "reduced under this subparagraph by" after "shall not be"

(3) Section 4102(c)(2) of OBRA-1990 is amended by striking "radiology services" and all that follows and inserting "nuclear medicine services;"

(4) Section 4102(d) of OBRA-1990 is amended by striking "new paragraph" and inserting "new subparagraph."

(5) Section 1842(b)(4)(E) of the Social Security Act, as added by section 4102(a)(2) of OBRA-1990, is amended by inserting "RULE FOR CERTAIN SCANNING SERVICES—and wholly owns the hospital, and an entity owned by another entity that wholly owns the hospital".

SEC. 203. TECHNICAL CORRECTION RELATING TO NURSE HOME REFORM.

Section 1819(b)(3)(C)(1) of the Social Security Act (42 U.S.C. 1395i-3(b)(3)(C)(1)) is amended by section 4008(h)(2)(C)(1) of OBRA-1990, is amended by striking "subject to section 1834(b)(4) of the Omnibus Budget Reconciliation Act of 1989" and by striking "provided under such section and" and inserting "provided under section 1834(b)(4) of the Omnibus Budget Reconciliation Act of 1989;" and

SEC. 204. AMENDMENTS OF THE MEDICARE PROGRAM.

(a) ANESTHESIA SERVICES (SECTION 4103 OF OBRA-1990).—

(1) Section 4103(a) of OBRA-1990 is amended by striking "REDUCTION IN FEE SCHEDULE" and inserting "REDUCTION IN PREVAILING CHARGES;" and

SEC. 205. PHYSICIAN PAYMENT PROVISIONS (SECTION 4101 OF OBRA-1990).—

(a) OVERVALUED PROCEDURES (SECTION 4101 OF OBRA-1990).—

(1) Section 1842(b)(16)(B)(ii) of the Social Security Act, as added by section 4101(b) of OBRA-1990, is amended—

(A) by striking "" and inserting "simple and subcutaneous;"

(B) by striking ";" and inserting "and;"

(C) by striking "treatments:" the first place it appears and inserting "and;"

(D) by striking "" and inserting ";"

(E) by striking "" and inserting """

(F) by striking "" and inserting """

(G) by striking "" and inserting """

(H) by striking "" and inserting """

(I) by striking all that follows "" and inserting " yapılacak."

(b) RADIOLIGY SERVICES (SECTION 4102 OF OBRA-1990).—

(1) Section 1842(b)(4)(F) of the Social Security Act, as amended by redesignating subparagraphs (E) and (F) as previously redesignated by section 4102(a)(1) of OBRA-1990 as subparagraphs (E) and (F), respectively.

(2) Section 1842(b)(4)(D) of the Social Security Act, as inserted by section 4102(a)(2) of OBRA-1990, is amended—

(A) in clause (i), by striking "" and inserting """

(B) clause (i)(II), by striking "second, third, and fourth" and inserting "first, second, and third."

(3) Section 1842(b)(4)(F)(1)(H) of the Social Security Act, as amended by section 4106(a)(1) of OBRA-1990, is amended by striking "" and inserting ";

(b) ADJUSTMENT CONVERSION FACTOR.—the adjusted conversion factor for;" and

(C) in clause (ii), by striking "" and inserting """

(D) in clause (v), by inserting "reduced under this subparagraph by" after "shall not be"

(3) Section 4102(c)(2) of OBRA-1990 is amended by striking "radiology services" and all that follows and inserting "nuclear medicine services;"

(4) Section 4102(d) of OBRA-1990 is amended by striking "new paragraph" and inserting "new subparagraph."

(5) Section 1842(b)(4)(E) of the Social Security Act, as added by section 4102(a)(2) of OBRA-1990, is amended by inserting "RULE FOR CERTAIN SCANNING SERVICES—and wholly owns the hospital, and an entity owned by another entity that wholly owns the hospital."
ing "for which payment is made under this part," and inserting "while the physician or practitioner is not in an internship or residency training program".

(3) Section 1848(a)(4) of the Social Security Act, as added by section 4108(b)(1) of OBRA-1990, is amended by striking "the end of the first calendar year during the first 6 months of which the physician has furnished services while the physician or practitioner is not in an internship or residency training program".

(4) Section 4106(a)(3) of OBRA-1990 is amended by inserting "of the Social Security Act" after "19908(d)(1)(B)."

(5) Section 4118(d)(1)(D) of OBRA-1990 is amended by striking "of" after "19908(d)(1)(B)."

(6) Section 4118(d)(1)(N)(II) of such Act is amended by striking "subsection (N)(X)(A)" and inserting "subsection (N)(X)(A)."

(7) Section 4118(d)(1)(O) of OBRA-1990 is amended by striking "In section" and inserting "Section."

(8) Section 4118(d)(2) of the Social Security Act, as added by section 4118(k) of OBRA-1990, is amended by striking the space before the period at the end.

(9) Section 4118(a)(10)(B) of the Social Security Act is amended by striking "as such provisions apply to physicians' services and physicians and a reasonable charge under section 1833(l)(B)" after "4107(a)(1)."

(10) Section 4108(a)(2) of OBRA-1990 is amended by striking paragraph (17) and, in such paragraph, by inserting "(a)(l)" after "4107(a)(1)."

(11) In section 1869(b)(2) of the Social Security Act, as added by section 4151(c)(3) of OBRA-1990, the words "Section 4151(c)(3) of the Social Security Act (as defined in section 1882(g)(1);" are added.

(12) Section 4152(e) of OBRA-1990 is amended by striking the date "1992" and inserting "1991" and "1992" as the dates and by inserting after the last sentence of the subsection: "No amount may be paid because of the application of section 1833(m)(a)(1), as inserted by section 4152(e) of OBRA-1990, to an item or service with respect to which the Medicare payment is decreased under section 4152(e) of OBRA-1990.

(13) Effective January 1, 1992, section 1833(m)(a)(1) of such Act, as added by section 4152(e) of OBRA-1990, is amended to read as follows:

(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and

(B) for each year thereafter, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

(14) Effective January 1, 1992, section 1833(m)(a)(1) of such Act, as added by section 4152(e) of OBRA-1990, is amended to read as follows:

(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year; and

(B) for each year thereafter, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and

(C) for each year thereafter, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

(15) Effective January 1, 1992, section 4152(e) of OBRA-1990, is amended by striking the date "1992" and inserting "1991" as the date and by inserting after the last sentence of the subsection:

"No amount may be paid because of the application of section 1833(m)(a)(1), as added by section 4152(e) of OBRA-1990, to an item or service with respect to which the Medicare payment is decreased under section 4152(e) of OBRA-1990, to an item or service with respect to which the Medicare payment is decreased under section 4152(e) of OBRA-1990.

(16) Effective January 1, 1992, section 4152(e) of OBRA-1990, is amended by striking the date "1992" and inserting "1991" as the date and by inserting after the last sentence of the subsection:

"No amount may be paid because of the application of section 1833(m)(a)(1), as added by section 4152(e) of OBRA-1990, to an item or service with respect to which the Medicare payment is decreased under section 4152(e) of OBRA-1990."
(ii) the item is a specified covered item under subparagraph (B)."

(3) Section 1842(o) of such Act (42 U.S.C. 1395u(o)) is amended by adding at the end the following new paragraph:

"(4) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall include any provisions developed by the Secretary to ensure the timeliness of carrier responses to requests for payment of items described in such section by the supplier."

(4) Section 1834(h)(3) of such Act, as added by section 418(a) of OBRA-1990, is amended by striking paragraph (11) and inserting paragraphs (10) and (11):

"(O) STUDY OF VARIATIONS IN DURABLE MEDICAL EQUIPMENT SUPPLIER COSTS.--

(1) COLLECTION AND ANALYSIS OF SUPPLIER COST DATA.—The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the Medicare program, and shall analyze such data to determine the extent to which such costs vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Nos later than July 1, 1992.

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under subparagraph (A), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under subparagraph (A), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program.

(5) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 1512(a)(3) of OBRA-1990 is amended by striking "amendment made by subsection (a)" and inserting "amendments made by this subsection.".

(2) Section 1512(c)(2) of OBRA-1990 is amended by striking "1385m(a)(7)(A)" and inserting "1385m(a)(7)(B)."

(3) Section 1834(a)(7)(A)(I)(II)(VII) of the Social Security Act, as inserted by section 4152(c)(2)(D) of OBRA-1990, is amended by striking "clause (v)" and inserting "clause (vi)."

(4) Section 1834(a)(7)(C)(I) of the Social Security Act, as added by section 4152(c)(2)(F) of OBRA-1990, is amended by striking clause (v) and inserting clause (vi).

(5) Section 1834(a)(3) of the Social Security Act (42 U.S.C. 1395m(a)(3)), as amended by section 4152(c)(3) of OBRA-1990, is amended by striking paragraph (5)."

(6) Section 1834(c)(1) of OBRA-1990 is amended by striking "1834(a)" and inserting "1854(m)(4)"

(7) Section 4153(d)(2) of OBRA-1990 is amended by striking "Reconciliation" and inserting "Reconciliation".

(8) (A) Section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)) is amended by striking paragraph (6).

(B) Section 1834 of such Act (42 U.S.C. 1385m) is amended—

(1) by striking paragraphs (7) and (8) and inserting paragraphs (7) and (8); and

(2) by adding the following new paragraph:

"(i) in subsection (a)(8)(A), by striking "described" — and all that follows and inserting "described in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period that begins on the first day of the month following the individual's enrollment period, or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

(ii) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the date of enactment of this Act.

(9) SEC. 314. OTHER PART B ITEMS AND SERVICES (SECTIONS 414 THROUGH 416 OF OBRA-1990).—

(a) REVISION OF INFORMATION ON PART B CLAIMS FORMS.—Section 1833(q)(1)(B)(i) of the Social Security Act (42 U.S.C. 1395l(q)(1)(B)(i)) is amended—

(1) by striking "provider number" and inserting "unique physician identification number"; and

(2) by striking "(i)" and inserting "(ii)" and "(iii)".

(b) EFFECTIVE DATE OF REPORTING ON PART B CLAIMS FORMS.—Effective as if included in the enactment of section 6204 of the Omnibus Budget Reconciliation Act of 1989, subsection (c) of such section is amended—

(1) in paragraph (1), by striking "paragraph (2)," and inserting "paragraphs (2) and (3),";

(2) by adding at the end the following new paragraph:

"(3) The amendment made by subsection (b) shall apply with respect to claims submitted on or after October 1, 1991."

(c) CONSULTATION FOR SOCIAL WORKERS.—Effective with respect to services furnished beginning on or after October 1, 1991, section 1861(jj) of the Omnibus Budget Reconciliation Act of 1989 is amended—

(A) by inserting "clinical social work services" after "psychologist services"; and

(B) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(d) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—(A) Subparagraphs (A) and (B) of section 1855(k)(1)(A) of such Act are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is enrolled" and inserting "beginning with the first day of the first month in which the individual is enrolled, and ending with the last day of the eighth consecutive month in which the individual is at no time enrolled;" and

(ii) by striking "and ending seven months later" and inserting "and ending with the last day of the eighth consecutive month in which the individual is enrolled;"

(B) Paragraphs (1) and (2) of section 1855(e) of the Social Security Act (42 U.S.C. 1385e(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1876T(k)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

(ii) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.

(2) CLINICAL DIAGNOSTIC LABORATORY TESTS (SECTION 414 OF OBRA-1990).—Section 154(e)(5) of OBRA-1990 is amended by striking "(1)(A)" and inserting "(1)(B)."

(3) NURSES PRACTITIONERS IN RURAL AREAS (SECTION 415 OF OBRA-1990).—

(A) Section 1538(a)(1) of the Social Security Act (42 U.S.C. 1395l(b)(1)) is amended in the matter preceding subsection (a)—

(1) by striking "and" before "(N)," and inserting "and (O)," and

(2) by transferring and inserting it (as amended) immediately before the semicolon at the end.

(B) Section 1538(a)(1) of the Social Security Act, as amended by section 4155(b)(3) of OBRA-1990, is amended—

(1) by striking "ambulatory" each place it appears and inserting "or ambulatory"; and

(2) by striking "center," and inserting "center."".

(C) Section 1538(a)(3) of the Social Security Act, as amended by section 4155(d) of OBRA-1990, is amended by striking "this Act" and inserting "this title.

(4) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES (SECTION 417 OF OBRA-1990).—

(A) Section 1537(a)(1) of OBRA-1990 is amended by striking "(a) SERVICES OF" and all that follows through "and inserting "(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—".

(B) CERTIFIED REGISTERED NURSE ANESTHETISTS (SECTION 418 OF OBRA-1990).—

Section 1833(4)(B)(ii)(VII) of the Social Security Act, as inserted by section 4103(c) of OBRA-1990, is amended by striking "1977" and inserting "1996."

(6) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS (SECTION 418 OF OBRA-1990).—

Section 1833(4)(B)(ii)(VII) of the Social Security Act, as inserted by section 4103(c) of OBRA-1990, is amended by striking "1977" and inserting "1996."

(7) SCREENING MAMMOGRAPHY (SECTION 418 OF OBRA-1990).—

(A) Section 1501 of the Social Security Act (42 U.S.C. 1395b) is amended—

(1) in subsection (a)(13), as added by section 4183(a)(1) of OBRA-1990, by striking "subsection (j)" and inserting "subsection (kk);" and

(2) in subsection (a)(2) of OBRA-1990, by striking "subsection (j)" and inserting "subsection (kk)."

(B) Section 1834(c)(1) of the Social Security Act, as added by section 415(b)(3) of OBRA-1990, is amended in the matter preceding subsection (a) by striking "1961(j)" and inserting "1961(kk)."

(C) Section 4123 of OBRA-1990 is amended—

(1) by adding at the end of subsection (d) the following new paragraph:

"(d) by adding at the end of subsection (d) the following new paragraph:
The amendment made by paragraph (2)(A) shall apply to screening pap smears performed on or after July 1, 1990.

(5) In paragraph (1), by striking "the amendments" and inserting "Except as provided in subsection (d)(3), the amendments.

(6) In section 4164(a)(2)(A) of OBRA-1990, is amended by striking "a bone fracture related to post-menopausal osteoporosis."--The section 1861(j)(1) of the Social Security Act inserted by section 4164(a)(2)(A) of OBRA-1990 is amended--

Section 4203(d) of OBRA-1990 is amended by striking "this subsection" and inserting "this section."

(d) HEALTH MAINTENANCE ORGANIZATIONS (SECTION 4205 OF OBRA-1990).--

(1) Section 4205(b) of OBRA-1990 is amended to read as follows:

"(b) REVISIONS IN THE PAYMENT METHODOLOGY.--(1)(A) The Secretary of Health and Human Services shall revise the payment methodology for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act for years beginning with 1993.

(B) In making the revisions required under subparagraph (A) the Secretary shall consider:

(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics;

(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas; and

(iii) the difference in costs associated with medicare beneficiaries 65 years of age or older for the various types of medical services.

(2) Not later than January 1, 1992, the Secretary shall cause to have published in the Federal Register a proposed rule describing the proposed revisions in the payment methodology.

(3) Not later than May 1, 1992, the Comptroller General shall review the proposal made pursuant to paragraph (1), and shall report to Congress on the appropriateness of the proposed modifications.

(4) Taking into account the recommendations in the report made pursuant to paragraph (3), on or after August 1, 1992, the Secretary shall issue a final rule implementing the revised payment methodology, effective for contract years beginning on or after January 1, 1993.

(5) Section 1876(a)(3) of the Social Security Act (42 U.S.C. 1395m(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsection (c)(7)(B)."

(6) Section 1876(a)(3) of the Social Security Act is amended by striking "subparagraph" and inserting "subparagraph".

(7) Section 1876(a)(3) of the Social Security Act is amended by striking "the section" and inserting "the section."

(8) Section 1876(a)(3) of the Social Security Act is amended by striking "subsection (c)" and inserting "subsection (c) and (d)."

(9) Section 1876(a)(3) of the Social Security Act is amended by striking "the group" and inserting "the group."

(10) Section 1876(a)(3) of the Social Security Act is amended by striking "the title" and inserting "the title."

(11) Section 1876(a)(3) of the Social Security Act is amended by striking "subsection (a) and other than subsection (b)" and inserting "subsection (a) and other than subsection (b)."

(12) Section 1876(a)(3) of the Social Security Act is amended by striking "of a plan" and inserting "of a plan."

(13) Section 1876(a)(3) of the Social Security Act is amended by striking "with respect to such physician under section 1876(a)(1)," and inserting "with respect to such physician under section 1876(a)(1), and a group of physicians who are eligible for coverage under the same plan;" and
(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C); and

(L) in paragraph (10), by striking "this subsection" and inserting "the paragraph (1)(A)(d)" and by adding at the end the following: "The Secretary shall publish in the Federal Register on or after the date the Association promulgates the 1991 NAIC Model Regulation or the Secretary promulgates the 1991 Federal Regulation.

(B) Govt. Reclaimability (Section 4332 of OBRA-1990).—Section 1882(q) of the Social Security Act, as added by section 4323 of OBRA-1990, is amended—

(1) in subparagraph (A), by striking "the revised NAIC Model Regulation or the 1991 NAIC Model Regulation or 1991 Federal Regulation", and inserting "the revised NAIC Model Regulation or the 1991 NAIC Model Regulation or 1991 Federal Regulation",

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "the succeeding issuer or the Federal Regulation.

(c) Enforcement of Standards (Section 4333 of OBRA-1990).—

(1) Section 1883(a)(2) of the Social Security Act, as added by section 4353(a)(3)(B) of OBRA-1990, is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "the subparagraph (F) added by section 1882(p)(1)(C) of the Social Security Act.

(B) by striking after the effective date of the NAIC standards or Federal standards and inserting "the revised NAIC Model Regulation or the 1991 NAIC Model Regulation or 1991 Federal Regulation",

(2) The sentence in section 1882(c)(1) of the Social Security Act added by section 4333(c)(4) of OBRA-1990 is amended—

(A) by striking "The report" and inserting "Each report",

(B) by inserting "and requirements" after "standards",

(C) by striking "and" and inserting "after compliance,

(D) by striking the comma after "competition,

(E) by striking the last sentence.

(3) Section 1883(b)(2) of OBRA-1990 is amended by striking "July 1, 1991" and inserting "the date specified in section 1862(p)(1)(C) of the Social Security Act"

(4) Section 1883(g)(2)(B) of the Social Security Act is amended by striking "Panel" and inserting "Secretary".

(d) Panel and Duplication (Section 4354 of OBRA-1990).—

(1) Section 1882(d)(3)(A) of the Social Security Act, as amended by section 4354(a)(1) of OBRA-1990, is amended—

(A) by inserting, in the next to last sentence, "with respect to the sale of a medicare supplemental policy after violate the previous sentence, and

(B) by striking the last sentence.

(2) Section 1882(d)(3)(B) of the Social Security Act, as amended by section 4354(a)(2) of OBRA-1990, is amended—

(A) in clause (i)(I), by striking "subclause (II) and inserting "clause (II)"

(B) in clause (I), by striking "another medicare" and inserting "a medicare"

(C) in clause (ii)(I), by striking "such a policy and inserting "a medicare supplemental policy"

(D) in clause (ii)(II), by striking "another policy and inserting "a medicare supplemental policy"

(E) by striking the period at the end of clause (ii)(II) and inserting ""]"

(3) Section 1882(d)(4)(A) of the Social Security Act, as amended by section 4354(a)(3) of OBRA-1990, is amended by striking "sold or issued" and all that follows through "1993" and striking "an eligible organization included in section 1876(b)

(4) Treatment of HMO's (Section 4356 of OBRA-1990).—

(1) Section 1882(k)(1) of the Social Security Act, as amended by section 4356(a)(3) of OBRA-1990, is amended by striking "sold or issued" and all that follows through "1983" and striking "an eligible organization included in section 1876(b)

(5) Amendments of OBRA-1990.—

(1) Section 1882(p)(1)(C) of the Social Security Act, as added by section 4356(a)(3) of OBRA-1990, is amended by striking "sold or issued" and all that follow through "1983" and striking "an eligible organization included in section 1876(b)

(6) Pre-Existing Condition Limitations (Section 4355 of OBRA-1990).—

(1) Section 1882(a)(3) of the Social Security Act, as added by section 4356(a)(3) of OBRA-1990, is amended—
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(A) in paragraph (2)(A), by striking “for which an application is submitted” and inserting “in the case of an individual if an application is submitted”; and

(B) in paragraph (2)(B), by striking “before it” and inserting “before the policy”.

(2) Section 4387(b) of OBRA-1990 is amended by striking the date of the enactment of this Act and inserting “on the date specified in section 1882(u)(1)(C) of the Social Security Act, except that section 1882(u)(1) of such Act shall take effect on December 13, 1990.”

(b) MEDICARE SELECT POLICIES (SECTION 4386 OF OBRA-1990).—Section 1882(a) of the Social Security Act, as added by section 4386(a) of OBRA-1990, is amended—

(1) in sub paragraph (1), by inserting “medicare supplemental” after “If a”,

(2) in sub paragraph (1), by striking “NAIC Model Standards” and inserting “1991 NAIC Model Regulation or 1991 Federal regulation”.

(c) in paragraph (1)(A), by inserting “or agreements” after “contracts.”

(D) in subparagraphs (B)(1) and (F) of paragraph (1), by striking “NAIC standards” and inserting “standards in the 1991 NAIC Model Regulation or Federal regulation”.

(E) in paragraph (2), by inserting the “issue” before “is subject to a civil money penalty”, and

(F) in paragraph (3), by striking “certified” and inserting “approved”.

(2) Subsection (a) of section 1154(a)(4)(B) of the OBRA-1990 is amended—

(A) by striking “that is” after “(or), and

(B) by striking “1832(c)” and inserting “1832(d)(1)(A)(ii)”.

(1) HEALTH INSURANCE COUNSELING (SECTION 4360 OF OBRA-1990).—Section 4360 of OBRA-1990 is amended—

(A) in subsection (b)(2)(A)(i), by striking “and” and inserting “and

(B) in subsection (b)(2)(D), by striking “services” and inserting “counseling”;

(C) in subsection (b)(2)(E), by striking “as assistance” and inserting “referrals”;

(D) in subsection (c)(1), by striking “and that such activities will continue to be maintained at such level”; and

(E) in subsection (d)(3), by striking “to the rural areas” and inserting “eligible individuals residing in rural areas”;

(F) in subsection (e)—

(A) by striking “subsections (c) or (d)” and inserting “subsections (c)(1) or (d)”; and

(B) by striking “and annually thereafter” and inserting “and annually thereafter during the period of the grant, issue a report”;

(C) in paragraph (1), by striking “Statewide”;

(D) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(E) by redesignating the second subsection (f) (relating to authorisation of appropriations for grants) as subsection (g).

(2) TELEPHONE INFORMATION SYSTEM (SECTION 4360 OF OBRA-1990).—Section 1882 of the Social Security Act is amended—

(A) by adding at the end of the heading the following: “; MEDICARE AND MEDIGAP INFORMATION”;

(B) by inserting “(a)” after “1860”, and

(C) by adding at the end the following new sub paragraph (C)—

“(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.”.

(2) Section 1882(f) of the Social Security Act is amended by adding at the end the following new paragraph:

“(c) The Secretary shall provide information via a toll-free telephone number on Medicare supplemental policies (including the relationship of State programs under title XIX and such policies).

(3) Section 1882(q) of the Social Security Act, as inserted by section 4361(a) of OBRA-1990, is repealed.

TITLE VIII CORRECTIONS RELATING TO SOCIAL SECURITY, INCOME SECURITY AND HUMAN RESOURCES, AND TARIFF AND CUSTOMS

Subtitle A—Income Security and Human Resources

SEC. 301. THE FOLLOWING RELATION TO OASI IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENTS RELATED TO PROVISIONS IN SECTION 1223 OF THE OBRA-1990 Act.—Section 1223(f)(2) of the Social Security Act (42 U.S.C. 422(c)(2)) is amended—

(1) in subparagraph (A), by striking “in such case to which clause (ii)(II) does not apply”;

and

(2) by adding at the end the following:

“that is now able to engage in substantial gainful activity; or”.

(b) AMENDMENTS RELATED TO PROVISIONS IN SECTION 1224 OF THE OBRA-1990 Act.—Section 1224(b)(1)(A) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended—

(1) by striking paragraph (5) and inserting “subsection (5)”;

(2) by redesignating the paragraph (5) as the paragraph (6);

(c) AMENDMENTS RELATED TO PROVISIONS IN SECTION 1515 RELATING TO ADVANCE TAX TRANSFERS.—Section 1515(a)(1)(A) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended—

(1) by striking paragraph (6) and inserting “subsection (6)”;

and

(2) by redesignating the paragraph (6) as the paragraph (7).

(d) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the provisions of the Omnibus Budget Reconciliation Act of 1990 to which such amendment relates.

Subtitle B—Income Security and Human Resources

SEC. 311. REPEAL OF PROVISION INADVERTENTLY INCLUDED IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

Section 1507 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and the amendment made by such section, are hereby repealed, and section 1130(d) of the Social Security Act shall be applied and administered as if such section 1507 had never been enacted.

SEC. 312. CORRECTIONS RELATED TO THE INCOME SECURITY AND HUMAN RESOURCES SECTION OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENT RELATED TO SECTION 5035(b)(2) OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Section 1505(a)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended by striking “a semi-colon” and inserting a “semi-colon”;

(b) AMENDMENTS RELATED TO SECTION 5010(d)(1)(B) OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Section 1505(d)(1)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended—

(1) by striking “1505(a)(2)(C)” and inserting “1505(a)(2)(F)”;

(2) by redesignating the subparagraph (E) as the subparagraph (F); and

(c) AMENDMENT RELATED TO SECTION 5015(a)(1)(B).—The second paragraph of section 1631(a) of the Social Security Act (42 U.S.C. 1383(a)) is amended by striking “(A)” and inserting “(B)”.

(b) AMENDMENTS RELATED TO SECTION 1631(a)(2)(C) OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Section 1631(a)(2)(C) of the Social Security Act (42 U.S.C. 1383(a)(2)(C)) is amended—

(1) by striking clause (II); and

(2) by redesigning clauses (III), (IV), and (v) as clauses (ii), (iii), and (iv), respectively; and

(c) in clause (iv) (as so redesignated), by striking “(iii), and (iv)” and inserting “(ii), and (iii)”.

(b) AMENDMENTS RELATED TO SECTION 1631(a)(2)(B).—Section 1631(a)(2)(B) of the Social Security Act (42 U.S.C. 1383(a)(2)(B)) is amended by striking “paragraph (1)” each place such term appears and inserting “paragraph (A)”.

(b) AMENDMENT RELATED TO SECTION 1501(a)(2).—Section 1501(a)(2) of the Social Security Act (42 U.S.C. 1383(a)(2)) is amended by redesignating the subsection (a) added by section 1501(a)(2) of the Omnibus Budget Reconciliation Act of 1990, as subsection (o).

(b) EFFECTIVE DATE.—Each amendment made by this section shall take effect as included in the provisions of the Omnibus Budget Reconciliation Act of 1990 to which the amendment relates at the time such provision became law.

SEC. 313. CORRECTION RELATED TO SECTION 8606 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.


(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect as if included in section 8006 of the Omnibus Budget Reconciliation Act of 1990 at the time such section 8006 became law.

SEC. 314. AMENDMENT RELATED TO SECTION 13101 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) IN GENERAL.—Section 256(k)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking “the” and inserting “the second place it appears and all that follows through "I)"; and

(b) EFFECTIVE DATE.—The amendments made by subsection (a) of this section shall take effect as if included in section 13101(a)(2) of the Omnibus Budget Reconciliation Act of 1990, at the time such section 13101(a)(2) became law.

Subtitle C—Tariff and Customs

SEC. 321. TECHNICAL AMENDMENTS TO THE HARMONIZED CUSTOMS TARIFF LIST OF THE UNITED STATES.

(a) IN GENERAL.—The Harmonized Tariff Schedule of the United States is amended as follows:

(1) REMOVAL OF GDR FROM COLUMN 2 RATE LIST.—General Note 3(b) is amended by striking “German Democratic Republic”.

(2) APPROPRIATIONS—The amount appropriated under section 203 of the Balanced Budget and Emergency Deficit Control Act of 1985 is increased by $1,000,000.

(3) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the Omnibus Budget Reconciliation Act of 1990, at the time such section 13101(a)(2) became law.
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(2) TAPESTRY AND UPHOLSTERY FABRICS.—The article description for subheading 5112.19.60 is amended by striking "of a weight exceeding 300 gsm/".

(3) GLOVES.—(A) Chapter 61 is amended by redesignating subheading 6116.10.45 as subheading 6116.10.40.

(B) Chapter 62 is amended by striking the superior text "Other:--" that appears between subheadings 6216.00.46 and 6216.00.52.

(4) ARCHITECTURAL FLOOR AND WALL TILES.—The article description for subheading 6819.12.12 is amended to read as follows:

"For use in buildings, primarily residential, or floor and wall ceramic, coated or uncoated, with decoration manufactured with binders other than cement."

(5) 2,4-DIAMINOBENZENESULFONIC ACID.—The article description for heading 9902.20.43 is amended by striking "9221.59.50," and inserting "9478.69.90," and inserting "9462.40.40," and inserting "9479.89.90, or 9031.80.00."

(7) COPING MACHINES AND PARTS.—The article description for heading 9902.64.70 is amended by striking "9479.69.90," and inserting "9462.49.00," and inserting "9479.89.90, or 9031.80.00."

(8) LOWERED RATE REDUCTIONS FOR GLOVES.—Any staged reduction of a special rate of duty first specified in subheading 6116.10.45 of such Schedule that takes effect on or after October 1, 1990, by reason of section 1001(a)(2) of Omnibus Budget Reconciliation Act of 1990 shall apply to the corresponding rate of duty in subheading 6116.10.45 (as redesignated by subsection (a)(3)(A)).

(c) EFFECTIVE DATES.—

(1) In General.—Except as provided in paragraph (b), amendments made by subsection (a) shall apply to-

(i) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act (the "enactment date"), and

(ii) with respect to which there would have been a lesser or no duty if any amendment made by subsection (a) applied to such entry; shall be liquidated or reliquidated as though such amendment had taken effect upon the enactment date.

(B) For purposes of this subsection, the term "applicable date" means—

(i) if such amendment is made by subsection (a)(4) or (a)(7), December 31, 1988; and

(ii) if such amendment is made by subsection (a)(2), (a)(3), (a)(5), (a)(6), September 30, 1990.

SEC. 322. CLARIFICATION REGARDING THE APPLICATION OF CUSTOMS USER FEES.

(a) In General.—Subparagraph (D) of section 203(b)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 85c(b)(3)(D)) is amended—

(1) by striking out "and" at the end of clause (iv),

(2) by striking the period at the end of clause (v) and inserting "; and"; and

(3) by inserting after clause (v) the following new clause:

"(vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the merchandise subject to duty under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c)."

(b) Effective Date.—The amendments made by subsection (a) apply to-

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act, and

(2) any entry made from a foreign trade zone after November 30, 1988, and before such 15th day if the entry was not liquidated before such 15th day.

SEC. 323. TECHNICAL AMENDMENTS TO THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988.

(a) In General.—Paragraph (2) of section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking "the date of enactment of this Act" and inserting "January 1, 1989"; and

(B) by striking "such date of enactment" and inserting "January 1, 1989"; and

(2) application for liquidation or reliquidation at such rate with respect to entries made after December 31, 1988, and before the effective date of the amendment, is provided for:

be treated as the rate in effect on January 1, 1989.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect January 1, 1989.

(c) CONSTRUCTION.—For purposes of applying the amendments made by subsection (a), the column 1-general rate of duty established by any amendment to the Harmonized Tariff Schedule of the United States that was enacted after January 1, 1989, shall, if—

(1) such amendment has, or is statutorily treated as having, an effective date of January 1, 1989; or

(2) application for liquidation or reliquidation at such rate with respect to entries made after December 31, 1988, and before the effective date of the amendment, is provided for:

be treated as the rate in effect on January 1, 1989.

SEC. 324. TECHNICAL AMENDMENT TO THE CUSTOMS AND TRADE ACT OF 1990.

Subsection (b) of section 484H of the Customs and Trade Act of 1990 (19 U.S.C. 1593) is amended by striking "of the Omnibus Trade and Competitiveness Act of 1988" and inserting "of the Act".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect January 1, 1989.

(c) CONSTRUCTION.—For purposes of applying the amendments made by subsection (a), the column 1-general rate of duty established by any amendment to the Harmonized Tariff Schedule of the United States that was enacted after January 1, 1989, shall, if—

(1) such amendment has, or is statutorily treated as having, an effective date of January 1, 1989; or

(2) application for liquidation or reliquidation at such rate with respect to entries made after December 31, 1988, and before the effective date of the amendment, is provided for:

be treated as the rate in effect on January 1, 1989.

SEC. 11102. REVENUE RECONCILIATION ACTION OF 1990


1. Minimum tax rate on certain nonresident aliens (sec. 102(a)(2) of the bill, sec. 11102 of the 1990 Act, and sec. 897 of the Code)

PRESENT LAW

The Revenue Reconciliation Act of 1990 (the "1990 Act") increased the alternative minimum tax rate on individuals from 28 percent to 29 percent.

EXPLANATION OF PROVISION

The bill conforms the rate of the minimum tax on individuals from 28 percent to 31 percent effective for taxable years beginning after December 31, 1990.

EXPLANATION OF PROVISION

The bill provides that the increase in the individual maximum tax rate to 31 percent also applies to the personal holding company tax rate, effective for taxable years beginning after December 31, 1990.

3. Definition of AGI for the earned income credit and the supplemental earned income tax credit for health insurance premiums (sec. 102(a)(5) of the bill, sec. 11111 of the 1990 Act, and sec. 32 of the Code)

Present Law

Under present law, a supplemental earned income tax credit (EITC) is available to certain taxpayers for qualified health insurance expenses. Qualified health insurance expenses for which the credit is available are paid during the tax year for health insurance coverage that includes one or more qualifying children. These expenses include only those expenses relating to the cost of coverage (i.e., premium cost) paid with after-tax dollars. The maximum credit is $421 in 1990. The credit is phased out as adjusted gross income (AGI) (or earned income, if greater) exceeds $11,300. Earned income amounts taken into account in computing the maximum credit and the beginning point of the phase-out range are indexed for inflation.

The calculation of this supplemental child health insurance credit is generally the same as the calculation of the basic EITC. Thus, the same eligibility criteria and income phase-in and phase-out requirements apply. There is no family size adjustment with respect to the health insurance credit.

Present law provides that the amount of expenses taken into account in determining the deduction for health insurance costs of self-employed individuals (sec. 162(1)(A)) is reduced by the amount (if any) of the supplemental child health insurance credit attributable to the taxpayer (sec. 162(1)(3)(B)). This so-called "double-dip" provision creates a calculation problem because the amount of the EITC, the supplemental young child health insurance credit, and the child health insurance credit cannot be determined until AGI is determined; however, AGI is determined with reference to the deduction for health insurance costs of self-employed individuals. Thus, the operation of the double-dip provision creates a circularity that increases the complexity of the child health credit.

EXPLANATION OF PROVISION

Under the bill, for purposes of the EITC, the supplemental young child credit, and the supplemental child health insurance credit, AGI is calculated assuming that the taxpayer is entitled to the full deduction for health insurance costs under section 162(1). Then after the maximum child health credit is determined, the double-dip rule (sec. 162(1)(3)(B)) operates as it does under present law.

1See P.L. 99-514, sec. 104(b)(8).
1. Application of the 2.5-cents-per-gallon tax on fuel used in rail transportation to the States and local governments.

The 1990 Act increased the highway and motorboat fuels taxes by 5 cents per gallon, effective on December 1, 1990. The 1990 Act continued to the exemption from these taxes for fuels used by States and local governments.

2. Treatment of salvage and subrogation of losses. In the case of any property and casualty insurance company that took into account estimated salvage and subrogation recoverable in determining losses incurred before January 1, 1990, is allowed as a deduction ratably over the first 4 taxable years beginning after December 31, 1989. The special deduction was enacted in order to provide such property and casualty insurance companies with substantially the same Federal income tax treatment as that provided to those property and casualty insurance companies that prior to the Revenue Reconciliation Act of 1990 did not take into account estimated salvage and subrogation recoverable in determining losses incurred.

3. Information with respect to certain foreign-owned or foreign corporations: Suspension of the statute of limitations. Any corporation that is subject to the provisions of section 6038A or 6038C that suspend the statute of limitations to clarify that the suspension applies to any taxable year the determination of which is finally decided by the IRS does not apply to any transaction or item to which the statute of limitation applies to the taxable year at issue.

4. Rates of interest for large corporate underpayments of tax. The rate of interest otherwise applicable to any interest accruing on any amount of an underpayment of tax is increased by two percent in the case of large corporate underpayments. During the period that either such judicial proceeding is pending (including appeals), and for up to 90 days thereafter, the statute of limitations is suspended with respect to any transaction or item, in the case of a foreign corporation, to which the statute applies to the year at issue. The legislative history of the 1990 Act, which added section 6038C to the Code, uses the same language.

The bill modifies the provisions in sections 6038A and 6038C that suspend the statute of limitations to clarify that the suspension applies to any taxable year the determination of which is finally decided by the IRS does not apply to any transaction or item to which the statute of limitation applies to the taxable year at issue.

Any domestic corporation that is 25-percent owned by one foreign person is subject to certain information reporting and recordkeeping requirements to prevent tax avoidance actions carried out directly or indirectly with certain foreign persons treated as related to the domestic corporation (“reportable transactions”) (sec. 6038A(a)). In addition, the Code provides procedures whereby an IRS examination request or summons with respect to reportable transactions can be served concurrently on any foreign corporation engaged in a U.S. trade or business with which the domestic corporation has the right to petition a Federal district court to quash such a summons (sec. 6038A(b)(5)).

The bill modifies the provisions in sections 6038A and 6038C that suspend the statute of limitations to clarify that the suspension applies to any taxable year the determination of which is finally decided by the IRS does not apply to any transaction or item to which the statute of limitation applies to the year at issue. The legislative history of the 1990 Act, which added section 6038C to the Code, uses the same language.

The bill provides that the earnings and profits of any property and casualty insurance company that took into account estimated salvage and subrogation recoverable in determining losses incurred before January 1, 1990, is allowed as a deduction ratably over the first 4 taxable years beginning after December 31, 1989. The special deduction was enacted in order to provide such property and casualty insurance companies with substantially the same Federal income tax treatment as that provided to those property and casualty insurance companies that prior to the Revenue Reconciliation Act of 1990 did not take into account estimated salvage and subrogation recoverable in determining losses incurred.

CONGRESSIONAL RECORD—SENATE

March 21, 1991

D. Expiring Tax Provisions

1. Exclusion for employer-provided educational assistance (sec. 102(d)(1) of the bill, sec. 11402 of the 1990 Act, and secs. 127 and 122 of the Code)

Present Law

Employer-provided educational assistance is excludable from gross income if the value of the assistance does not exceed the fair market value thereof. Certain conditions are satisfied (sec. 127). Prior to the 1990 Act, the exclusion did not apply to graduate level courses. The 1990 Act eliminated this restriction. The Omnibus Budget Reconciliation Act of 1989 provided that educational assistance that is not excludable under section 127 due to the dollar limitation on the exclusion and the restriction on graduate level courses is excludable from gross income if and only if it qualifies as a working condition fringe benefit (sec. 132(h)).

Explanation of Provision

The bill amends the fringe benefit rules to reflect the fact that the graduate level course restriction has been repealed.

2. Research credit provision: Effective date for research credit rule (sec. 102(d)(2) of the bill and sec. 11402 of the 1990 Act)

Present Law

The Omnibus Budget Reconciliation Act of 1989 effectively extended the research credit for nine months by prorating certain qualified research expenses incurred before January 1, 1989. The fair market value of qualified research expenses applied in the case of any taxable year which began before October 1, 1990, and ended after September 30, 1990. Under this rule, the amount of qualified research expenses incurred by a taxpayer prior to January 1, 1991, was multiplied by the ratio that the number of days in that taxable year beginning after October 1, 1990, bears to the total number of days in such taxable year before January 1, 1991. The amendments made by the 1989 Act to the research credit (including the new method for calculating a taxpayer's base amount) generally were effective for taxable years beginning after December 31, 1989. However, the effective date did not apply to the special proration rule (which applied to any taxable year which began before October 1, 1990, and ended after September 30, 1990).

Sec. 11402 of the Omnibus Budget Reconciliation Act of 1989 extended the research credit through December 31, 1991, and repealed the special proration rule provided for by the 1989 Act. Section 11402 of the 1990 Act was effective for taxable years beginning after December 31, 1989. Thus, in the case of taxable years beginning before December 31, 1989, and ending after September 30, 1990 (e.g., a taxable year of November 1, 1989 through October 31, 1990), the special proration rule provided by the 1989 Act would continue to apply.

Explanation of Provision

The bill repeals for all taxable years ending after December 31, 1989, the special proration rule provided for by the 1989 Act.

E. Energy Tax Provisions: Alternative Minimum Tax (sec. 102(e)(2) and (6) of the bill, sec. 11531(a) of the 1990 Act, and sec. 56(h) of the Code)

Present Law

In computing alternative minimum taxable income (and the adjusted current earnings (ACE) adjustment of the alternative minimum tax), certain adjustments are made to the taxpayer's regular tax treatment for intangible drilling costs (IDCs) and depletion. The ACE adjustment is also allowed. The special energy deduction is initially determined by determining the taxpayer's (1) intangible drilling cost preference and (2) the marginal production depletion preference. The intangible drilling cost preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if energies were computed without regard to the adjustments for IDCs. The marginal production depletion preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to depletion adjustments attributable to marginal production. The intangible drilling cost preference is then apportioned between (1) the portion of the preference related to qualified exploratory costs and (2) the remaining portion of the preference. The portion of the preference related to qualified exploratory costs is multiplied by 75 percent and the remaining portion is multiplied by 15 percent. The marginal production depletion preference is multiplied by 50 percent. The three products described above are added together to arrive at the taxpayer's special energy deduction (subject to certain limitations).

The special energy deduction is not allowed to the extent that it exceeds 40 percent of the taxpayer's alternative minimum taxable income determined without regard to either this special energy deduction or the alternative tax net operating loss deduction. Any special energy deduction amount limited by the 40-percent threshold may not be carried to another taxable year. In addition, the combination of the special energy deduction, the alternative minimum tax net operating loss and the alternative minimum tax foreign tax credit cannot generally offset, in the aggregate, more than 90 percent of a taxpayer's alternative minimum tax determined without such attributes.

Explanation of Provisions

Interaction of special energy deduction with net operating loss and investment tax credit

The bill clarifies that the amount of alternative net operating loss that is utilized to the extent of the special energy deduction claimed, which if unused, could not be carried forward.

In addition, the bill contains a similar provision which clarifies that the limitation on the utilization of the investment tax credit for purposes of the alternative minimum tax is to be determined without regard to the special energy deduction.

Interaction of special energy deduction with adjustment based on adjusted current earnings

The bill provides that the ACE adjustment is to be computed without regard to the special energy deduction. Thus, the bill specifies that the ACE adjustment is equal to 75 percent of the taxpayer's adjusted current earnings over its alternative minimum taxable income computed without regard to either the ACE adjustment, the alternative minimum tax net operating loss deduction, or the special energy deduction.

F. Estate Freezes (sec. 7309 of the bill, sec. 11802 of the 1990 Act, and sec. 2701-04 of the Code)

Present Law

The value of property transferred by gift or includible in the decedent's gross estate is its fair market value. Fair market value is determined at the time of transfer. The property would change hands between a willing buyer and willing seller, neither being under any compulsion to buy or sell and both having knowledge of relevant facts (Treas. Reg. sec. 20.3031). Chapter 14 contains rules that supersede the willing buyer, willing seller standard (Code secs. 2701-04).

Preferred interests in corporations and partnerships

The bill provides for valuing certain rights retained in connection with the transfer of a family member of an interest in a corporation or partnership. These rules apply to any applicable retained interest held by the transferee or an applicable family member immediately after the transfer of an interest in such entity. An “applicable family member” is, with respect to any transferee, the transferee’s spouse, children, grandchildren, the transferee’s parents, and spouses of such ancestors.

An applicable retained interest is an interest that confers (1) a liquidation, put, call, or conversion right, generally defined as any liquidation, put, call or conversion right, or similar right, the exercise or nonexercise of which affects the value of the transferred interest. The second type of affected right is a distribution right in an entity in which the transferee and applicable family members hold control immediately before the transfer. In determining control, an individual is treated as holding any interest held by the individual’s brothers, sisters and lineal descendants. A distribution right does not include any right with respect to a junior equity interest.

Valuation.—Section 7301 provides two rules for valuing applicable retained interests. Under the first rule, an affected right other than a right to qualified payments is valued at zero. Under the second rule any retained interest that confers a liquidation, put, call or conversion right and a right that consists of the right to receive a qualified payment is valued on the assumption that each right is exercised in a manner resulting in the lowest value for all such rights (the “lowest value rule”). There is no statutory rule governing the treatment of an applicable retained interest that confers a right to receive a qualified payment, but with respect to which there is no liquidation, put, call or conversion right.

A qualified payment is a dividend payable on a periodic basis and at a fixed rate under cumulative preferred stock (or a comparable payment under a partnership agreement). A transferee or applicable family member may elect not to treat such a dividend (or comparable payment) as a qualified payment. A transferee or applicable family member may also elect to treat any other distribution right as a qualified payment to be paid in the amounts and at the times specified in the election.

*A distribution right generally is a right to a distribution from a corporation with respect to its investment in partnership property. A qualified distribution is a distribution with respect to a partner's interest in the partnership.
Inclusion in transfer tax base.—Failure to make the payment of the qualified payment results in the lowest value rule within four years of its due date generally results in an inclusion in the transfer tax base equal to the difference between the lowest value and any subsequent payments over the compounded value of the payments actually made. The Treasury Department has regulatory authority to make subsequent transfer tax adjustments in the event that an applicable retained interest is subject to the lowest value rule within four years of its due date.

Generally, this inclusion occurs if the holder transfers by sale or gift the applicable retained interest during life or at death. In addition, the taxpayer may, by election, treat the payment of the qualified payment as the proper taxable event for purposes of an inclusion with respect to prior periods.

The inclusion continues to apply if the applicable retained interest is transferred to an applicable family member by the transferor on a transfer of an applicable retained interest to a spouse for consideration or in a transaction qualifying for the marital deduction. In such cases, the inclusion is subject to the transferor. Other transfers to applicable family members result in an immediate inclusion as well as subjecting the transferor to the transfer tax base.

Minimum value of residual interest

Section 2701 establishes a minimum value for a junior equity interest in a corporation or partnership. For partnerships, a junior equity interest is an interest for which the rights to income and capital are junior to the rights of all other classes of equity interests.

Trusts and term interests in property

The value of a transfer in trust is the value of the entire property less the value of rights in income or capital to any transaction qualifying for the marital deduction. Thus, if the rights to income and capital are junior to the rights of all other classes of equity interests, any transfer in trust is to be disregarded unless the transferor is an applicable family member holding any other distribution right may treat such right as a qualified payment to be paid in the amounts and at the times specified in the election.

Inclusion in transfer tax base

The bill permits the Treasury Department regulatory authority to make subsequent transfer tax adjustments to reflect the value of unpaid amounts with respect to a transfer in trust. For example, this authority could permit the Treasury Department to exclude an initial distribution of property in a trust to a member of the transferor's family.

Technical and Miscellaneous Revenue Act of 1990

The bill conforms section 2701 to the Technical and Miscellaneous Revenue Act of 1990, which repeals the General Utilities doctrine (sec. 102(g)) for transactions that are subject to the nonrecognition provisions contained in that subsection. One of the changes is to change the reference to “section 311(a)” from “section 311”.

Explanation of Provisions

Preferred interests in corporations and partnerships

Valuation

The bill provides that an applicable retained interest conferring a distribution right to qualified payments with respect to a qualified payment unless the transferor, the spouse, or another applicable family member holds the right to cause liquidation.

The bill modifies the definition of junior equity interest by granting regulatory authority to treat a partnership interest with rights that are junior with respect to either income or capital as a junior equity interest. The bill also modifies the definition of distribution right by replacing the junior equity interest exception with an exception for a right under an interest that is junior to the rights of the transferred interest. As a result, section 2701 applies only to interests retained by a transferor, which the rights to income and capital are junior to the rights of all other classes of equity interests.

Inclusion in transfer tax base

The bill permits the Treasury Department regulatory authority to make subsequent transfer tax adjustments to reflect the value of unpaid amounts with respect to a transfer in trust. For example, this authority could permit the Treasury Department to exclude an initial distribution of property in a trust to a member of the transferor's family.

Options and buy-sell agreements

A restriction upon the sale or transfer of property may reduce its fair market value. Treasury regulations provide that a restriction is to be disregarded unless the agreement represents a bona fide business arrangement and not a device to pass the decedent's shares to the natural objects of his bounty for less than full and adequate consideration (Treas. Reg. sec. 20.2301-2(b)).

Section 2701 provides that for transfer tax purposes the value of property is determined without regard to any option, agreement or other right to acquire or use the property at less than fair market value or any restriction on the right to use such property.

Certain options are excepted from this rule. To fall within the exception, the option, agreement, right or restriction must (1) be a bona fide business arrangement, (2) not be a device to transfer such property to members of the decedent's family for less than full and adequate consideration, (3) have terms comparable to similar arrangements entered into by persons in an arm's length transaction.
change of stock of a controlled foreign corporation, the U.S. person shall be treated as having sold or exchanged the stock for purposes of applying section 1248. Thus if a U.S. person directly or indirectly owned stock of a controlled foreign corporation to its shareholders in a transaction in which gain is recognized under section 312(b), section 1248 shall be applied with respect to taxable years beginning before December 31, 1989. Under section 312(h)(1), gain will be recognized only to the extent of the amount treated as a dividend under section 1246. These amendments are not intended to affect the authority of the Secretary to issue regulations under section 1248(f) providing exceptions to the rule recognizing gain in certain circumstances (cf. Notice 97-94, 1997-2 C.B. 375).

2. Prohibited transaction rules (sec. 102(g)(3) of the bill, sec. 1701(m) of the 1990 Act, and sec. 4975 of the Code)

The Code and title I of the Employee Retirement Income Security Act of 1974 (ERISA) prohibit certain transactions between a shareholder employee benefit plan and certain persons related to such plan. An exemption to the prohibited transaction rules of title I of ERISA is provided in the case of sales of employee benefit plan interests in an insured retirement plan that is required to dispose of under the Pension Protection Act of 1987 (ERISA sec. 406(b)(12)). The 1990 Act amended the Code to provide that certain transactions entered into after the date of the enactment of the Code are automatically exempt from the prohibited transaction rules of the Code. The 1990 Act change was intended to be limited to transactions exempt under section 406(b)(12) of ERISA.

Explanation of Provision
The bill conforms the statutory language to legislative intent by providing that transactions that are exempt from the prohibited transaction rules of ERISA by reason of ERISA section 406(b)(12) are also exempt from the prohibited transaction rules of the Code.

3. Effective date of LIFO adjustment for purposes of computing adjusted current earnings (ACE) component of the corporate alternative minimum tax, taxpayers are required to make the LIFO inventory adjustments provided in section 312(n)(4) of the Code. Section 312(n)(4) generally is applicable for purposes of computing earnings and profits in taxable years beginning after September 30, 1984. The ACE adjustment generally is applicable to taxable years beginning after December 31, 1989.

Explanation of Provision
The bill clarifies that the LIFO inventory adjustment required for ACE purposes should be computed only for those fiscal years in which section 312(n)(4) only with respect to taxable years beginning after December 31, 1989. The effective date applicable to the determination of earnings and profits (September 30, 1984) is inapplicable for purposes of the ACE LIFO inventory adjustment. Thus, the ACE LIFO adjustment shall be computed with reference to increases (and decreases, to the extent provided in regulations) in the ACE LIFO reserve in taxable years beginning after December 31, 1989.

4. Low-income housing credit (sec. 102(j)(g)(6) of the bill, sec. 1701(f)(11) of the 1990 Act, and sec. 42 of the Code)

Present Law
The amendments to the low-income housing tax credit contained in the Omnibus Budget Reconciliation Act of 1990 generally were effective for a building placed in service after December 31, 1989, to the extent the building was financed by tax-exempt bonds ("bond-financed building"). This rule applied regardless of when the bonds were issued.

A technical correction enacted in the Omnibus Budget Reconciliation Act of 1990 limited this effective date to buildings financed with bonds issued after December 31, 1989. Thus, the technical correction applied pre-1989 Act law to a bond-financed building placed in service after December 31, 1989, if the bonds were issued before January 1, 1990.

Explanation of Provision
The bill repeals and amended numerous sections of the Code by deleting obsolete provisions. These amendments were not intended to make substantive changes to the tax law.

Explanation of Provisions
The bill makes several amendments to re-store the substance of prior law which was inadvertently changed by the deadwood provisions of the 1990 Act. These amendments include (1) a provision restoring the prior-law depreciation treatment of certain energy property (sec. 168(e)(3)(B)(v)); (2) a provision restoring the prior-law definition of property eligible for expensing (sec. 179(d)); (3) a provision restoring the prior-law rule providing that if any member of an affiliated group of corporations elects the credit under section 38 for a property, the group will be treated as having made the election for the entire group; (4) a provision providing that the amount that all members of the group paying or accruing such taxes must elect the credit in order or any dividend paid by a member of the group to qualify for the 100-percent dividends re- deduced of section 243(b)); and (4) the provisions relating to the collection of State individual income taxes (sec. 6361-6368).

II. OTHER TAX TECHNICAL CORRECTIONS
A. Hedge Bonds (sec. 102(j)(3) of the bill, sec. 1701(f)(11) of the 1990 Act, and sec. 42 of the Code)

The 1989 Act provided generally that interest on hedge bonds is not tax-exempt unless prescribed minimum percentages of the proceeds are reasonably expected to be spent at any time during a period of at least three years following issuance of the bonds (sec. 1494(g)). A hedge bond is defined generally as a bond (1) at least 85 percent of the proceeds of which are not reasonably expected to be spent within three years following issuance and (2) more than 50 percent of the proceeds of which are invested at substantially guaranteed rates of ten percent or more.

This restriction does not apply to hedge bonds, however, if at least 55 percent of the proceeds are invested in other tax-exempt investments (subject to the stock market value test). The 95-percent investment requirement is not violated if investment earnings exceeding five percent of the proceeds of each hedge bond are temporarily invested pending reinvestment in taxable (including alternative minimum taxable) investments.

Explanation of Provision
The bill clarifies that the 30-day exception for "subject to tax under the Code" amounts applies to amounts (i.e., principal and earnings thereon) temporarily invested during the 30-day period immediately preceding redemption of the bonds as well as such periods preceding reinvestment of the proceeds.

B. Withholding on Distributions from U.S. Real Property Holding Corporations (sec. 103(c) of the bill, sec. 1212 of the Domestic Reinvestment Act of 1984, and sec. 1445 of the Code)

Present Law
Under the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA), a foreign investor that disposes of a U.S. real property interest generally is required to pay tax on any gain on the disposition. For this purpose a U.S. real property interest generally is included stock in a domestic corporation that is a U.S. real property holding corporation ("USRPHC") or was a USRPHC at any time during the previous five years. A sale or exchange of stock in a USRPHC is an example of a disposition of a U.S. real property interest. In addition, provisions of subchapter C of part I of subchapter A of chapter 1 of the Code were effective for a building placed in service after December 31, 1989, if the building was financed by tax-exempt bonds (not subject to the alternative minimum tax requirement is not violated if investment earnings exceeding five percent of the proceeds of each hedge bond are temporarily invested pending reinvestment in taxable (including alternative minimum taxable) investments.

Explanation of Provision
The bill conforms the statutory language to legislative intent by providing that transactions that are exempt from the prohibited transaction rules of ERISA by reason of ERISA section 406(b)(12) are also exempt from the prohibited transaction rules of the Code.

For purposes of computing the adjusted current earnings (ACE) component of the corporate alternative minimum tax, taxpayers are required to make the LIFO inventory adjustments provided in section 312(n)(4) of the Code. Section 312(n)(4) generally is applicable for purposes of computing earnings and profits in taxable years beginning after September 30, 1984. The ACE adjustment generally is applicable to taxable years beginning after December 31, 1989.

Explanation of Provision
The bill clarifies that the LIFO inventory adjustment required for ACE purposes shall be computed only for fiscal years in which section 312(n)(4) with respect to taxable years beginning after December 31, 1989. The effective date applicable to the determination of earnings and profits (September 30, 1984) is inapplicable for purposes of the ACE LIFO inventory adjustment. Thus, the ACE LIFO adjustment shall be computed with reference
Although the FIRPTA withholding requirement by its terms generally applies to all dispositions of U.S. real property interests, and dividends from the Code, subchapter C treats amounts received in certain distributions as amounts received in sales or exchanges, the FIRPTA withholding provisions do not apply to distributions treated as sales or exchanges. Generally, distributions in a transaction treated as sales or exchanges are treated as amounts received in a sale or exchange for purposes of computing the FIRPTA liability. For foreign recipients of the distribution, there is no corresponding withholding provision expressly addressed to the payer of such a distribution.

Explanation of Provision

The bill clarifies that FIRPTA withholding requirements apply to any section 361 distribution treated as foreign person by a domestic corporation that is or was a U.S. person, which distribution is not made out of the corporation's earnings and profits and is therefore treated as an amount received in a sale or exchange of a U.S. real property interest. The bill does not alter the withholding treatment of section 361 distributions by such a corporation that are out of earnings and profits.

Under the bill, the FIRPTA withholding requirements that apply to a section 361 distribution not out of earnings and profits are similar to the requirements applicable to redemption or liquidation distributions to a foreign person by such a corporation. The provision is effective for distributions made after the date of enactment of the bill. No inference is intended as to the treatment of section 112 to refer to special pay provisions for members of the Armed Forces, nor is the exclusion limited to those special pay provisions (hazardous duty pay (77 U.S.C. sec. 301) and the imminent danger pay (77 U.S.C. sec. 310)).

Explanation of Provision

The bill modifies the heading of Code section 112 to refer to "combat zone compensation" instead of "combat pay." The bill also specifies an amount by which costs exceed the cross-references elsewhere in the Code.

Title II. Medical Miscellaneous and Technical Amendments

Subtitle A. Part A

1. Payments for PPS-Exempt Hospital Services (sec. 201 of the bill, sec. 409 of the 1990 Act)

Present Law

Certain hospitals and units of hospitals are exempt from Medicare's prospective payment system (PPS), including psychiatric hospitals, children's hospitals, rehabilitation hospitals, and units of general-purpose hospitals providing services to the exempted hospitals. These hospitals and units are reimbursed on the basis of reasonable costs, subject to limits known as target amounts.

OBRA '90 included a provision which increases payments to PPS-exempt hospitals whose costs are in excess of the target amounts. Hospitals will receive fifty percent of the excess amount by which costs exceed the target amount up to 110 percent of the target amount. The provision was not intended to apply to units of general purpose hospitals which are exempt from Medicare.

Explanation of Provision

The OBRA '90 provision would be corrected to clarify that only exempt hospitals, and not exempt hospital units, will qualify for additional payments above the target amounts.

2. Clarification of DRG Payment Window (sec. 202 of this bill, sec. 4093 of the 1990 Act)

Present Law

Services provided to an inpatient of a hospital or an entity wholly owned or operated by a hospital during the three-day period prior to admission are not separately reimbursable under Part B of Medicare.

Explanation of Provision

The provision would be clarified to include procedures where an assistant is used in less than 5 percent of cases.

D. Exclusion From Income For Combat Zone Compensation (sec. 103(c)(4) of the bill and sec. 112 of the Code)

Present Law

The Code provides that gross income does not include compensation received by a taxpayer for active service in the Armed Forces of the United States for any month during any part of which the taxpayer served in a combat zone (or was absent from the United States for any part of such service) (limited to $500 per month for officers). The heading refers to "combat pay," although that term is no longer used. Current law applies to members of the Armed Forces, nor is the exclusion limited to those special pay provisions (hazardous duty pay (77 U.S.C. sec. 301) and the imminent danger pay (77 U.S.C. sec. 310)).

Explanation of Provision

The bill modifies the heading of Code section 112 to refer to "combat zone compensation" instead of "combat pay." The bill also specifies an amount by which costs exceed the cross-references elsewhere in the Code.

Title II. Medical Miscellaneous and Technical Amendments

Subtitle A. Part A

1. Payments for PPS-Exempt Hospital Services (sec. 201 of the bill, sec. 409 of the 1990 Act)

Present Law

Certain hospitals and units of hospitals are exempt from Medicare's prospective payment system (PPS), including psychiatric hospitals, children's hospitals, rehabilitation hospitals, and units of general-purpose hospitals providing services to the exempted hospitals. These hospitals and units are reimbursed on the basis of reasonable costs, subject to limits known as target amounts.

OBRA '90 included a provision which increases payments to PPS-exempt hospitals whose costs are in excess of the target amounts. Hospitals will receive fifty percent of the excess amount by which costs exceed the target amount up to 110 percent of the target amount. The provision was not intended to apply to units of general purpose hospitals which are exempt from Medicare.

Explanation of Provision

The OBRA '90 provision would be corrected to clarify that only exempt hospitals, and not exempt hospital units, will qualify for additional payments above the target amounts.

2. Clarification of DRG Payment Window (sec. 202 of this bill, sec. 4093 of the 1990 Act)

Present Law

Services provided to an inpatient of a hospital or an entity wholly owned or operated by a hospital during the three-day period prior to admission are not separately reimbursable under Part B of Medicare.

Explanation of Provision

The provision would be clarified to include procedures where an assistant is used in less than 5 percent of cases.
language included reductions for services under the provisions for claims for services furnished under other overpriced provisions in OBRA '90.

(g) Statewide Fee Schedules.—OBRA '90 provided for, under certain circumstances, the Secretary would be required to provide that physician fees in the States of Oklahoma and Nebraska were to be determined on a State-wide basis. As drafted, this provision could be construed as allowing for a legislatively veto. In signing OBRA '90, the President indicated that he believed the provision, as drafted, to be unconstitutional.

(h) Other Technical Amendments.—Sections 4105, 4113, 4114, and 4118 of OBRA '90 provide for the update for physician fees in OBRA '90. An explanation of the provisions of the OBRA '90 and the significant provisions of the OBRA '90 are as follows:

Explanation of Provision

(a) Overvalued Services.—The bill would correct the names and procedure code lists of the exceptions to the unsurveyed and technical provisions of OBRA '90.

(b) Radiology Services.—The bill would correct the statutory language to provide that local conversion factors below the target would not be increased, and makes other technical and conforming changes to the OBRA '90 radiology provision.

(c) Anesthesiology Services—OBRA '90 would provide that the Secretary would establish an anesthesiology provision. The bill would correct and clarify OBRA '90 to establish a payment adjustment.

(d) New Physicians and Practitioners.—The bill would clarify that, for the purpose of this provision, claim payments, the first year for a new physician or other practitioner would be defined as the first calendar year in which the individual was not in an intern or residency training program during the first six calendar months.

(e) Assistants at Surgery.—The bill clarifies that in categorizing procedures by their percentage of use of an assistant, the Secretary would use the most recent data reflecting separate payments for an assistant under Medicare. The bill also would make the actual charge for an assistant at surgery can not exceed 125 percent of the payment for a surgery service.

(f) Technical Components of Diagnostic Services.—The bill clarifies that the OBRA '90 provision capping the technical component of diagnostic services does not apply to any services that had their fees reduced under other OBRA '90 provisions.

(g) Statewide Fee Schedules.—The bill amends the OBRA '90 provision to require the Secretary to treat the States of Oklahoma and Nebraska as single areas for the purposes of determining physician fees for services provided on or after January 1, 1992.

(h) Other Technical Amendments.—The bill would provide for other technical and conforming changes to sections 4105, 4113, 4114, and 4118 of OBRA '90 relating to payments to physicians.

2. Services Furnished in Ambulatory Surgical Centers

Present Law

(a) Payment Amounts for Services Furnished in Ambulatory Surgical Centers.—Under current law, the Secretary is authorized to update the rates for payments to free-standing ambulatory surgical centers (ASCs) when appropriate.

The conference to OBRA '90 agreed to a provision which allows for updating these rates. Statutory language reflecting this agreement was not included in OBRA '90.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—OBRA '90 included a provision capping payments for intraocular lenses (IOLs) at $200 in 1991, and $200 in 1992. The statutory language could be interpreted as limiting payments for cataract surgery to $200.

The conference to OBRA '90 also agreed to a provision which provided that the fee could be adjusted in the case of certain new technology IOLs. Statutory language reflecting this agreement was not included in OBRA '90.

Explanation of Proposal

(a) Payment Amounts for Services Furnished in Ambulatory Surgical Centers.—The bill provides for a survey of the costs of free-standing ASCs, based on a representative sample of procedures. The initial survey must be completed before July 1, 1992, and is to be conducted at least every 5 years thereafter.

If the Secretary does not update the ASC payment rates, the rates would be updated by the percentage change in the Consumer Price Index (CPI-U) for the period ending with June of the preceding year.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—The bill clarifies that the $200 limit applies only to the purchase of the IOL, and not the cataract surgery.

The bill also provides that the Secretary shall develop and implement a process for the review of the costs and benefits of so-called "new technology" IOLs. Such process would be intended to determine whether a payment adjustment is warranted for a particular IOL. The review would include consideration of medical benefits of such lenses. Interested parties may request the review of an IOL to determine whether it qualifies for a payment adjustment.

3. Durable Medical Equipment, and Orthotics and Prosthetics (sec. 215 of the bill, secs. 4152 and 4153 of OBRA '90)

Present Law

(a) Updates to Payment Amounts.—Current law provides that the fee schedule amounts for durable medical equipment (DME) are updated by the CPI-U. The conference agreement to OBRA '90 provided that the update would be reduced by 1 percent for calendar years 1991 and 1992. As drafted, DME fees would be reduced by 1 percent in 1991 and 1992.

(b) Treatment for Potentially Overused Items and Advanced Determinations of Coverage.—The bill would include a study of variations in DME costs. OBRA '90 provided for a system of upper and lower limits on DME fees. The OBRA '90 conference agreement also includes a study of geographic variations in the use of DME. The provisions were combined in drafting such that they do not reflect the conference agreement.

(c) Study of Variations in DME Supplier Costs.—OBRA '90 included two provisions relating to special carrier review of potentially overutilized items and advance determinations of coverage for DME items. These two provisions were combined in drafting such that they do not reflect the conference agreement.

(d) Effective Date of Reporting on Part B Claim Forms.—The conference agreement to OBRA '90 included a study of geographic variations in the use of DME. The provisions were combined in drafting such that they do not reflect the conference agreement.

(e) Consultation for Social Workers.—OBRA '90 for the purpose of providing counseling and other services to patients who are eligible for Medicare, some of whom may be social workers. The Secretary of Health and Human Services was required to develop criteria with respect to psychologists' services.
under which the psychologist must agree to consult with the patient's attending physician. This requirement was not included for clinical social workers.

(3) Other Technical and Conforming Amendments.—

(i) Beneficiary Enrollment.—Elderly or disabled employees and their spouses who are covered by employer health plans or are required to enroll in the same enrollment period applicable to others. However, they are required to enroll while enrolled in the employer group health plan. Coverage for such individuals begins generally on the first day of the month in which the individual is no longer enrolled in an employer group health plan.

A modifying provision was agreed to by the conferenees but was not included in the statutory language of OBRA '90.

(2) Other Minor Technical and Conforming Amendments.—Sections 4154 through 4164 of OBRA '90 include a number of minor and technical drafting errors.

Explanation of Provision

(a) Revise Information on Part B Claim Form.—The bill would require that at the time of claim, the claim form, the beneficiary identification and the method of payment be included on the claim form. The Secretary is required to publish a notice in the Federal Register by March 1, 1992 and the Comptroller General is required to review and report to the Congress by May 1, 1992 on recommendations to modify the proposed methodology.

(b) Effective Date of Reporting on Part B Claim.—The bill would provide that the reporting requirements would be effective October 1, 1991.

(c) Consultation for Social Workers.—The bill would require that a claims processing system include a number of minor and technical drafting errors.

(d) Other Technical and Conforming Amendments.—

(i) Beneficiary Enrollment.—The special enrollment period would be modified to allow for the special enrollment a beneficiary who is enrolled in a Medicare Part B plan or who is enrolled in a Medicare Part A plan and is also enrolled in a Medicare Part B plan.

(ii) Effective Date of Reporting on Part B Claim Form.—The bill would provide that the reporting requirements would be effective October 1, 1991.

(iii) Consultation for Social Workers.—The bill would require that a claims processing system include a number of minor and technical drafting errors.

(ii) Other Technical and Conforming Amendments.—

(a) Revise Information on Part B Claim Form.—The Secretary is required to publish a notice in the Federal Register by March 1, 1992 and the Comptroller General is required to review and report to the Congress by May 1, 1992 on recommendations to modify the proposed methodology.

(b) Effective Date of Reporting on Part B Claim.—The bill would provide that the reporting requirements would be effective October 1, 1991.

(c) Consultation for Social Workers.—The bill would require that a claims processing system include a number of minor and technical drafting errors.

(d) Other Technical and Conforming Amendments.—

(i) Beneficiary Enrollment.—The special enrollment period would be modified to allow for the special enrollment a beneficiary who is enrolled in a Medicare Part B plan or who is enrolled in a Medicare Part A plan and is also enrolled in a Medicare Part B plan.

(ii) Effective Date of Reporting on Part B Claim Form.—The bill would provide that the reporting requirements would be effective October 1, 1991.

(iii) Consultation for Social Workers.—The bill would require that a claims processing system include a number of minor and technical drafting errors.

Minor Technical and Conforming Amendments.—The bill would make various minor and technical drafting errors.

Exploration of Provision

(a) End Stage Renal Disease.—The bill would delay the effective date for ProPAC's initial recommendations to not later than June 1, 1991, while enrolled in a Medicare Part B plan.

(b) Staff-Assisted Home Dialysis Demonstration Project.—The bill would correct a number of minor and technical drafting errors.

(c) Extension of Secondary Payer Provisions.—The extension of the Medicare secondary payer provisions included in OBRA '90 contained a number of minor and technical drafting errors.

(d) Health Maintenance Organizations (HMOs).—OBRA '90 required the Secretary of HHS to issue a final rule by January 1, 1992 providing for a more accurate payment method for HMOs paid on a risk basis. The Secretary is required to publish a notice on the methodology required to make in the Federal Register by March 1, 1992 and the Comptroller General is required to review and report to the Congress by May 1, 1992 on recommendations to modify the proposed methodology.

A number of minor and technical drafting errors were made in the HMO section of OBRA '90.

(e) Peer Review Organizations.—OBRA '90 provided for Peer Review Organization (PROs) are required to provide notice to State licensing entities when a physician is found to have furnished services in violation of subsection 113(a) of the Social Security Act. This provision is included because the requirements for PROs review the quality of medical care, and whether certain services are provided under Medicare. As drafted, the extension of the Medicare secondary payer provisions included in OBRA '90 would require the PROs to notify State boards in the case of a variety of administrative findings, or in the case of a single problem regarding quality of care.

(f) Other Miscellaneous and Technical Provisions.—Sections 4201-4207 include a number of minor and technical drafting errors.

Exploration of Provision

(a) Revise Information on Part B Claim Form.—The bill would require that at the time of claim, the claim form, the beneficiary identification and the method of payment be included on the claim form. The Secretary is required to publish a notice in the Federal Register by March 1, 1992 and the Comptroller General is required to review and report to the Congress by May 1, 1992 on recommendations to modify the proposed methodology.

(b) Effective Date of Reporting on Part B Claim.—The bill would provide that the reporting requirements would be effective October 1, 1991.

(c) Consultation for Social Workers.—The bill would require that a claims processing system include a number of minor and technical drafting errors.

(d) Other Technical and Conforming Amendments.—

(i) Beneficiary Enrollment.—The special enrollment period would be modified to allow for the special enrollment of Medicare beneficiaries who are enrolled in a Medicare Part B plan or who are enrolled in a Medicare Part A plan and are also enrolled in a Medicare Part B plan.

(ii) Effective Date of Reporting on Part B Claim Form.—The bill would provide that the reporting requirements would be effective October 1, 1991.

(iii) Consultation for Social Workers.—The bill would require that a claims processing system include a number of minor and technical drafting errors.

Minor Technical and Conforming Amendments.—The bill would make various technical and conforming amendments.

Subtitle C. Parts A and B

1. Provisions Relating to Parts A and B (sec. 221 of the bill; secs. 4201-4207 of OBRA '90)

Present Law

(a) End Stage Renal Disease.—OBRA '90 requires the Prospective Payment Assessment Commission to conduct a study of the costs and services and profits associated with various modalities of dialysis treatments provided to end stage renal disease patients. The study also requires ProPAC to make annual recommendations on payments for services.

(b) Staff-Assisted Home Dialysis Demonstration Project.—The staff-assisted home dialysis demonstration project included in OBRA '90 contained several minor and technical drafting errors.

(c) Extension of Secondary Payer Provisions.—The extension of the Medicare secondary payer provisions included in OBRA '90 contained a number of minor and technical drafting errors.

(d) Health Maintenance Organizations (HMOs).—OBRA '90 required the Secretary of HHS to issue a final rule by January 1, 1992 providing for a more accurate payment method for HMOs paid on a risk basis. The Secretary is required to publish a notice on the methodology required to make in the Federal Register by March 1, 1992 and the Comptroller General is required to review and report to the Congress by May 1, 1992 on recommendations to modify the proposed methodology.

A number of minor and technical drafting errors were made in the HMO section of OBRA '90.

(e) Peer Review Organizations.—OBRA '90 provided for Peer Review Organization (PROs) are required to provide notice to State licensing entities when a physician is found to have furnished services in violation of subsection 113(a) of the Social Security Act. This provision is included because the requirements for PROs review the quality of medical care, and whether certain services are provided under Medicare. As drafted, the extension of the Medicare secondary payer provisions included in OBRA '90 would require the PROs to notify State boards in the case of a variety of administrative findings, or in the case of a single problem regarding quality of care.

(f) Other Miscellaneous and Technical Provisions.—Sections 4201-4207 include a number of minor and technical drafting errors.

In addition, the bill would correct various drafting errors in the OBRA '90 provisions relating to PROs.

(g) Other Miscellaneous and Technical Provisions.—The bill included a number of minor and technical conforming amendments.

Subtitle D. Medigap Standards

1. Medicare Supplemental Insurance Policies (sec. 231 of the bill, secs. 4351-4363 of the 1990 Act)

Present Law

OBRA '90 provides minimum standards for Medicare Supplemental Insurance policies and establishes penalties for non-compliance. The provisions included a number of minor and technical drafting errors.

Explanation of Provision

The bill would modify the effective dates for various provisions. In general, effective dates would conform with the earlier of the OBRA '90 and the effective date in the statute. The bill would correct various drafting errors in the OBRA '90 and the statute. The bill would correct various drafting errors in the OBRA '90 and the statute.
The change applies retroactively to allow importers to apply for reassessment of duties levied since January 1, 1989 using the higher rate.

3. Gloves (sec. 321(a)(3) of the bill; Part II, sec. 1001, (a), (b)(2), and (b)(6) of the Budget Reconciliation Act; and Chapter 61 and 62 to the HTS)

**Present Law**

In the Budget Reconciliation Act, the HTS subheading 6216.00.47 was deleted; 6216.00.49 was redesignated as 6216.00.52 and it was indexed so that it is now included with 6216.00.46 (which had been redesignated from 6216.00.44). Inadvertently the superior text "Other", placed just above deleted 6216.00.47, was not stricken.

The Budget Reconciliation Act redesignated 6110.10.35 as 6110.10.45.

**Explanation of Provision**

The word "Other", inadvertently kept above the deleted 6216.00.47, is stricken.

New HTS subheading 6110.10.45 is redesignated as 6110.10.48 to avoid reusing a previously used subheading number.

4. Agglomerate stone floor and wall tiles (sec. 321(a)(4) of the bill, sec. 484(b) and 485(b) of the Trade Act, and subheading 6610.19.12 to the HTS)

**Present Law**

The Trade Act added a new HTS subheading 6610.19.12 which is redesignated as 6610.19.29.

The provision as written only applies to geological marble and not to other types of material which may be commonly referred to as "marble" but are not recognized as such by the Explanatory Notes to the HTS.

**Explanation of Provision**

The description for HTS subheading 6610.19.12 is changed from "agglomerate marble tiles" to "floor and wall tiles of stone agglomerated with binders other than cement." The wording covers tiles produced from chips or dust of various natural stones mixed with a plastic resin binding material.

The change applies retroactively to allow importers to apply for reassessment of duties levied since January 1, 1989 using the higher rate.

5. 2,4-Diaminobenzesulfonic acid (sec. 321(a)(5) of the bill, sec. 498 of the Trade Act, and subheading 9902.30.43 to the HTS)

**Present Law**

Under HTS 9902.30.43, which grants a duty suspension to 2,4-Diaminobenzesulfonic acid, "2221.51.60" is cited as the HTS subheading that imports of this chemical enter under.

**Explanation of Provision**

The correct HTS subheading that imports of 2,4-Diaminobenzesulfonic acid enter under, "2221.51.50", is now cited.

6. Machines used in the manufacture of bicycle parts (sec. 321(a)(6) of the bill, sec. 499 of the Trade Act, and subheading 8462.84.79 to the HTS)

**Present Law**

The Trade Act suspended the duty on machines used to manufacture bicycle wheels by adding this new subheading 8462.84.79.

The machines included cover "wheeltruing" and "rim punching" machines. Subheading 9902.84.79 refers only to HTS subheading 8479.84.79 which covered the term "machines and mechanical appliances."

**Explanation of Provision**

Wheeltruing machines are covered by HTS subheading 9902.84.00 and rim punching machines are covered by HTS subheading 8462.49.00. These two additional subheadings are now referenced in subheading 9902.84.79.

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3. Gloves (sec. 321(a)(3) of the bill; Part II, sec. 1001, (a), (b)(2), and (b)(6) of the Budget Reconciliation Act; and Chapter 61 and 62 to the HTS)

The change applies retroactively to allow importers to apply for reassessment of duties levied since October 1, 1990.

7. Copying machine parts (sec. 321(a)(7) of the bill, sec. 492(d)(2) of the Trade Act, and subheading 9902.90.50 to the HTS)

**Present Law**

HTS subheading 9902.90.50 provides duty-free treatment for parts and accessories of electrostatic copying machines. The Trade Act amended 9902.90.50 to cover parts and accessories intended for attachment to electrostatic copiers.

**Explanation of Provision**

Parts intended for attachment to electrocopiers are covered by HTS subheading 9470.40.40. This additional subheading is now referenced in subheading 9902.90.50.

The change applies retroactively to allow importers to apply for reassessment of duties levied since January 1, 1989 using the higher rate.

8. Clarification regarding the application of customs user fees (sec. 322 of the bill; Title I, Subtitle B, sec. 111(b)(2)(D)(V) of the Trade Act; subparagraph (C) of sec. 1303(b)(8) of the Consolidated Omnibus Budget Reconciliation Act of 1986; and 19 U.S.C. 58a(b)(8))

**Present Law**

An amendment to the Customs User Fee statute as enacted in the Trade Act exempted the domestic value of agricultural products processed and packed in foreign trade zones from the application of the ad valorem merchandise processing fee (MPF). The Customs Service has interpreted this provision to rule that, in the absence of an express provision to the contrary, the MPF would be assessed on the domestic value of all other merchandise (i.e., non-agricultural) processed or packed in a foreign trade zone.

**Explanation of Provision**

This technical amendment applies the MPF only to the foreign value of imported merchandise entering a foreign trade zone, thereby clarifying that the user fee cannot be assessed against the value of domestic content of an entry. The amendment applies to all entries made in foreign trade zones beginning December 1, 1986.


**Present Law**

Section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2502) (hereafter referred to as "the 1988 Act") provides the President the authority to proclaim certain tariff reductions pursuant to trade agreements with foreign countries. Paragraph (a)(2) provides the President the authority to reduce tariff rates in existence and applicable to goods from foreign countries.

Paragaph Schedule of the United States (TSUS) were in effect. Pursuant to Title I, Subtitle B of the 1988 Act, the TSUS were replaced by the HTS effective January 1, 1989. Tariff Negotiations in the Uruguay Round of Multilateral Trade Negotiations have been conducted on the basis of U.S. tariff rates under the HTS.

**Explanation of Provision**

The correction amends the 1988 Act to reflect the fact that any tariff reductions that might be proclaimed by the President pursuant to Section 1102(a) of the 1988 Act will be based upon the tariff rates under the HTS as of January 1, 1989.

10. Technical Amendment to the Customs and Trade Act of 1990 (sec. 324 of the bill, sec. 494(h)(2) of the Trade Act, and 19 U.S.C. 1553 note)

**Present Law**

The Trade Act provides for transportation in bond of Canadian lottery material.

**Explanation of Provision**

The phrase "entered or withdrawn from warehouse for consumption" has been replaced in the "Effective Date" section with "entered for transportation in bond." This has been done to clarify that Canadian lottery material is not entered into the U.S. for consumption.

*Mr. PACKWOOD. Mr. President, I am pleased to join the distinguished chairman of the Committee on Finance in the introduction of legislation to make technical corrections to recent tax, health, and Social Security legislation. This bill primarily corrects drafting errors so that the 1990 Budget Reconciliation Act and other recent legislation in the Committee on Finance's jurisdiction can be fully implemented. It is my understanding that the bill has no budget effect; it does not raise or lose revenue nor cut or increase spending. I hope that we can act quickly on this important legislation.*

*By Mr. BURNS (for himself and Mr. BAUCUS):*

S. 751. A bill to authorize the Secretary of the Interior to provide funds for the repair and enlargement of the Tongue River Dam for the purposes of settlement of water right claims of the Northern Cheyenne Tribe, for fish and wildlife enhancement, and for other purposes; to the Committee on Energy and Natural Resources.

**Tongue River Dam Authorization Act of 1991**

*Mr. BURNS. Mr. President. I rise today to introduce legislation, cosponsored by my colleague, Senator BAUCUS, that we introduced last year, to correct a dangerous and difficult situation that we have in Montana on the Tongue River.

Although we were successful in getting a partial funding of the repair work necessary for the dam, the situation remains largely unchanged. The Tongue River runs through the southeast corner of our State. It enters Montanna from Wyoming along our southern border and empties into the Yellowstone River at Miles City, MT. It also flows along the eastern boundary of the Northern Cheyenne Indian Reservation.

An earthen dam was built by the State of Montana on the Tongue River in the 1930's to create a much-needed reservoir. Water from this reservoir is essential to help Indians, as well as non-Indians, irrigators grow crops. Unfortunately, now this earthen dam needs to be raised and strengthened in
order to meet safety specifications. It is an unsafe dam.

The Tongue River Dam rehabilitation project is the No. 1 water project of the State of Montana. This effort is supported by the State, by the Northern Cheyenne Tribe, by the Water Compact Commission, by the State Fish and Wildlife Service, and by the residents who live along the Tongue River in Montana.

The Tongue River Dam rehabilitation project will give local irrigators a more reliable supply of essential water to irrigate crops and quickly. This project will give local irrigators a more reliable supply of essential water to irrigate crops and quickly.

The settlement of water rights in our State is a very delicate matter. This bill meets with the approval of the Northern Cheyenne and the Reserved Water Rights Compact Commission.

Mr. President, this is a much-needed effort in Montana, and I urge its support by Members of the Senate.

Mr. BAUCUS, Mr. President, I rise in support of this bill to rehabilitate the Tongue River Dam in Southeastern Montana. This dam must be repaired, and quickly.

Fixed in the 1930's, as a WPA project, the dam has been in the first stages of failure since 1978. A catastrophic failure of this dam would result in a wall of water swelling 100 miles North, all the way to Cities, MT.

Mr. President, if the Tongue River Dam were to fail, the towns of Birney and Ashland, MT, would likely cease to exist. Reliable estimates of damage have been placed at between $100 and $300 million. Significant portions of the Northern Cheyenne Indian Reservation would be underwater.

Mr. President, while this dam has not yet been breached, this is only a matter of luck. That luck cannot be expected to hold. Federal and State estimates show that the dams spillway could be subjected to flows of 382,000 cubic feet per second, in times of heavy rains and snow pack melt. State officials believe that flows beyond 16,000 feet-per-second could breach the dam. These rates have been approached twice recently. Time is running out.

Last year, Senator BURNS and I introduced a similar bill to authorize the rehabilitation of this dangerous dam. That was 1 year ago and still the residents of my State-particularly the Northern Cheyenne-face this hazard on a daily basis. This session of Congress we must act.

The bill being introduced today is recognition that this grave danger continues to exist. I will work together with Senator BURNS and any other Senator to see that this dam is stabilized. And quickly.

BY MR. CHAFEE (for himself, Mr. BAUCUS, Mr. DANFORTH, Mr. ROTTI, Mr. RIEGLE, Mr. PACKWOOD, Mr. DURENBERGER, Mr. SYMMS, Mr. GORTON, Mr. MCCAIN, Mr. LIEBERMAN, Mr. HATFIELD, Mr. LAUTENBERG, Mr. COCHRAN, Mr. CRANSTON, Mr. BOGGS, Mr. GREENBERGER, Mr. HEINS, and Mr. MOYNIHAN):

S. 752. A bill to amend the Internal Revenue Code of 1986 to make the allocation of research and experimental expenditures permanent; to the Committee on Finance.

RAE PERMANENT RESOLUTION ACT OF 1991

Mr. CHAFEE, Mr. President, concern about the ability of U.S. businesses to compete with foreign firms has been increasing in recent years. International competitiveness has become one of the top concerns of Congress, and rightly so. The balance of trade has gone from a surplus of $3.4 billion in 1975 to a deficit of $101 billion last year. In between those years was a record deficit of $152 billion in 1987.

Given the importance of this issue, Government policies, especially in the areas of tax and trade, should be carefully scrutinized to ensure they enhance our ability to compete rather than hinder it. Our attention should be focused on our American competitors' success in today's global market. Even a small business that does not export its products must compete in a global market inside the United States against the influx of imported products.

One area of tremendous importance in today's competitive environment is research and development (R&D) which leads to technological innovation. Since 1929, more than two-thirds of our economic growth has resulted from technological innovation. The nations winning the competitiveness race are those that recognize the importance of advanced technology—because it results in new, marketable products and more efficient production and manufacturing. These countries work to attract companies that will establish research and development facilities within their borders.

To achieve greater economic competitiveness we must foster, not impede, U.S. research and development. We must expand, not export, our technological base. With these goals in mind, Senator BAUCUS and I are introducing legislation to help U.S. business regain its competitiveness. Our bill is a tax policy which actually impedes our ability to compete, and may, in fact, encourage the export of R&D activities and important technological advances.

Yet, the United States is falling behind in its development of new technologies. Just yesterday, the Council on Competitiveness released a report entitled "Gaining New Ground: Technology Priorities for America's Future." The Council analyzed 9 major technology-intensive industries to examine the U.S. competitive position in 94 critical technologies. The report highlights 15 areas in which the United States has fallen badly or has lost, including ceramics, robotics, and memory chips. In addition, the report identifies 18 areas in which the United States is judged to be weak as compared to our major trading partners.

One of the reasons for this decline is the research allocation rules contained in Treasury Regulation Section 1.861-8, issued in 1977. This is confirmed by a recommendation in the Council's report to "place a moratorium on Treasury Regulation 1.861-8. This regulation increases the effective rate of U.S. taxation of R&D and creates a disincentive for companies to conduct R&D in the United States.

According to the Council's report, one of the critical priorities must be "make the cost of capital for the development of priority technologies competitive with that of America's major competitors." This is one step in the process to "create a U.S. economic climate more conducive to manufacturing, innovation and investment in technology.

The 861-8 regulations require U.S. companies with foreign operations to allocate a portion of their domestic R&D to their foreign income. Of course, foreign countries do not allow our companies to use the cost of research performed in the United States as a deduction from the income earned in the foreign country. The net effect is to increase the worldwide tax liability of the companies performing R&D in the United States, encouraging American companies to locate their R&D efforts abroad.

While the regulations may be founded on what some would consider valid technical tax principles, it is difficult to understand why the United States would impose policies that discourage the pursuit of domestic R&D. Shortly after the regulations were issued, Congress recognized that they represented poor public policy and placed a morato-
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rium on their implementation. Congress has renewed this moratorium seven times. It’s all or nothing to put an end to the controversy surrounding section 861—over a decade of uncertainty is enough—we have an opportunity to do so with the legislation we are introducing today.

Stable public policies with regard to research and development are extremely important. Without stability, we cannot expect our major investors in R&D to make the long-range plans that are critical to allowing American companies to be treated like their counterparts all over the world.

It has been alleged that reform of section 861 will only benefit multinational corporations. In a way, this is true. However, small companies that conduct U.S. R&D and sell abroad are also penalized by section 861, just like the larger corporations. There are hundreds of small companies that will be burdened less, and made stronger and more competitive, if the section 861 penalty is removed.

Fortunately, President Bush has led the way toward settling this issue with a proposal to extend the current moratorium for one additional year. I commend President Bush for his leadership and for moving toward allowing American companies to be treated like their counterparts all over the world.

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companies we should avoid penalizing, so that they may compete unfettered against foreign rivals for world markets.

Second, to be hurt by 861, you must conduct U.S. R&D. You must be a computer company, pharmaceutical company, auto company, chemical company, electronics company, and consumer product company which spends large sums in the U.S. on R&D and operates abroad in competition with formidable foreign rivals. Understood as such, the 861-R&D problem is one which deserves a permanent resolution.

After a decade of temporary solutions, it is time to bring stability to R&D tax policies. The 861-R&D bill does this by treating most (64%) U.S. R&D as truly U.S., while leaving some (36%) subject to being treated "as if" it was done abroad. This latter feature is a concession to those who believe tax treaty constraints, and to those who believe tax treaty constraints require as little, some application of 861 to R&D. Industry, the Administration, and the bill's sponsors agreed to this solution several years ago, and it has been embodied in every temporary enactment since. It is time to adopt this solution permanently.

[From Business Week, June 15, 1990]

THE TOP U.S. COMPANIES IN 1989 R&D

Total Spending

(In millions)

<table>
<thead>
<tr>
<th>Rank</th>
<th>Company</th>
<th>1989</th>
<th>1988</th>
<th>Increase (decrease) from previous year (percent)</th>
<th>Net income/sales (percent)</th>
<th>Total spending (millions)</th>
<th>Total spending (millions)</th>
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<tbody>
<tr>
<td>1</td>
<td>General Motors (1)</td>
<td>$3,247.5</td>
<td>10.4</td>
<td>4.2</td>
<td>3.4</td>
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<td>2</td>
<td>IBM (4)</td>
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<tr>
<td>3</td>
<td>Ford (2)</td>
<td>3,247.5</td>
<td>10.4</td>
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<tr>
<td>4</td>
<td>AT&amp;T (6)</td>
<td>3,247.5</td>
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<tr>
<td>5</td>
<td>Digital Equipment (37)</td>
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<tr>
<td>6</td>
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<tr>
<td>7</td>
<td>General Electric (3)</td>
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<td>10.4</td>
<td>4.2</td>
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<td>$5,247.5</td>
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<td>Hewlett-Packard (33)</td>
<td>3,247.5</td>
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<td>3.4</td>
<td>$5,247.5</td>
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<td>9</td>
<td>Eastman Kodak (16)</td>
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<td>15</td>
<td>Merck (12)</td>
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<td>4.2</td>
<td>3.4</td>
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<td>Unisys (43)</td>
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<td>18</td>
<td>Boeing (33)</td>
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<td>$5,247.5</td>
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<tr>
<td>19</td>
<td>Merck (27)</td>
<td>3,247.5</td>
<td>10.4</td>
<td>4.2</td>
<td>3.4</td>
<td>$5,247.5</td>
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</tr>
</tbody>
</table>

INSIDE R&D—R&D SPENDING BY THE 100 BIGGEST COMPANIES IN U.S. INDUSTRY—1989

Business Week
America pioneered such technologies as numerically controlled machine tools, robotics, optoelectronics, semiconductors and memories only to lose leadership in them to foreign competitors. Moreover, in many critical technologies, ranging from leading-edge scientific equipment to precision bearings, trends are running against U.S. industry.

Japan, Europe and other foreign governments are systematically pursuing leadership in critical technologies.

The most successful efforts combine funding with extensive public-private collaboration.

U.S. public policy does not adequately support American leadership in critical technologies, and U.S. national priorities do not sufficiently address issues related to the role of technology in U.S. competitiveness.

Government R&D programs need to be reinvigorated by policies that encourage sharing of the costs and results of precompetitive research and that stimulate private-sector investment in proprietary R&D and commercialization.

Most of the technologies that will drive economic growth over the next decade already exist, and industry needs to improve its ability to convert them into marketable products and services.

Many of America’s competitiveness problems stem from industry’s failure to commercialize technology. Effective commercialization depends on management systems that promote the development and application of technology, strong education and training programs, and world-class commercialization systems.

America’s research universities constitute a great national asset, but their focus on technology and competitiveness is limited.

U.S. universities produce first-rate scientists and engineers and conduct pioneering research, but their focus on preparing graduates for the needs of industry has been inadequate.

The information below lists the critical generic technologies driving U.S. industrial competitiveness. The technologies are divided into five major categories. Each technology is ranked according to whether the United States is strong, competitive, weak, or losing badly or lost.

**MATERIALS AND ASSOCIATED PROCESSING TECHNOLOGIES**

**Advanced Structural Materials**

Competitive in Metal Matrix Composites, Polymers, Polymer Matrix Composites.

Weak in Advanced Metals.

**Losing badly or lost in Structural Ceramics.**

**Electronic and Photonics Materials**

Competitive in Magnetic Materials, Optical Materials, Photoreactors, Superconductors.

**Losing badly or lost in Display Materials, Electronic Ceramics, Electronic Packaging Materials, Gallium Arsenide, Silicon.**

**Bionotechnologies**

Strong in Bioactive/Biocompatible Materials, Bioprocessing, Drug Discovery Techniques, Genetic Engineering.

**Materials Processing**

Competitive in Catalysis, Chemical Synthesis, Net Shape Forming, Process Controls.

Weak in Membranes, Precision Coating.

**Environmental Technologies**

Competitive in Emissions Reduction, Recycling/Waste Processing.

**ENGINEERING AND PRODUCTION TECHNOLOGIES**

**Design and Engineering Tools**

Strong in Computer-Aided Engineering, Systems Engineering.

**Competitive in Human Factors Engineering, Measurement Techniques, Structural Dynamics.**

### Table: R&D Spenders in U.S. Industry—1989—Continued

<table>
<thead>
<tr>
<th>Rank</th>
<th>Company</th>
<th>R&amp;D expenditure (millions)</th>
<th>Increase (decrease) from previous year (percent)</th>
<th>R&amp;D/sales (percent)</th>
<th>Net incomutrations (percent)</th>
<th>R&amp;D/total employment (thousands of dollars per employee)</th>
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<tr>
<td>89</td>
<td>PPG</td>
<td>1124.1</td>
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<td>8.1</td>
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<tr>
<td>91</td>
<td>Kenda</td>
<td>237.7</td>
<td>-16.4</td>
<td>5.3</td>
<td>-2.5</td>
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<tr>
<td>92</td>
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<td>4.0</td>
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<tr>
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<td>-14.8</td>
<td>6.3</td>
<td>-2.5</td>
<td>3.2</td>
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<tr>
<td>94</td>
<td>Cummins Engine</td>
<td>193.0</td>
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<td>4.7</td>
<td>-2.5</td>
<td>3.2</td>
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<tr>
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<td>General Signal</td>
<td>168.5</td>
<td>-12.5</td>
<td>4.7</td>
<td>-2.5</td>
<td>3.2</td>
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<tr>
<td>96</td>
<td>Harris (110)</td>
<td>143.7</td>
<td>-12.5</td>
<td>7.6</td>
<td>-2.5</td>
<td>3.2</td>
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<tr>
<td>97</td>
<td>AEGI (110)</td>
<td>123.7</td>
<td>-12.5</td>
<td>6.2</td>
<td>-2.5</td>
<td>3.2</td>
</tr>
<tr>
<td>98</td>
<td>Nashua</td>
<td>123.7</td>
<td>-12.5</td>
<td>5.2</td>
<td>-2.5</td>
<td>3.2</td>
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<tr>
<td>99</td>
<td>Tektronix</td>
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<td>4.7</td>
<td>-2.5</td>
<td>3.2</td>
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<tr>
<td>100</td>
<td>....</td>
<td>123.7</td>
<td>-12.5</td>
<td>3.7</td>
<td>-2.5</td>
<td>3.2</td>
</tr>
</tbody>
</table>
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Weak in Leading-Edge Scientific Instruments.

Commercialization and Production Systems

Weak in Computer-Integrated Manufacturing.

Weak in Design for Manufacturing, Design of Manufacturing Processes, Flexible Manufacturing, Integration of Research, Design and Manufacturing, Total Quality Management.

Process Equipment

Competitive in Advanced Welding, Joining and Fastening Technologies.

Weak in High-Speed Machining, Precision Bearings, Precision Machining and Forming.

Losing badly or lost in Integrated Circuit Fabrication and Test Equipment, Robotics and Automated Equipment.

Electronic Components

Microelectronics

Strong in Microprocessors.

Competitive in Logic Chips, Submicron Technology.

Losing badly or lost in Memory Chips.

Electronic Controls

Competitive in Sensors.

Electronic Actuators

Optoelectronic Components

Weak in Laser Devices, Photonic Telecommunications Packaging and Interconnections.

Losing badly or lost in Multichip Packaging Systems, Printed Circuit Board Technology Displays

Losing badly or lost in Electrostriction, Liquid Crystal, Plasma and Vacuum Fluorescent.

Hardcopy Technology

Weak in Electro Photography, Electrostatic.

Information Storage

Strong in Magnetic Information Storage.

Losing badly or lost in Optical Information Storage.

Information Technologies

Software


Computers

Strong in Neural Networks, Operating Systems, Processor Architecture.

Competitive in Hardware Integration.

Human Interface and Visualization Technologies

Strong in Animation and Full Motion Video, Graphics Hardware and Software, Handwriting and Speech Recognition, Natural Language, Optical Character Recognition.

Database Systems

Strong in Data Representation, Retrieval and Update, Semantic Modeling and Interpretation.

Networks and Communications

Competitive in Broadband Switching, Digital Infrastructure, Fiber Optic Systems, Multiplexing.

Portable Telecommunications Equipment and Systems

Strong in Transmitters and Receivers.

Competitive in Digital Signal Processing, Spectrum Technologies.

Powertrain and Propulsion Technologies

Powertrain Strong in Low Emission Engines.


Weak in High Fuel Economy/Potential Density Engines.

Propulsion

Strong in Airbreathing Propulsion, Rocket Propulsion.

Key Recommendations

1. In order to enhance U.S. competitiveness, the President should act immediately to make technological leadership a national priority.

   The President should announce his intention to increase dramatically the share of federal R&D expenditures that support critical generic technologies. In order to build on successful commercialization and manufacturing technology, we need a core of key technologies, to translate these into specific action plans and to implement these programs. In addition, he should strengthen federal and state technology agencies, such as the National Institute of Standards and Technology, the Defense Advanced Research Projects Agency (DARPA), the National Institutes of Health and the National Science Foundation.

2. The Federal and state governments should develop policies and implement programs to encourage all sectors of the economy to develop a world-class technology infrastructure.

   The federal government should assess the nation's technology infrastructure needs, benchmark the performance of world leaders, develop and implement plans to make sure that the United States has world-class research facilities and an adequate supply of skilled scientists and engineers.

3. U.S. industry should establish more effective technology networks to help it compete in the international marketplace.

   U.S. industry associations, professional societies, R&D consortia, universities and research institutions should all make a major commitment to promote technology collaboration and to diffuse technology and information that promote America's technological leadership.

4. U.S. firms should set a goal to meet and surpass the best commercialization practices of their competitors.

   The U.S. private sector should match the President's goal to increase dramatically the percentage of R&D expenditures that support critical generic technologies. In order to build on successful commercialization practices, U.S. firms should benchmark their competitors; set appropriate goals and allocate the necessary resources; motivate, train and empower their employees to take responsibility for achieving these goals; and develop the external relationships necessary to accelerate the commercialization process.

5. While keeping their basic research programs strong, universities should develop closer ties to industry so that education and research programs contribute more effectively to the real technology needs of the manufacturing and service sectors.

   Universities should increase their focus on the manufacture, use and commercialization of technology, but in the process should not jeopardize their basic research programs.

The report was guided by a blue-ribbon group of top technology experts from industry, universities and labor around the country. The analysis differs from Top 10 lists since it focuses on the needs of a broad spectrum of U.S. industry rather than on the individual needs of particular sectors. Because the technologies identified cut across different industries and sectors, the loss of a strong industrial growth, they reflect the broader national interest, rather than the special interests of individual firms or industries.

The Council on Competitiveness is a private, non-profit, non-partisan organization of chief executives from business, higher education and labor who have joined together to improve the ability of American companies and workers to compete in world markets. The price of the full report is $20. Copies can be obtained by contacting the Council.

Executive Summary

Throughout America's history, technology has been a major driver of economic growth. It has carried the nation to victory in two world wars, created millions of jobs, spawned entire new industries and opened the prospect of a brighter future. In many respects, technology has been America's ultimate competitive advantage. As a great technological strength, U.S. manufacturing and service industries stood head and shoulders above other nations in world markets.

That comfortable view is under attack. As a result of intense international competition, America's technology edge has eroded in one industry after another. The U.S.-owned consumer electronics and factory automation industries have been practically eliminated by foreign competition; the U.S. share of the world market in machine tool market has slipped from about 50 percent to 10 percent; and the U.S. merchant semiconductor industry has shifted from dominance to a distant third position in world markets. Even such American success stories as chemicals, computers and aerospace have foreign competitors close on their heels.

Blame for the problems has been laid at many doorsteps: sluggish domestic productivity growth, closed foreign markets, the deteriorating U.S. education and training system, poor management and misguided government policies in areas ranging from capital formation to product liability laws.

Some fear that the United States is too preoccupied with national prestige technology projects to worry about investing in the generic enabling technologies that are critical to the competitiveness of many industries.

Others charge that the United States is increasingly turning over the difficult job of commercialization and manufacturing technology to foreign companies. Unfortunately, in turning over technology to its competitors, America is turning over the keys to economic growth and prosperity.

The American people and its leaders have too readily assumed that preeminence in science automatically confers technological leadership and commercial success. It does not. America assumed that government support for science would be adequate to provide for technology. It is not. In too many sectors, America took technology for granted. Today, the nation is paying the price for that complacency.

This report examines the U.S. position in critical technologies and the actions the nation must take to strengthen it.

Key Findings

1. There is a broad domestic and international consensus about the critical generic technologies driving economic growth and competitiveness.

   The U.S. Department of Commerce, the National Academy of Sciences, the U.S. National Science Foundation, the U.S. Department of Energy, the National Institute of International Trade and Industry, the European Community and many individ-
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The erosion of the logical leadership. Scientific excellence also must be supplemented by a strong position in critical technologies and by the ability to convert these technologies into manufacturered products, processes and services that can compete successfully in the marketplace. Otherwise, the United States will lose the leadership it will need to face the new challenges.

3. Foreign governments are systematically pursuing leadership in critical technologies. Government in other major industrialised countries have allocated large portions of their budgets to critical technologies. The United States has lost its leadership in these areas. The models of other nations already spend more on non-defense R&D as a percent of GDP than the United States, and they are steadily increasing their defense R&D budget. The United States needs to increase support for R&D and focus more resources on non-defense R&D that is commercially relevant. In 1990, only a relatively small percent of the R&D budget was directed to non-defense R&D.

4. U.S. public policy does not adequately support American leadership. The United States needs to improve its competitive position in critical technologies. The United States needs to increase support for R&D and commercialization. The U.S. position in critical technologies has helped to highlight an important lesson about industrial competition in the late 20th century: a lead in science is not enough to ensure technological leadership. Scientific excellence also must be supplemented by a strong position in critical technologies and by the ability to convert these technologies into marketable products and services.

5. Most of the technologies that will drive economic growth over the next decade already are in place. An effective strategy will be for the U.S. government to continue to support science and technology research that lays the foundation for many advances in technology. However, their focus on undergraduate education and on preparing future scientists and engineers for the needs of industry, especially in the manufacturing sector, has been inadequate. A closer relationship between the needs of industry and the education and training programs of universities should be established. The U.S. government should be careful not to jeopardize their basic research programs, which have served the nation well.

Key Recommendations

The recommendations highlighted below are based on a comprehensive study that was prepared for the President by a panel of independent experts. The panel's findings are supported by a large body of research and analysis.

1. To enhance U.S. competitiveness, the President should act immediately to make technological leadership a national priority. The United States is already losing badly in many critical technologies. Unless the nation acts today to promote the development of generic industrial technology, its technological leadership will erode. The following recommendations are based on a comprehensive study that was prepared for the President by a panel of independent experts.

2. The first two recommendations focus on actions that the federal government should undertake: the second two on U.S. industry's responsibilities; and the last on what American universities can do. Taken together, these actions will enable America to compete effectively with the rest of the world in the 21st century.

3. To ensure that America has a world-class technology infrastructure, the nation must also have a strong position in critical technologies. The United States needs to increase support for R&D and commercialization. The U.S. position in critical technologies has helped to highlight an important lesson about industrial competition in the late 20th century: a lead in science is not enough to ensure technological leadership. Scientific excellence also must be supplemented by a strong position in critical technologies and by the ability to convert these technologies into marketable products and services.

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The recommendations highlighted below are based on a comprehensive study that was prepared for the President by a panel of independent experts. The panel's findings are supported by a large body of research and analysis.

1. To enhance U.S. competitiveness, the President should act immediately to make technological leadership a national priority. The United States is already losing badly in many critical technologies. Unless the nation acts today to promote the development of generic industrial technology, its technological leadership will erode. The following recommendations are based on a comprehensive study that was prepared for the President by a panel of independent experts.

2. The first two recommendations focus on actions that the federal government should undertake: the second two on U.S. industry's responsibilities; and the last on what American universities can do. Taken together, these actions will enable America to compete effectively with the rest of the world in the 21st century.

3. To ensure that America has a world-class technology infrastructure, the nation must also have a strong position in critical technologies. The United States needs to increase support for R&D and commercialization. The U.S. position in critical technologies has helped to highlight an important lesson about industrial competition in the late 20th century: a lead in science is not enough to ensure technological leadership. Scientific excellence also must be supplemented by a strong position in critical technologies and by the ability to convert these technologies into marketable products and services.

4. U.S. public policy does not adequately support American leadership. The United States needs to improve its competitive position in critical technologies. The United States needs to increase support for R&D and focus more resources on non-defense R&D that is commercially relevant. In 1990, only a relatively small percent of the R&D budget was directed to non-defense R&D.

5. Most of the technologies that will drive economic growth over the next decade already are in place. An effective strategy will be for the U.S. government to continue to support science and technology research that lays the foundation for many advances in technology. However, their focus on undergraduate education and on preparing future scientists and engineers for the needs of industry, especially in the manufacturing sector, has been inadequate. A closer relationship between the needs of industry and the education and training programs of universities should be established. The U.S. government should be careful not to jeopardize their basic research programs, which have served the nation well.

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E U.S. of a successful technology infrastructure program. Board relevance to many sectors of the U.S. economy.

5. While keeping their basic research programs strong, universities should develop closer ties to industry so that education and research programs contribute more effectively to the real technology needs of the manufacturing and service sectors.

America's research universities are one of its great technological assets and should be strengthened. In pursuit of new knowledge, however, many universities have lost sight of issues related to technology and manufacturing that affect U.S. competitiveness. Universities should strengthen their focus on the manufacture, use and commercialization of technology. In the process, however, it is important not to jeopardize the basic research contributions of universities. Universities should focus on the following actions:

- Develop closer ties with U.S. industry and make efforts to ensure that important technological advances are communicated to potential U.S. users on a priority, expedited basis.
- Make efforts, in cooperation with employers, to ensure that education programs in engineering and management reflect the real needs of industry.

CRITICAL TECHNOLOGIES

The following list of critical generic technologies represents the private sector's assessment of the technologies that will drive U.S. productivity, economic growth and competitiveness during the decade ahead. These technologies span different sectors of the U.S. economy. They are divided into five categories: (1) materials and associated processing technologies, (2) engineering and production technologies, (3) electronic components, (4) information technology and (5) powertrain and propulsion technologies.

We also include an assessment of the U.S. competitive position in each technology. The assessment is based on extensive analysis and reflects the judgment of experts in industry who understand both the critical technologies and the relevant markets. In general, the competitive position shows the status of technologies that are incorporated in products or processes in the marketplace, rather than in laboratories. The U.S. position in each of the technologies is categorized in one of four ways:

- Strong—U.S. industry is in a leading world position and is not in danger of losing this position in the next five years.
- Competitive—U.S. industry is roughly even with world-best. This category includes technologies where the United States is leading but the leadership is uncertain. The United States is likely to be sustained over the next five years, but over the longer term, the United States is likely to be surpassed.
- Weak—U.S. industry is behind in technology or likely to fall behind in the next five years. Changes are needed if the United States is to remain in the businesses related to this technology.
- Losing Badly or Lost—U.S. industry is no longer a factor or is not likely to have a presence in the next five years. It will take considerable effort or a major change in technology for the United States to become competitive.

Encourage corporate executives and general managers to give strategic factors equal weight with financial projections in technology-based businesses.

- Develop closer ties with U.S. industry and make efforts to ensure that important technological advances are communicated to potential U.S. users on a priority, expedited basis.
- Make efforts, in cooperation with employers, to ensure that education programs in engineering and management reflect the real needs of industry.
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Powertrain:

Database systems:

Networks and communications:

of a decade ago has deteriorated significantly in others. Moreover, trends are running against the United States—in most technologies, the U.S. position continues to erode.

Technologies where the United States is "strong" or "competitive" share many of the following characteristics:

- They have a significant manufacturing focus (integrated circuit fabrication equipment).
- They have been targeted by foreign governments for subsidy (memory chip).

Mr. BAUCUS. Mr. President, the legislation my colleagues and I are introducing today is truly significant. Technological innovation is critical to our national economic position and general well-being. The bill we are proposing will help promote the kind of U.S. technological innovation that leads to lower, more competitive products as well as more efficient production and manufacturing.

This bill will encourage U.S.-based research and development by placing a permanent moratorium on Treasury Regulation 861-8 as it applies to R&D Section 861-8 discourages the pursuit of American R&D because it requires U.S. companies with foreign operations to allocate a portion of their domestic R&D expenditures to unreimbursed activities abroad. The result of this misguided public policy is that it effectively penalizes a significant number of U.S. companies—both large and small—for conducting R&D in the United States. World leader, we must encourage vigorous competition among the United States in every technology for an extended period of time.

Mr. President, the leg­islation my colleagues and I are intro­ducing today would extend the Federal medical assistance percentage applicable to the Indian Country.
EXEMPTION FOR CERTAIN INDIAN PROPERTY

Mr. DASCHLE. Mr. President, I rise to introduce legislation that will restore a measure of equity to the treatment of Native Americans under Federal entitlement programs. This bill exempts up to $4,000 per year in income from tribal lands that are held in trust for individual Indians for the purpose of paying benefits under Social Security and other federally-assisted programs.

In Indian country, land owned jointly by a number of heirs is often leased to non-Indians by the Bureau of Indian Affairs on behalf of those tribal members. The lease payments are, in turn, allocated to the individual heirs based on their specific interest in the land.

In the majority of cases, income from leased tribal lands is not substantial. Nor is it regular in many cases. It is not uncommon for inherited trust lands to be owned by such a large number of heirs that the lease income from them is less than $200 per year. The availability of leases often changes from year to year, which leaves heirs without income for a period of months or even years.

Under current law, the Federal Government counts each small lease payment from inherited trust lands as income and then reduces the individual recipient's Federal benefits by a corresponding amount. Also, since the calculations are often based on trust income received in the previous year, benefit reductions can be made in years when income is not even received.

Federal programs treat individual trust moneys with such harshness that the Nation's poorest population repeatedly faces distressing and unnecessary benefit denials or reductions, and loss of medical benefits, due to small amounts of unpredictable income from fractionated trust lands. The practical result of current policy is that tribal members frequently end up with neither trust money nor Federal benefits during one or many months of the year.

For example, the SSI program, upon which many tribal elders depend, bases its monthly payments on increasingly inaccurate estimates of future trust income and counts trust income even if it is unavailable, that is, previously assessed with BIA consent. The VA's improved pension program, the AFDC Program, and even the BIA's own general assistance program are harsher yet, leaving poor Indian families with infants of Native Americans under Federal assistance programs and without Federal benefits for months or years, also by averaging the trust money over several or many months to assure that every dollar of trust money that may arguably be received is offset by loss of equivalent Federal benefits. In many cases, this offset trust income is never received and not even available.

The bill I am introducing today would benefit primarily tribal members, and especially tribal elders, who face continuing financial uncertainty as they seek to supplement small trust income with Federal welfare benefits. A study of income received from land lease rentals on the Pine Ridge Indian Reservation in South Dakota, conducted by Sinte Gleska College in 1988, found that over 70 percent of those receiving trust income received less than $200 per year. The study also showed that 50 percent received less than $50 per year or no income at all.

The counting of trust income against Federal entitlement benefits is a breach of the fiduciary duty that every Federal agency owes to protect trust income for the benefit of Indian people, and this breach invites endless administrative appeals and repeated litigation. Even without appeals and litigation, the cost to the BIA and other Federal agencies of keeping accurate track of multitudinous small lease and grazing payments for purposes of program eligibility is enormous in terms of personnel or processing costs, or perhaps even more than the Federal money saved by resulting reduction in entitlements. Additional costs are transferred to tribes which try to mitigate the financial and emotional harm to tribal members caused by these policies.

Congress has specifically protected all types of Indian moneys other than trust income, including tribal per capita payments, 1963; and Alaska Native Claims Settlement Act moneys, 1987; from this offset requirement. The bill I am introducing would provide the tribal elders and families who are current heirs to allotted and restricted trust lands with similar protection for their trust income up to $4,000 per year. I hope the Senate will consider it carefully and move to address this important problem.

By Mr. HATCH (for himself, Mr. GARN, and Mr. COATS):

S. 755. A bill to amend the amount of grants received under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; to the Committee on Labor and Human Resources.

EDUCATIONAL EQUITY ACT

Mr. HATCH. Mr. President, over the past few months, I have grown increasingly concerned about the tendency of Congress to use the chapter 1 formula as the principal means of distributing funds in education. This formula is used to distribute funds to students who are educationally disadvantaged. Since we have never been able to identify educationally as children who are educationally disadvantaged, we have agreed that an economically disadvantaged child tends to be an educationally disadvantaged child. Consequently, the formula for this program is based on the number of students who are found to be in poverty based on census data.

I strongly agree with the need to serve children who are educationally disadvantaged. I firmly believe that the strength of our country is based on a quality education for all our children. However, I do have concerns about how frequently we use a formula designed for one purpose to serve other purposes. Our educational programs should have their own formulas geared to the purpose they are intended to fulfill. The chapter 1 formula should be used only for programs which serve children who are educationally disadvantaged. It should not be used for math-science programs, teacher training, drug abuse prevention, or any other programs that are intended to assist students generally.

I am also concerned about two primary factors of the chapter 1 formula. First, it uses census data which is always between 2 and 12 years old, and second it incorporates State per pupil expenditure as a determinant of how much money a State receives. The result is that the formula provides more money to States with high per pupil expenditures. The poor poverty formula gives more funds to poor children in a wealthy State than it gives to poor children in a poor State. This formula provides $1.50 to every poor child in Mississippi, which has the highest per capita income in the country—for every $1.00 we give to a poor child in Connecticut—which has the lowest per capita income.

The change from proposing today will help solve the problem created by this second formula factor. I have reviewed a variety of methods for handling this problem and have concluded that the fairest and easiest approach is to simply remove the state per pupil expenditure from the formula and substitute the national per pupil expenditure. This means that once we have identified poor children, we will provide the same amount of money per child regardless of where they live.

Therefore, I am introducing legislation, along with my senior Senate colleague, Senator GARN, to make a change in the current chapter 1 formula. I hope that we can take an even closer look at the chapter 1 formula and other education formulas to ensure that they distribute our Federal education dollars appropriately to all 50 States, based on the purpose of the program. All three members of the Utah congressional delegation are sponsoring identical legislation in the House.

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.

I strongly agree with the need to serve children who are educationally disadvantaged. This Act may be cited as the "Educational Equity Act of 1991."
The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) in subparagraph (A) of section 1005(a)(2), by striking the second sentence and inserting “The amount determined under this sentence shall be the average per pupil expenditure in the United States.”; and

(2) in each of sections 120(b), 122(c), and 124(b), by striking “In the State or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, or (C) in the case where the average per pupil expenditure in the United States is 120 percent of the average per pupil expenditure in the United States.” and inserting “In the United States.”

By Mr. DeCONCINI (for himself and Mr. HATCH):

S. 756. A bill to amend title 17, United States Code, the copyright renewal provisions, and for other purposes; to the Committee on the Judiciary.

Mr. DeCONCINI. Mr. President, along with Senator HATCH, my colleague and the ranking minority member on the Judiciary Committee’s Subcommittee on Patents, Copyrights and Trade­marks, and at the request of the Register of Copyrights, I am introducing legislation today to amend two provisions of the copyright law.

Section 1 of the bill will provide a more equitable term of protection to a certain class of authors by modifying a provision remaining from the old copyright law. Section 2 repeals a requirement for the Copyright Office to prepare a report every 5 years on library photocopying of copyrighted materials. The copyright community feels that this report can safely be eliminated, and that Copyright Office resources could be directed to analyses and reports on more pressing issues.

Section 1 will eliminate the current requirement for certain authors to file a renewal registration with the Copyright Office to obtain a second term of protection. It will create an automatic renewal system for all works copyrighted before January 1, 1978.

Section 1 makes no retroactive changes. The automatic renewal provision would apply only to works that are still in their first, 28-year term of protection on the date the bill becomes law. If the bill is enacted in 1991, the only works affected would be those copyrighted by publication without notice, or unpublished and registered with the Copyright Office, between 1963 and December 31, 1977. These works would automatically receive the same 47-year additional term of protection now available for pre-1978 works, whether or not the person entitled to the additional protection has filed a renewal registration with the Copyright Office. Works that are in the public domain when this bill becomes law will remain in the public domain.

For most works created on or after January 1, 1978, the 1976 Copyright Law Revision—Public Law 94-533—established a term of protection of 56 years from the date of publication, or 95 years from the date of creation, whichever expired first. These provisions would remain unchanged by this legislation. The focus of section 1 of the bill is the renewal registration system that was left intact by the 1976 revisions for most works created before 1978.

The renewal registration system is one of the last vestiges of the old copyright law and carries with it the harsh consequences of that law. Failure to renew copyright for a pre-1978 work in the 28th year of protection causes it to fall irrevocably into the public domain in the 29th year.

The Senate report to the 1976 Copyright Law Revision called the renewal provision “one of the worst features of the present copyright law.” A substantial number of works, this unclear and highly technical requirement results in incalculable amounts of unproductive work. In a number of cases it is the cause of inadvertent and unjust loss of copyright.” (S. Rept. No. 94-4758, 94th Cong. 1st Sess. 117-8 (1975).)

The renewal registration provision was consequently eliminated by the 1976 revisions for works created on and after January 1, 1978, but was retained for works still in their first term of protection on December 31, 1977. At the time, Congress felt that eliminating the renewal provision for pre-1978 works could upset existing expectations and contractual relations.

Section 1 of this bill has been drafted with great care to address the chief concern of the drafters of the 1976 revisions. This bill will not impair existing expectancies or contractual interests in the renewal term. In fact, these expectancies and interests are now more clearly delineated in light of last year’s Supreme Court decision in Steu­rart v. Abend (116 S. Ct. 755; 109 L. Ed. 2d 184).

More importantly, this bill will help eliminate the harm that has been born by authors and their heirs because of the existing renewal requirements. Most of the works affected by the current renewal requirements are works by less noted authors, but they supply a valuable source, sometimes the sole source, of income for the authors and their families. Many authors and their heirs will find existing renewal requirements for works created before 1978 and the need for careful record-keeping and monitoring in order to file a timely renewal application for each copyrighted work. Frequently, authors or their heirs may rely on agents or publishers who, through inadvertence or neglect fail to file renewal registrations in the 28th year.

On January 1 of the 29th year, these unrenewed works simply fall into the public domain. Once this occurs, copyright protection ends and the works cannot be retrieved from the public domain. In 1976, Congress created a new term of copyright protection for authors of post-1977 works for reasons of fairness and certainty. For these reasons a change to the existing renewal provisions is clearly needed.

During the debate on the 1976 revisions, educators and scholars voiced concerns that keeping works out of the public domain by extending the duration of copyright protection would limit access to valuable material. Congress weighed these concerns against the rights of authors and on balance found in favor of extending the term of protection.

The Senate report on that legislation noted that providing a longer term of copyright protection “would not restrain scholars from using any work as source material of from making ‘fair use’ of it.” * * * (S. Rept. No. 94-4758, 94th Cong. 1st Sess. 119 (1975).) Also, Congress found that the most important works—materials that are most valuable to scholars and students—would be renewed anyway. The proposal to permit copyrighted works to be renewed automatically would not change this fact.

In 1976, Congress extended the second term of protection to 47 years for the works covered under this bill. This bill does not further extend the term of protection. It simply allows all authors entitled to copyright protection to receive it fairly by eliminating the complicated recordkeeping involved in renewal registration for each of their works.

To be sure, affirmative renewal of registrations of copyrighted works can benefit both their creators and the public. Copyright Office records of these renewal registrations allow users of copyrighted materials to locate authors or their successors in interest so they can either license works, or determine when they will fall into the public domain. For these reasons, section 1 would further enhance the public record and offer incentives for authors to voluntarily continue to register renewal claims with the Copyright Office.

First, the bill identifies the parties who are entitled to the renewal term. This provision will make it easier for users to find authors or their successors for licensing purposes. In the absence of the filing of a renewal registration, the bill specifies that copyright owners in the second term of protection are the person or persons entitled under the statute to the renewal
on the last day of the original term of copyright.

Except for a very narrow class of claims in works covered by the Universal Copyright Convention, current Copyright Office practices require an original registration in the first term before a renewal registration can be filed. It is clearly stated in the bill that "copyright could not be renewed on original registrations which could only be made in the first term. However, using its existing administrative authority, the Copyright Office could permit a renewal registration in the absence of an original registration under special circumstances.

Second, prima facie evidentiary weight would be accorded only to those renewal registrations filed within 1 year before the expiration of the first term. Third, derivative works created in the first term could continue to be used in the second term without permission from the copyright owner where no renewal registration has been made within 1 year before the expiration of the original term. But no new derivative works could be created in the second term without permission from the copyright owner.

Finally, the bill provides for fines of up to $2,500 for any false representation in the application of copyright renewal registrations.

Mr. President, another key issue in the debate during the 1976 Copyright Law Revisions was the "fair use" limitation on copyright protection. After extensive consideration of the many elements of this judicially created doctrine, the drafters of the 1976 revisions decided to codify it as section 107 of the law. A separate provision relating to photocopying in libraries and archives was included as section 108. This section authorizes libraries and archives to provide single photocopies of copyrighted materials for use by students and scholars.

Library photocopying is carefully circumscribed by the statute. The law clearly states that only one copy of copyrighted material can be made available to users, that the copy is not to be used for commercial advantage and that notice of copyright should be affixed to the materials. The law also requires the Register of Copyrights to prepare a report for Congress every 5 years that examines whether libraries and archives have been using their limited authority to photocopy copyrighted materials within reason.

After reviewing these two reports, the Register concluded that libraries have not exploited the limitation and that photocopying in the circumstances prescribed by the law has achieved "the statutory balancing of the rights of creators and the needs of users." (17 U.S.C. §106(1))

For these reasons, section 2 of this bill repeals the report requirement. Repeal will save a small amount of money and Copyright Office resources, but at Congress' request or on the Copyright Office's initiative, those resources can be used for examining matters about the fair use limitation.

The Copyright Office has obtained the cooperation and support for the registration renewal provision from the copyright community, including the publisher, metatitle, and record industry as well as authors and their representative organizations. I wish to thank the Office for its diligence in examining and reporting on the fair use limitation for library photocopying, and the value of that provision in achieving the appropriate balance between the rights of authors and the needs of users.

Mr. President, I urge my colleagues to support both provisions of this legislation. It will remove inequities in the current copyright renewal system and allow Copyright Office funds and resources to be used to examine emerging issues.

I ask unanimous consent that the entire text of the bill and a section-by-section analysis of its provision be included in the RECORD.

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

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

SECTION 1. COPYRIGHT RENEWAL PROVISIONS.

(a) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—Section 302(a) of title 17, United States Code, is amended to read as follows:

"(a) COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1978.—(1)(A) Consistent with the provisions of subparagraphs (B) and (C), any copyright, the first term of which is subsisting on January 1, 1978, shall endure for 28 years from the date it was originally secured.

(1)(B) In the case of any posthumous work or periodical, pamphlet, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body, or more than one author, the employer for whom such work is made for hire, the proprietor of the copyright shall be entitled to the renewal and extension of the copyright in such work for the further term of 47 years.

(1)(C) In the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the author of such work, if a living, or the widow, widower, or children of the author, if the author be not living, or if such author, widow, widower, or children be not living, then the author's executor or administrator shall be entitled to the renewal and extension of the copyright in such work for the further term of 47 years.

(2) If the author be not living, or if such author, widow, widower, or children be not living, then the author's executor or administrator shall be entitled to the renewal and extension of the copyright in such work for the further term of 47 years.

(3) If the copyright owner be not living, or if the author be not living, or if such author, widow, widower, or children be not living, then the author's executor or administrator shall be entitled to the renewal and extension of the copyright in such work for the further term of 47 years.

(2) If the author be not living, or if the author be not living, or if such author, widow, widower, or children be not living, then the author's executor or administrator shall be entitled to the renewal and extension of the copyright in such work for the further term of 47 years.

(3) If the copyright owner be not living, or if the author be not living, or if such author, widow, widower, or children be not living, then the author's executor or administrator shall be entitled to the renewal and extension of the copyright in such work for the further term of 47 years.

(4) If an application to register to the renewed and extended term of copyright in a work is not made and registered within 1 year prior to the expiration of the original term of copyright, that privilege does not extend to the preparation during such renewed and extended term of other derivative works based upon the copyrighted work covered by such grant.

(5) If an application to register to the renewed and extended term of copyright in a work is made and registered within 1 year prior to the expiration of the original term of copyright, the certificate of renewal and extension of such further term shall have been made to the copyright owner.

(6) Upon such further term as did the renewal of a copyright as provided under section 302(a) (1) and (2) of title 17, United States Code (as amended by subsection (a) of this section) the certificate of registration to the renewed and extended term of copyright, to such further term of 47 years; and

(7) If an application to register to the renewed and extended term of copyright in a work is not made and registered within 1 year prior to the expiration of the original term of copyright, that privilege does not extend to the preparation during such renewed and extended term of other derivative works based upon the copyrighted work covered by such grant.

(8) If an application to register to the renewed and extended term of copyright in a work is made and registered within 1 year prior to the expiration of the original term of copyright, the certificate of such registration shall constitute prima facie evidence as to the validity of the copyright during its renewed and extended term and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration of a renewed and extended term shall be not more than the weight that shall be within the discretion of the court.

(b) LEGAL EFFECT OF RENEWAL OF COPYRIGHT IS UNCHANGED.—The renewal and extension of a copyright for a term of 47 years as provided under section 302(a) (1) and (2) of title 17, United States Code (as amended by subsection (a) of this section) shall have the same effect with respect to the interest of the author and of the owner or the person entitled to the copyright as if the term of the copyright had been extended for 28 years as provided under subsection (a) of this section.
right prior to the effective date of this Act under the provisions of title 17, United States Code, is amended to read as follows:

(c) REGISTRATION PERMISSIVE.—Section 301(a) of title 17, United States Code, is amended to read as follows:

"(c) REGISTRATION PERMISSIVE.—At any time during the subsistence of the first term of copyright in any published or unpublished work in which the copyright was secured before January 1, 1978, and during the subsistence of any copyright secured on or after that date, the owner of copyright or of any exclusive right therein, in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by this section, together with the application and fee specified by section 706. Such registration is not a condition of copyright protection."

(d) FALSE REPRESENTATION.—Section 306(e) of title 17, United States Code, is amended to read as follows:

"(e) FALSE REPRESENTATION.—Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 405, or in the application for a renewal registration under section 304(a), including the issuance of a certificate of registration if filing in connection with either application, shall be fined not more than $2500."

(e) COPYRIGHT OFFICE FEES.—Section 304(a) of title 17, United States Code, is amended to read as follows:

"(2) on filing each application of registration of a claim to a renewal of a subsisting copyright under section 304(a), including the issuance of a certificate of registration if registration is made, $30."

Sec. 2. REPEAL OF COPYRIGHT REPORT TO CONGRESS.

Section 10 of title 17, United States Code, is repealed.

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right prior to the effective date of this Act under the provisions of title 17, United States Code, is amended to read as follows:

(c) REGISTRATION PERMISSIVE.—Section 301(a) of the Copyright Law to eliminate the Report to Congress on library photocopying required by that section.

By Mr. LEAHY (for himself, Mr. HARKIN, Mr. PRYOR, Mr. KERREY, and Mr. SASSER):

S. 767. A bill to amend the Food Stamp Act of 1977 to respond to the hunger emergency affecting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless, to reduce the risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs administered by the Secretary, and for other purposes; to the committee on Agriculture, Nutrition, and Forestry.

MACY LEALAND CHILDHOOD HUNGER RELIEF

Mr. LEAHY. Mr. President, I am pleased to introduce the Mickey Leland Childhood Hunger Relief Act. This bill, in honor of Mickey Leland, one of the greatest champions ever of the hunger fight, put the child hunger relief effort we fought for last year. Unfortunately, this effort was ultimately defeated during last year's endless budget summit with the administration.

FUTURE DIRECTIONS OF COPYRIGHTS AFFECTED BY AMENDMENT.—(1) This section shall take effect upon the date of enactment.

(2) The provisions of this section shall apply to works for which copyright was secured between January 1, 1963 and December 31, 1977. Copyrights secured prior to January 1, 1963 shall be governed by the provisions of section 304(a) in effect on the day prior to the effective date of this Act.

SEC. 2. REPEAL OF COPYRIGHT REPORT TO CONGRESS.

Section 10 of title 17, United States Code, is repealed.

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Section 1(a) amends section 304(a) of the Copyright Law to eliminate the renewal registration of title for works copyrighted before January 1, 1978. These works would automatically receive the same, 47 year additional term of protection now available for pre-1978 works, whether or not the person entitled to the additional protection has filed a renewal registration with the Copyright Office in the 28th year of the first term. Section 1(a) also makes several conforming amendments and offers authors of copyrighted works incentives to voluntarily renew registrations for those works. These incentives will enhance the public record of copyright works.

Section 1(b) explains that the legal effect of an automatic renewal of the copyright term is the same as for renewals under current law.

Section 1(c) is a conforming amendment creating a voluntary renewal registration system for pre-1978 works.

Section 1(d) applies the penalty for false registration for the registration of a work for which copyright registrations to applications for renewal registrations.

Section 1(e) increases the fees for voluntary copyright renewal registration to $30.
the previous June's Thrifty Food Plan. Food stamp benefit levels are adjusted every October to reflect food costs the previous June. Under this section, the percentage of the previous June's Thrifty Food Plan through most of the year. Any error, including in the amounts of the AFDC maximum allowed to a household, which have no separate AFDC "shelter allowance." None of these vendor payments should be counted against homeless households, since they are not in fact available to households and cannot be used for food. It makes no sense to count large parts of these payments in some states to sharply reduce households' available income. The result is to force incompletely identical payments made in another state that happens to label its AFDC grants differently. This provision would have the same effect as the provision of transitional housing that passed the Senate with last year's Farm Bill and that the House held in conference because of funding limitations.

Sec. 105. Improving the nutritional status of children in Puerto Rico.

This section would increase funding for the Nutrition Assistance Program (NAP) in Puerto Rico over baseline in each of the four remaining years of the Farm Bill. The increase to $25 million in the fourth year. In 1981, the Food Stamp Program in Puerto Rico was replaced by the NAP, which is funded on a block grant basis. Funding was cut well below the level required to provide nutritional assistance comparable with that of the Food Stamp Program. In subsequent years, funding was frozen or increased by less than baseline. As a result, poor children in Puerto Rico have far less of a nutritional safety net than comparably poor children in the 50 states, Guam or the U.S. Virgin Islands. These modest increments would make a small step towards redressing this imbalance.

The Farm Bill that passed the House last year increased funding for Puerto Rico over baseline to $23 million in 1987 as part of the welfare reform bill and again as part of last year's Land bill.

Sec. 106. Households benefiting from general assistance vendor payments.

This section would exclude general assistance (GA) vendor payments for expenses other than rent and mortgage from consideration as income in determining food stamp eligibility and benefit levels. This is in line with the Omnibus Budget Reconciliation Act (OBRA) of 1981 that required that all assistance be prorated after the day of the month they apply. It made an exception for households applying to be recertified after being off of the program for less than 30 days. A year later, this exception for household members being recertified was removed. The proposed legislation would return to the prorating rule enacted by the 1981 OBRA.

GAO found that the vast majority of the households suffering short gaps in benefits remain eligible throughout the period. Gaps frequently occur due to state errors, lost or delayed in the mails, or honest misunderstandings by household members. The current law makes it possible for them to divert some of their rent, mortgage or utility money to pay for food, leaving them in danger of an eviction or a utility shut-off. The increase of $50 passed in 1988 created a provision for migrant farm workers. The Senate's version of the Hunger Prevention Act of 1988 and last year's House-passed Land bill both would have applied this rule to all households.

Sec. 104. Homeless families in transitional housing.

This section excludes all vendor payments for housing that meets definition of "transitional housing" for the homeless. Current law, enacted by last year's Farm Bill, excludes vendor payments for transitional housing for the homeless up to an amount equal to half of the AFDC maximum allowed to a household. This ruling from GAO policy excludes the amount of all such vendor payments to the extent that they exceed the AFDC shelter maximum and all such vendor payments. This problem has never been resolved, which have no separate AFDC "shelter allowance." None of these vendor payments should be counted against homeless households since they are not in fact available to households and cannot be used for food. It makes no sense to count large parts of these payments in some states to sharply reduce households' available income. The result is to force incompletely identical payments made in another state that happens to label its AFDC grants differently. This provision would have the same effect as the provision of transitional housing that passed the Senate with last year's Farm Bill and that the House held in conference because of funding limitations.

Last year's amendment excluded from consideration vendor payments on GA vendor payments made under state laws that prohibit making direct payments to households. In some jurisdictions, this is to provide any GA relief in the form of vendor payments. However, the program is so informal that there may be no explicit state law requiring them to be issued in that form. This amendment will allow these jurisdictions to respond to other issues, householder assistance for other categories of households (other than those requiring housing assistance) without causing the household to suffer a new emergency with the reduction of food stamp allotments.

This was part of a larger GA vendor payment amendment that Rep. Jontz attached to the Senate's bill and that Sen. Sasser, Langar and Coats introduced as a separate stand-alone bill. The Jontz amendment passed the House, but funding limitations prevented the Farm Bill from conference from accepting the entire amendment.

Sec. 202. Child support payments to non-homeless households.

This section would exclude from the income of a low-income household any legally binding child support payments a household member makes to support a child outside of the household. This would encourage low-income absent parents to make child support payments and ensure that the ability of these parents to feed their current families is not unduly burdened by their performance of their child support obligations. Under present law, child support from income is provided for child support payments an absent parent makes. This means that if an absent parent remarries and has children in that marriage, the child support payments the absent parent once made to the children of his or her first family— the payments he makes to support the children in his first family are counted as though they represented income still available to buy food for his current family.

In addition to being an unrealistic reflection of the resources available to the father's current family, the current law also raises serious equity issues. If two absent fathers have the same level of income before child support payments—but one responsibly pays child support while the other fails to—both receive the same amount of food stamps. Yet the father who has made the support payments has less money left for food purchases than does the father who has made no payments.

Furthermore, just as a key principle of welfare reform was that poor parents who work should be better off than those who do not, so, too, should the families of absent parents who pay child support be better off than parents who neglect their obligation to support their absent children.

Sec. 201. Child support disregard.

This section would exclude the first $50 a month a child support recipient is required to pay as child support from income. The $50 exclusion in AFDC recognizes the importance of having parents assume responsibility for their absent children. This provision would be part of last year's Land bill.
support payment (i.e., the parent's gross income is counted without deduction for the amount paid as child support) and then counted again as income to the household that receives the payment. This means the same dollars are simultaneously counted as income to two different households, even though these dollars can only be used once to buy food and other necessities.

The change proposed here is important because it is the second reason for the significant increase in the number of people living in poverty that has occurred since 1960. The current rules are also a major barrier to self-sufficiency for food stamp recipients. They must buy food and other necessities that food stamp recipients may own. Preventing the current double-counting will improve the Program's equity, promote compliance with support obligations, and reduce hunger among both children and adults who are dependent on food stamps. 

In places that still are not served by water systems, the cost of transportation to training programs requires tools, uniforms or other reimbursements to $25 per month and $75 a month. This section would allow relatives to be separate food stamp households if they buy and cook food separately, except that minor children could not be separate from their parents. People who buy and cook together, regardless of whether or not they are relatives, would still be combined into single households.

This section would allow employees to buy food stamps if they buy and cook food separately, except that minor children could not be separate from their parents. People who buy and cook together, regardless of whether or not they are relatives, would still be combined into single households.

The current rules pose another problem as well: they may force reluctant or unwilling parents to help support their children. These rules also hurt migrant farm workers, who may live separately in their base states but double up with relatives in their official capacity, are subject to suit in Federal court by any person for infringement of patents and plant variety protections, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity; to the Committee on the Judiciary.

S. 759. A bill to amend certain trade- mark provisions of the Lanham Act. As you may remember, the legislation last year clarifying the Lanham Act. As you may remember, the legislation last year clarifying intellectual property laws and the 11th Amendment to the Constitution. The President's Task Force on Food Assistance in January 1984 recommended that this limit be increased to $5,500 immediately. The severity of the problem was brought home to the Task Force by the plight of unemployed workers in the recession of the early 1980's, whose cars rendered them ineligible for food stamps. Households that depend on parents and siblings for heat. Even the poorest of these households cannot afford to be without a dependable vehicle that can hold up under this kind of use. In many cases, many of these households have for this purpose, though far from luxurious, tend to have fair market values well in excess of the current $4,500 limit. Annual inflation has increased the limit last year.

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The current $4,500 vehicle limit was written into the law in 1973, primarily to have to haul firewood or coal to their homes, or to transport water or fuel where the household lacks piped-in water or fuel. Yet the trucks that many of these households use to seek and continue employment and for household transportation.

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Congress's intent that States be subject to suit under the Copyright Act of 1976 for copyright infringement. That, the Copyright Remedy Clarification Act passed by the public law, necessitated by circuit court opinions holding that States are immune from prosecution for infringement of copyright material. States continue to take advantage of the sovereign immunity loophole that remains in the Patent Code, the Plant Variety Protection Act of 1970, and the Lanham Act. The two bills we are introducing today will cure these deficiencies and finally harmonize Federal intellectual property laws.

**PATENT REMEDY CLARIFICATION**

Last Congress, the Patent Remedy Clarification Act passed the Senate unanimously as an amendment to another bill, but the House failed to act upon it. Section 2 of our bill reintroduces the amendments to the Patent Code contained in last session's bill because circuit courts continue to hold that States are immune for infringement of patents.

I introduced the Patent Remedy Clarification Act last Congress in response to the Federal circuit decision in Chew versus State of California. In Chew an inventor's suit against the State of California for patent infringement was dismissed in Federal district court when California asserted sovereign immunity under the 11th amendment as a defense. In affirming the decision, the Federal circuit ruled that the Patent Code lacked the specificity in language of congressional intent that is necessary to abrogate 11th amendment immunity for a State. The Supreme Court denied certiorari in late 1990.

Unfortunately, the Chew case is no longer an isolated case. Recently a Federal appellate court relied upon the Chew opinion in permitting another State to escape liability for patent infringement. In Jacobs Wind Electric Company, Inc. versus Florida Department of Transportation, the Federal circuit upheld a lower court's decision to dismiss an inventor's patent infringement case brought against the Florida Department of Transportation. The court held that 11th amendment immunity operates to bar suit for patent infringement in Federal court against a State.

With the passage of the Copyright Remedy Clarification Act, Congress closed the loophole in the law which permitted States to escape liability for copyright infringement. Congress needs to act again for as the Chew and Jacobs cases illustrate, States are still able to take advantage of Congress' failure to clearly state its intent in the Patent Code. These cases predict an ominous future for patent holders of inventions which are benevolent to the States. Both the Chew and Jacobs cases provide prime examples of inventions that are beneficial to the States—in Chew, the inventor had obtained a patent on a process to test exhaust fumes from automobiles, and in Jacobs, the inventor obtained a patent on a tidal flow system which improves water quality. As State universities and State regulatory agencies enter the race to commercialize scientific discoveries, the cases in which the sovereign immunity defense is asserted will grow in number.

As I stated when I introduced the Copyright Remedy Clarification Act and this measure last Congress, permitting States to infringe patent rights with impunity leads to the anomalous result of State universities being permitted to infringe private universities' copyrights and patents but not visa versa. Thus, UCLA could sue USC for copyright and patent infringement, but USC could not sue UCLA. Now, after the enactment of the Copyright Remedy Clarification Act, USC and other private citizens can sue UCLA and other States in a copyright infringement—but not for patent infringement. There are, of course, other detrimental effects for private universities from the assertion of the sovereign immunity defense. As State and private universities vie for research projects sponsored by industries, the sovereign immunity defense will create an uneven playing field. A private company looking to do research in a competitive area will consider a University more favorably as a research partner since that institute would be immune from a competitor's infringement suits.

There exists in this country, and rightfully so, tremendous concern about our global competitive position. It is therefore contrary to our best interests to limit protection for our inventors from infringement. Moreover, without the restoration of patent protection which this bill would provide, we also greatly hamper efforts to achieve international harmony of patent laws. Many nations have patent laws that include nonvoluntary licensing and governmental-use provisions. These provisions are merely devices for legal expropriation. How can we achieve international harmony of patent laws and free trade agreements when we allow our State governments to freely infringe patents? We cannot sustain a position in which American inventors will have to continue to venture into international markets unprotected.

The purpose behind the constitutional provision that sets out Congress' patent and copyright authority is to encourage innovation. To fulfill that goal, the patent and copyright laws of this country must allow an inventor to recoup his or her investment. It should no longer be possible that a defendant in a patent infringement suit is a State or a private entity. In either instance, the Patent Code must effectively protect the constitutionally enshrined incentive to invent.

**PLANT VARIETY PROTECTION CLARIFICATION**

Section 3 of the Patent and Plant Variety Protection Act abrogates the sovereign immunity doctrine for the Plant Variety Protection Act, an intellectual property statute that is administered by the U.S. Department of Agriculture. That act provides protection for breeders of novel varieties of living plants that are produced by using seeds. The legal remedies provided to plant breeders by the Plant Variety Protection Act are similar to remedies provided to inventors by the Patent Code. Protection expires 18 years after the date of issuance of a certificate of plant variety protection by the USDA's Plant Variety Protection Office. The policy reasons for clarifying that States are subject to suit for infringement of plant variety protection are similar to the reasons for clarifying this point for the rest of the Federal intellectual property statute.

It is my understanding that no litigation has arisen to date under the Plant Variety Protection Act against any State. However, a State could successfully assert sovereign immunity as a defense in a Plant Variety Protection Act suit, as it presently can in a patent infringement suit. We must therefore act to eliminate the sovereign immunity loophole currently available to the States. By amending the Plant Variety Protection Act now, we can avoid any need for Congress to revisit the subject of sovereign immunity for intellectual property cases.

Subsection (a) of section 3 makes clear that the definition of infringement in the Plant Variety Protection Act covers acts of infringement performed without authority by a State government. Subsection (b) adds a new section 130 to the Plant Variety Protection Act, analogous to the sections provided to the Patent Code, stating explicitly that a State government shall not be immune from infringement under any doctrine of sovereign immunity, and that remedies are available to the same extent as remedies are available for violations in suits against a private entity.

Mr. President, this bill will do nothing more than what Congress already intended to do when it passed the Patent Code. Furthermore, with the passage of the Copyright Remedy Clarification Act, it is quite clear that Congress did not intend to grant immunity to the States. Congress never intended for the rights of patent owners to be dependent upon the identity of the infringer. With this bill Congress is merely fulfilling the Supreme Court's new requirement for abrogating 11th amendment immunity.
March 21, 1991

CONGRESSIONAL RECORD—SENATE 7331

TRADEMARK REMEDY CLARIFICATION

Legislation is also needed to abrogate States' 11th amendment immunity for trademark actions under the Lanham Trademark Act. Just as with patents and copyrights, the courts have held that absent an explicit exemption from Congress, sovereign immunity remains a serious concern. The remedies available under State and common law are so limited and inconsistent as to be an unsatisfactory substitute for the Federal remedies that would otherwise be available.

Recent court actions brought under the Lanham Act have held that States are not liable for trademark infringement. Whether achieved by appropriation or by any governmental or nongovernmental entity, the violation to the same extent as such remedies are available for such a violation in a suit against any private entity. Such remedies include damages, interest, costs, and treble damages under section 284, attorney fees under section 285, and the additional remedies for infringement of design patents under section 289.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 29 of title 35, United States Code, is amended by adding at the end thereof the following new section:

"296. Liability of States, instrumentalities of States, and State officials for infringement of patents."

SEC. 3. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION.

(a) INFRINGEMENT OF PLANT VARIETY PROTECTION. —Section 111 of the Plant Variety Protection Act (7 U.S.C. 2359c) is amended by inserting at the end thereof the following new section:

"Section 111.-Chapter 12 of the Plant Variety Protection Act (7 U.S.C. 2359c) is amended by inserting at the end thereof the following new section:

"(a) LIABILITY AND REMEDIES. — Section 32(a) of the Act (15 U.S.C. 3711(a)) is amended by adding at the end thereof the following:

"As used in this subsection, the term 'any person' includes any State, any instrumentality of a State, and any officer or employee of a State acting in his official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the manner and to the same extent as any nongovernmental entity."

(b) LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS. —The Act is amended by inserting after section 39 (15 U.S.C. 3712) the following new section:

"Section 39. (a) Any State, instrumentality of a State or any officer or employee of a State acting in his or her official capacity, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for infringement of patent variety protection under section 111, or for any other violation under this Act.

"(b) In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any private entity. Such remedies include damages, interest, costs, and treble damages under section 120, attorney fees under section 121, and the additional remedies for infringement of design patents under section 289."
CONGRESSIONAL RECORD—SENATE
March 21, 1991
S. 761. A bill to reduce hazardous pollution; to the Committee on Environment and Public Works.

HAZARDOUS POLLUTION PREVENTION PLANNING

Mr. LIEBERMAN. Mr. President, I am pleased to introduce today, along with my colleagues Senators DURENBERGER and LAUTENBERG, the Hazardous Pollution Prevention Planning Act of 1991. In brief, this legislation:

First, requires the industries which emit toxic chemicals and are required to submit reports under the Superfund Amendments and Reauthorization Act of 1986 prepare and implement hazardous pollution prevention plans setting forth 2- and 5-year goals for pollution prevention;

Second, provides matching grants to States with programs for technical assistance for pollution prevention, particularly to assist smaller facilities in preparing plans;

Third, establishes a program for basic research into new methods and technologies for pollution prevention;

Fourth, provides for a demonstration program of regulatory incentives, including permit modifications, for those facilities which are doing a good job at hazardous pollution prevention;

Fifth, requires EPA to identify those industry groups which are lagging behind in pollution prevention and requires an independent, nongovernment audit at those facilities which fall within the industry segment;

Sixth, requires a compliance audit at facilities which the Administrator determines has a history of noncompliance with environmental laws.

Mr. President, we have spent the last 20 years trying to clean up the environmental mistakes of our predecessors. In Congress, we have passed comprehensive legislation protecting surface waters, drinking water, air, coastal zones, land pollution, wetlands and ocean dumping.

The proposed legislation is an attempt to regulate a vast array of industrial, agricultural and individual behavior.

We have witnessed some very significant victories. Our rivers are no longer so laden with waste oil and debris and, in fact, now we can swim and fish in many of them again. After an absence of many decades, salmon are returning to breed in the Connecticut River, one of our most valuable natural resources.

We have taken most of the lead that contributed to lead poisoning out of the air.

Municipal sewage treatment has improved dramatically; over 176 million Americans were served by sewage treatment systems in 1972. Comprehensive hazardous waste management regulations are in place which, according to EPA, have kept roughly 1.6 billion gallons of hazardous waste per year from being landfilled without prior treatment.

Such remedies include injunctive relief under section 34, actual damages, profits, costs of proceeding under section 35, destruction of infringing articles under section 36, the remedies provided for under section 32, 37, 38, 42 and 43, and for any other remedies provided under this Act.

(4) FALSE DESIGNATION OF ORIGIN AND FALSE DESCRIPTIONS FORBIDDEN.—Section 48(a) of the Act (15 U.S.C. 1128(a)) is amended—

(4) FALSE DESIGNATION OF ORIGIN AND FALSE DESCRIPTIONS FORBIDDEN.—Section 48(a) of the Act (15 U.S.C. 1128(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof:

"(2) so used in this subsection, the term "any person" includes any State, instrumentality of a State or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.";

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to violations that occur on or after the date of the enactment of this Act.

By Mr. PELL (by request):

S. 760. A bill to amend the Board for International Broadcasting Act of 1973, as amended, to authorize appropriations for fiscal years 1992 and 1993 for the Board for International Broadcasting, and I am introducing it along with Mr. DURENBERGER and Mr. LAUTENBERG:


HON. J. DANFORTH QUAYLE,
President of the Senate,
5252 Capitol Building, Washington, DC.

Mr. President: I am submitting with this letter proposed legislation amending the Board for International Broadcasting Act of 1973 to authorize appropriations for the Board to carry out its responsibilities as specified in that Act. The bill provides for authorization of appropriations for the Board's operation during fiscal years 1992 and 1993. A Sectional Analysis of the proposed legislation is enclosed.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

Respectfully,

MARK G. Pomar,
Executive Director.

By Mr. LIEBERMAN (for himself, Mr. DURENBERGER, and Mr. LAUTENBERG):
While we have made enormous strides, overall our efforts keep falling behind the pollution curve. In part, this is because we are becoming more aware of the scope of our pollution problems. As EPA has noted in its Pollution Prevention Strategy, emerging environmental problems include increasing human and environmental exposure to toxic chemicals. To tackle these cross-media problems such as acid rain, nonpoint source pollution and ground water contamination; and decreasing waste disposal capacity and massive waste cleanup costs.

Many of us are bothered by the nagging questions: Is this the best we can do? Where do we go from here? How do we ensure that future generations will not inherit an ever-expanding multibillion environmental deficit comprised of programs to clean up our mistakes? Is there some supplemental to our traditional “command and control” regulatory strategy that will work more effectively?

I believe that the answer to these questions is that rather than only control pollution after it is created, we should direct our efforts to preventing it from being created in the first place. This is the conclusion reached in the recent report prepared by the Environmental Protection Agency’s Science Advisory Board, “Reducing Risk.” The report states, “End-of-the-pipe controls and waste disposal should be the last line of environmental defense, not the front line.” Preventing pollution at the source is usually a far cheaper, more effective way to reduce environmental risk, especially over the long run.

The legislation I am introducing today, requiring that industries make planning for pollution prevention an integral part of their business operations, is designed to ensure that pollution prevention truly becomes our first line of environmental defense.

The EPA’s Science Advisory Board’s report sets forth some of the very significant advantages of pollution prevention.

First, pollution prevention is more effective than pollution control. Pollution prevention approaches, such as eliminating lead from gasoline or the use of DDT, have resulted in some of the greatest environmental successes of the last 20 years.

Second, pollution prevention can result in significant cost savings to industries, most notably in the form of pollution control costs. One study cited at the International Congress on Hazardous Materials Management in 1987 found that the economic payback period of successful waste reduction methods was under one year in 55 percent of the cases studied.

Polution prevention can also result in increased productivity and efficiency of business operations by savings in purchase of chemicals, energy, water and other input materials, in addition to better management. The Science Advisory Board concluded: “Some pollution prevention technologies, like using energy more efficiently and recycling process materials, can pay for themselves quite apart from environmental considerations. One reason Japan and Western Europe have found pollution prevention costs to be competitive with traditional treatment technologies is that they use energy and raw materials so efficiently. To compete in the global marketplace, American businesses must use them more efficiently.” A Wall Street Journal article last December on the economic benefits of pollution prevention, noted that experts have concluded that American companies produce five times the waste per dollar of goods compared with Japanese companies and more than twice that of German companies. According to the experts, waste reduction can have a staggering beneficial effect on the bottom line of American companies. As one expert, a formerly pollution control teacher, stated: “I have seen companies improve their worldwide competitiveness.

There are numerous examples of successful cost savings from pollution prevention strategies. I learned about several success stories at a hearing on pollution prevention I held in Hartford, CT on April 9, 1990.

Seaboard Metal Finishing in Connecticut is a company of about 40 employees which puts coatings on many different metal products including nuts and bolts, staples, screw drivers, door hinges, latches and pen and pencil sets. One of the byproducts of Seaboard’s coating processes is a sludge contaminated with metals. This sludge is a hazardous waste.

In 1989, with a grant of $5,000 from the Connecticut Hazardous Waste Management Service, matched by $15,000 of Seaboard’s own money, Seaboard changed its manufacturing process to reduce the amount of hazardous waste it creates by 16 tons per year. Seaboard’s investment started paying for itself in a little more than a year because of increased efficiency. Seaboard’s technical assistance helped industries understand the benefits of pollution prevention—that it is a “win-win” situation for both a clean environment and a business’ bottom line.

Second, section 10 of the legislation authorizes grants for States which have developed a technical assistance program to assist businesses, particularly smaller businesses, in developing plans. In a recent article, the Economist magazine noted, “Precisely because the pressure within companies for end-of-pipe solutions is so strong, it is essential that government counteracts it.” I am confident that the planning and technical assistance provided by the legislation will assist industries in understanding the benefits of pollution prevention—that it is a “win-win” situation for both a clean environment and a business’ bottom line.
pollution prevention assistance program which involved sending Government specialists into facilities saved industry a minimum of $50 in waste management costs for every $1 invested by Ventura County.

Third, section 11 of the legislation established a new program to conduct research into new pollution prevention technologies and barriers to implementation of pollution prevention at the hazardous substance research centers operated under Superfund. This program should include the testing and development of new processes.

Fourth, section 12 of the legislation requires EPA to establish a regulatory incentives program for those facilities which are doing a good job at pollution prevention. The National Advisory Council for Environmental Policy and Technology, a panel of experts from Government, academia, States and public interest groups, has advised the Administrator of EPA that incentives, particularly in the area of permitting procedures, can be useful in fostering pollution prevention. The Administrator should develop a program which will implement the most effective incentives to encourage industries to implement ambitious pollution prevention plans.

Fifth, while industries are given a large degree of freedom in determining their pollution prevention goals, section 13 of the legislation requires that after 5 years, the Administrator shall identify five industry groups which are lagging behind in pollution prevention. Section 14 requires EPA to issue guidance on how to achieve reductions for those industry groups identified by the Administrator as lagging behind in pollution prevention, based on reasonably available technology.

Under section 15, nongovernmental, independent audits are required to be conducted at those facilities which fall within the problem industry groups identified by EPA. The auditors will provide recommendations for pollution prevention based on EPA's guidance; facilities must implement these recommendations. The purposes of a hazardous pollution prevention audit is to help industries which are having difficulties in pollution prevention. According to EPA, failure to achieve the full benefits from pollution prevention often results from a lack of understanding of the benefits and costs. Audits can help these industries realize the cost benefits of pollution prevention strategies.

Sections 15-18 of the legislation are new approaches to addressing the category of industry groups which are lagging behind in pollution prevention. This is my initial approach and I look forward to comments by industry and other interested groups. I intend to work with these groups on this approach.

Finally, section 15 also requires that independent audits be conducted at facilities where there is a history of non-compliance with the terms of permits or other provisions of environmental laws and the facility may present a threat to the public health, welfare, or the environment. The auditor will document all noncompliance with the environmental laws and provide recommendations for improving compliance; facilities must implement these recommendations.

EPA's Science Advisory Board recently concluded that there is widespread noncompliance with the environmental laws, such as the Clean Water Act. Their assessment was: "...the degree of freedom in determining their pollution prevention goals...". The report states that 5 years after the act is passed, the Administrator shall identify five industry groups which are lagging behind in pollution prevention. Section 14 requires EPA to issue guidance on how to achieve reductions for those industry groups identified by the Administrator as lagging behind in pollution prevention, based on reasonably available technology.

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Finally, section 15 also requires that independent audits be conducted at facilities where there is a history of non-compliance with the terms of permits or other provisions of environmental laws and the facility may present a threat to the public health, welfare, or the environment. The auditor will document all noncompliance with the environmental laws and provide recommendations for improving compliance; facilities must implement these recommendations.

EPA's Science Advisory Board recently concluded that there is widespread noncompliance with the environmental laws, such as the Clean Water Act. Their assessment was: "...the degree of freedom in determining their pollution prevention goals...". The report states that 5 years after the act is passed, the Administrator shall identify five industry groups which are lagging behind in pollution prevention. Section 14 requires EPA to issue guidance on how to achieve reductions for those industry groups identified by the Administrator as lagging behind in pollution prevention, based on reasonably available technology.

Under section 15, nongovernmental, independent audits are required to be conducted at those facilities which fall within the problem industry groups identified by EPA. The auditors will provide recommendations for pollution prevention based on EPA's guidance; facilities must implement these recommendations. The purposes of a hazardous pollution prevention audit is to help industries which are having difficulties in pollution prevention. According to EPA, failure to achieve the full benefits from pollution prevention often results from a lack of understanding of the benefits and costs. Audits can help these industries realize the cost benefits of pollution prevention strategies.

Sections 15-18 of the legislation are new approaches to addressing the category of industry groups which are lagging behind in pollution prevention. This is my initial approach and I look forward to comments by industry and other interested groups. I intend to work with these groups on this approach.
SEC. 5. HAZARDOUS POLLUTION PREVENTION PLAN.

(a) COVERED OWNERS AND OPERATORS—Each owner or operator of a facility required to submit a toxic chemical release form shall submit a Hazardous Pollution Prevention Plan.

(b) CONTENTS OF PLAN.—(1) Each Plan shall, at a minimum, include the following for each toxic chemical for which the owner or operator is required to submit a toxic chemical release form:

(A) Statement of overall scope and objectives of the Plan.

(B) An evaluation of the amount of the toxic chemical manufactured, processed, or used for the facility as a whole and for each production unit and the quantity of byproduct for each production unit.

(C) An analysis of the economic impacts of the use of each toxic chemical in the production unit, including regulatory and compliance costs, raw material costs, and byproduct storage, handling, and treatment costs.

(D) Two- and 5-year numerical goals for reductions (i) in the use of the toxic chemical and byproduct for the facility as a whole; (ii) in use of the toxic chemical per unit of product produced for each production unit and in byproduct per unit of product produced for each production unit through toxic use reduction or other source reduction methods.

(E) A comprehensive economic and technical evaluation of all methods for potentially achieving reductions, including a payback period for each method, and any technological obstacles to achieving reductions. The calculations used for determining the payback period shall be set forth in detail.

(F) Identification of technologies, procedures, and training programs to be implemented and the associated cost, including a description of the costs of implementing and anticipated savings from each technology, procedure, and training program.

(G) An evaluation of the amount of each toxic chemical for which the owner or operator shall provide a detailed explanation identifying the reasons for failing to include such measures.

(H) Identification of any measures identified in subparagraph (E) of this paragraph that would result in harm to public health or the environment.

(I) An analysis of the economic impacts of the use of each toxic chemical in the production unit, including regulatory and compliance costs, raw material costs, and byproduct storage, handling, and treatment costs.

(J) Two- and 5-year numerical goals for reductions (i) in the use of the toxic chemical and byproduct for the facility as a whole; (ii) in use of the toxic chemical per unit of product produced for each production unit and in byproduct per unit of product produced for each production unit through toxic use reduction or other source reduction methods.

(K) An analysis of the costs of implementing and anticipated savings from each technology, procedure, and training program.

(L) A detailed explanation identifying the reasons for failing to include such measures.

(M) A summary of the economic and technical evaluations of technologies considered for implementation and the payback period for each method.

(N) A detailed explanation identifying the reasons for failing to include such measures.

(O) A summary of the economic and technical evaluations of technologies considered for implementation and the payback period for each method.

(P) A detailed explanation identifying the reasons for failing to include such measures.

(Q) A summary of the economic and technical evaluations of technologies considered for implementation and the payback period for each method.

(R) A detailed explanation identifying the reasons for failing to include such measures.

(S) A summary of the economic and technical evaluations of technologies considered for implementation and the payback period for each method.

(T) A detailed explanation identifying the reasons for failing to include such measures.

(U) A summary of the economic and technical evaluations of technologies considered for implementation and the payback period for each method.

(V) A detailed explanation identifying the reasons for failing to include such measures.

(W) A summary of the economic and technical evaluations of technologies considered for implementation and the payback period for each method.

(X) A detailed explanation identifying the reasons for failing to include such measures.

(Y) A summary of the economic and technical evaluations of technologies considered for implementation and the payback period for each method.

(Z) A detailed explanation identifying the reasons for failing to include such measures.

(1) A summary of the economic and technical evaluations of technologies considered for implementation and the payback period for each method.

(m) MAINTENANCE PLAN.—(1) Each owner or operator shall maintain a record of all hazardous waste generated at the facility.

(n) DISCLOSURE.—The Administrator shall publish uniform forms for plans and reports required under this Act.

(0) REVIEW.—Within 12 months following the date of the enactment of this Act, the Administrator shall submit to the Congress a report on the progress made in implementing the provisions of this Act.
this Act, the Administrator or State shall issue a notice of noncompliance, specifying deficiencies in the report or Plan pursuant to this Act. The owner or operator shall submit a revised report addressing any deficiencies in the report within 90 days and shall revise any deficiencies in the Plan within 90 days.

SEC. 9. STATE DELEGATION.

Beginning 6 months after the date of the enactment of this Act, any State may submit a hazardous pollution prevention plan to the Administrator for approval under this Act. A State program may be approved if the Administrator determines that the State demonstrates that the program includes the following elements, and provisions for adequate enforcement—

(1) requirements for evaluation of plans and reports and identification of covered facilities that fail to comply with the provisions of this Act; and

(2) provisions for assisting the Administrator in identifying priority user segments as set forth in section 13 of this Act.

SEC. 10. TECHNICAL ASSISTANCE.

(a) GENERAL AUTHORITY.—The Administrator shall make matching grants to the States to provide assistance for hazardous pollution prevention planning required pursuant to this Act.

(b) CRITERIA.—In making grants to the States under this section, the Administrator shall consider whether the proposed program will—

(1) facilitate assistance by private or public consultants, including onsite consultation at covered facilities, in developing and implementing the Plan with a particular emphasis on smaller facilities;

(2) conduct programs, seminars, workshops, training programs, and other similar activities to assist in developing and implementing the Plan; and

(3) provide training and assistance for citizens, workers, and local government groups to assist these individuals and groups in understanding reports required to be submitted under this Act.

(c) MATCHING FUNDS.—Federal funds used in any State program under this section shall provide no more than 50 percent of funding; the remainder must be a State contribution in each year of that State's participation in the program.

SEC. 11. RESEARCH.

The Administrator shall establish at the National Research Council a National Research Center for Hazardous Substance Information and Research pursuant to section 81(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, a research and development program, and the Office of Pollution Prevention in performing its functions. The program shall include—

(1) basic research into technological barriers to reductions in the use of toxic chemicals and byproducts and the development of strategies for overcoming these barriers;

(2) basic research into social, economic, and institutional barriers to reducing the reliance of society on toxic chemicals and the development of strategies for overcoming these barriers;

(3) developing, evaluating, and demonstrating methods to assess reductions resulting from toxic use or other source reduction methods;

(4) research or pilot projects to develop and demonstrate innovative technologies for source reduction and toxic use reduction methods;

SEC. 12. REGULATORY INCENTIVES.

(a) DEMONSTRATION PROJECTS.—Within 12 months after the date of the enactment of this Act, the Administrator shall establish a demonstration program to provide regulatory incentives for the reduction of toxic use chemicals and byproducts. The Administrator may designate up to 50 facilities for inclusion in the demonstration program.

(b) AUTHORITY TO MODIFY.—(1) The Administrator, as part of the demonstration program, is authorized to modify the requirements of any permit or agreement. Any modification granted under this subsection shall specify the requirements being modified and the reasons for the modifications.

(2) At least 60 days before approval of any use of toxic chemicals, the Administrator shall—

(A) public notice and explanation of the proposed modification, and appropriate documentation supporting the modification; and

(B) provide a reasonable opportunity for submission of written comments and oral comments and an opportunity for a public meeting at or near the facility regarding the proposed modification.

(3) The Administrator may approve a modification if the Administrator determines that—

(A) the facility applying for the modification in is in compliance with the terms of existing environmental laws, regulations, permits, or agreements or any modifications applicable to the facility and has a history of compliance which the Administrator and the State deems satisfactory;

(B) the facility has the ability to implement human health and environmental risks under existing laws and agreements with the local government for ensuring that the risks are not shifted from one environmental medium to another;

(C) a significant increase in reductions in use of toxic chemicals and in byproducts will result, as compared to the reductions that would have resulted, under existing environmental laws; and

(D) the proposed modification in the section will contribute to achieving greater reductions in use of toxic chemicals and in byproducts.

(4) The Administrator's approval of a modification shall be accompanied by a response to each of the significant comments and date submitted in written and oral comments.

(5) As part of any modification granted pursuant to this section, the Administrator shall specify that the owner or operator of a facility monitored for a period of 60 months is in compliance with the modified terms of any permit or agreement. Monitoring shall be carried out at such time as the Administrator determines and shall identify by regulation no fewer than 50 facilities within the demonstration program.

(6) The duration of any modification shall not exceed 12 months. Upon expiration of any modification granted pursuant to this section, the Administrator may renew the modified permit or agreement for a period of 24 months. If the Administrator determines that the requirements of paragraph (3) continue to be met.

(7) Within 24 months after the date of enactment of this Act, the Administrator shall submit a report to the Committee on Energy and Commerce of the House of Representatives concerning the implementation of this section. The Administrator shall include recommendations on whether or not the scope of the regulatory incentives program should be expanded.

SEC. 13. FUNDING.

No later than 12 months after the date of the enactment of this Act, and every 12 months thereafter, the Administrator shall publish a report to the Committee on Energy and Commerce of the House of Representatives containing recommendations concerning the following:

(1) the technical and economic feasibility of achieving reductions in the use of toxic chemicals under this Act;

(2) the social, health, and economic benefits and costs of designation as a priority user segment;

(3) the extent to which facilities within a user segment are emitting toxic chemicals to more than one environmental medium;

(4) the amount of toxic chemicals from the facility which are recycled.

SEC. 14. HAZARDOUS POLLUTION PREVENTION AUDITS.

No later than 12 months after the Administrator designates a priority user segment under section 13, the Administrator shall publish, after notice and opportunity to comment, guidance for obtaining reductions in use of toxic chemicals and byproducts at facilities within each priority user segment. The Administrator shall issue guidance which is based on reasonably available technology for achieving the reductions.

(1) AUDITS FOR NONCOMPLIANCE.—(a) AUDITS FOR NONCOMPLIANCE.—(1) The Administrator shall require a compliance audit at any covered facility which the Administrator determines has violated any of the provisions of this Act. The Administrator shall provide the owner or operator of each facility required to prepare an audit pursuant to this section.
(3) No later than 6 months after receipt of notice required under paragraph (2), any facility identified by the Administrator pursuant to paragraph (1) of this subsection shall conduct a compliance audit to establish the compliance of the facility with the terms, requirements, and conditions of permits or other requirements of the environmental laws and regulations, and provide recommendations for improving the degree and extent of compliance, including a timetable for implementation of the recommendations. Each such facility shall conduct audits until such time as the Administrator certifies, based on the audits and other available data, that the conditions governing such facility have been corrected.

(4) The owner or operator shall submit the recommendations contained in the audit to the Administrator.

(5) Each facility required to prepare a compliance audit shall implement the recommendations contained in the audit in accordance with the schedule contained in the audit.

(c) CERTIFIED AUDITOR.—Any audit conducted pursuant to this section shall be conducted by a firm, person, or organization who is certified to conduct audits pursuant to section 5703(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(d) REGULATIONS.—Within 180 days following the date of enactment of this Act, the Administrator shall, by regulation, establish requirements concerning the form and content of audits required pursuant to this section.

SEC. 16. ENVIRONMENTAL AUDIT TRAINING AND CERTIFICATION.

(a) TRAINING PROGRAMS.—(1) The Administrator shall conduct and develop programs to train individuals to conduct both hazardous pollution prevention and compliance audits (hereafter referred to as “environmental audits”) and shall certify individuals, firms, and organizations as proficient in environmental auditing. The Administrator may contract with institutions of higher learning or other organizations or firms to conduct such training programs.

(2) The Administrator shall publish, within 180 days following the date of enactment of this Act, and periodically thereafter, a general policy concerning practices, and protocols of environmental auditing.

(b) CERTIFICATION.—(1) The Administrator shall certify an individual, firm, or organization as proficient in environmental auditing. The Administrator may train individuals to conduct both hazardous pollution prevention and compliance audits (hereafter referred to as “environmental audits”) and shall certify individuals, firms, and organizations as proficient in environmental auditing. The Administrator may contract with institutions of higher learning or other organizations or firms to conduct such training programs.

(2) The Administrator, within 180 days following the date of enactment of this Act, shall promulgate regulations governing the testing and certification of auditors pursuant to this section.

(3) A certification pursuant to this section shall apply for a period of not more than 5 years, after which time an individual, firm, or organization must be recertified pursuant to this section in order to act as a certified environmental auditor.

(4) The Administrator is authorized to collect fees for training and certification pursuant to this section equal to the administrative costs of implementing environmental programs. Fees collected pursuant to this subsection shall be deposited into an environmental audit fund.

SEC. 17. AUDIT OVERSIGHT AND EVALUATION.

(a) OVERSIGHT.—The Administrator shall provide for the evaluation of environmental audits conducted and required by the Administrator pursuant to this Act.

(b) EVALUATION.—The Administrator shall provide for the evaluation of the reliability of data, measurements, assessments and analyses conducted by firms or organizations certified to conduct environmental audits.

(c) BOARD.—(1) There is established an Environmental Audit Oversight Board (hereinafter referred to as the “Board”) which shall conduct a compliance audit to establish the recommendations contained in the audit.

(2) The purpose of the Board is to advise the Administrator in the development and implementation of the administration of the Environmental Protection Agency.

(3) The Board shall be established within 180 days following the date of enactment of this Act and shall consist of not more than 15 individuals, appointed by the Administrator to serve terms of not exceeding 3 years.

(4) The Board shall be comprised of not more than 5 individuals, appointed by the Administrator to serve terms of not exceeding 3 years.

(5) The Board shall represent the scientific community, regulated parties, and public interest groups, in such a way as to represent various regions of the country.

(6) Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided by personnel of the Environmental Protection Agency.

(7) Members of the Board shall, while attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at a rate to be fixed by the Administrator, but not to exceed the daily equivalent of the base rate of pay in effect for grade GS-15 of the General Schedule under section 5332 of title 5, United States Code (or other equivalent time during which they are engaged in the actual performance of duties vested in the Board). While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5708(b) of title 5 of the United States Code.

SEC. 18. TREATMENT OF CERTAIN INFORMATION.

(a) CONFIDENTIALITY AND AVAILABILITY OF CERTAIN RECORDS AND INFORMATION.—(1) Any information required by this Act shall be available to any person under section 15 relating to audits, section 6 relating to reports, or the provisions of section 15 relating to reports. Any such information shall be available to the Administrator, but not to be otherwise obtained by the Administrator in writing and in such manner as the Administrator may prescribe by regulation.

(b) PROHIBITION OF DISCLOSURE.—Any information made available to the Administrator under this Act shall be available, upon written request of any duly authorized committee of the Congress, to such committee.

(c) BOARD.—(1) There is established an Environmental Audit Oversight Board (hereinafter referred to as the “Board”).

(2) The Board is established to advise the Administrator in the development and implementation of the Environmental Audit Oversight Board.

(3) The Board shall consist of not more than 5 individuals, appointed by the Administrator to serve terms of not exceeding 3 years.

(4) The Board shall be comprised of not more than 15 individuals, appointed by the Administrator to serve terms of not exceeding 3 years.

(5) The Board shall represent the scientific community, regulated parties, and public interest groups, in such a way as to represent various regions of the country.

(6) Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided by personnel of the Environmental Protection Agency.

(7) Members of the Board shall, while attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at a rate to be fixed by the Administrator, but not to exceed the daily equivalent of the base rate of pay in effect for grade GS-15 of the General Schedule under section 5332 of title 5, United States Code (or other equivalent time during which they are engaged in the actual performance of duties vested in the Board). While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5708(b) of title 5 of the United States Code.

(8) The Board shall be comprised of not more than 15 individuals, appointed by the Administrator to serve terms of not exceeding 3 years.

(9) The Board shall represent the scientific community, regulated parties, and public interest groups, in such a way as to represent various regions of the country.

(10) Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided by personnel of the Environmental Protection Agency.

(11) Members of the Board shall, while attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at a rate to be fixed by the Administrator, but not to exceed the daily equivalent of the base rate of pay in effect for grade GS-15 of the General Schedule under section 5332 of title 5, United States Code (or other equivalent time during which they are engaged in the actual performance of duties vested in the Board). While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5708(b) of title 5 of the United States Code.

(12) The Board shall be comprised of not more than 15 individuals, appointed by the Administrator to serve terms of not exceeding 3 years.

(13) The Board shall represent the scientific community, regulated parties, and public interest groups, in such a way as to represent various regions of the country.

(14) Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided by personnel of the Environmental Protection Agency.

(15) Members of the Board shall, while attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at a rate to be fixed by the Administrator, but not to exceed the daily equivalent of the base rate of pay in effect for grade GS-15 of the General Schedule under section 5332 of title 5, United States Code (or other equivalent time during which they are engaged in the actual performance of duties vested in the Board). While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5708(b) of title 5 of the United States Code.

SEC. 19. PENALTIES.

(a) CIVIL PENALTIES.—(1) The owner or operator of a facility which is required to conduct an audit pursuant to section 15 of this Act and the certified auditor shall provide such assurance as the Administrator shall require concerning the accuracy and completeness of any audit document or related information submitted under this Act.

(b) UNPROTECTED INFORMATION.—The following information with respect to any toxic chemical or hazardous waste which is stored at the facility shall not be entitled to protection under this paragraph:

(1) the toxic chemical name, common name, or generic class or category of the toxic chemical or hazardous waste;

(2) the physical properties of the substance, including its boiling point, melting point, flash point, specific gravity, vapor density, solubility in water, and vapor pressure at 20 degrees Celsius;

(3) the hazards to public health or the environment posed by the substance, including physical hazards (such as explosion) and potential acute and chronic health hazards;

(4) the potential routes of human exposure to the substance at the facility;

(5) the location of disposal of any waste stream.

(6) any monitoring data or analysis of monitoring data pertaining to disposal activities;

(7) any hydrogeologic or geologic data; and

(8) any ground water monitoring data.
SECTION 20. RELATION TO OTHER ENVIRONMENTAL STATUTES.

(a) STATE LAW.—Nothing in this Act shall preempt any State or political subdivision to adopt or enforce any law, regulation, rule, or standard that is more stringent than this Act or, a regulation, rule, or standard of performance in effect under this Act, or to impose any additional liability.

(b) DENIAL.—The Administrator or a State delegated authority under this Act may deny a permit under any environmental law to the owner or operator of any covered facility which has not prepared and implemented a Plan or submitted reports and updates, as required under sections 5, 6, and 8 of this Act. The Administrator may also deny a permit to the owner or operator of any facility which is required to submit information pursuant to the requirements of section 13 relating to audit and fails to submit the information or fails to implement the recommendations in the audit.

SECTION 21. AUTHORIZATIONS.

There is authorized to be appropriated to the Administrator $10,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996 for the purposes of carrying out the provisions of section 19 of this Act. There is authorized to be appropriated to the Administrator $10,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the provisions of this Act other than section 10.

SEC. 20. RELATION TO OTHER ENVIRONMENTAL STATUTES.

(a) STATE LAW.—Nothing in this Act shall preempt any State or political subdivision to adopt or enforce any law, regulation, rule, or standard that is more stringent than this Act or, a regulation, rule, or standard of performance in effect under this Act, or to impose any additional liability.

(b) DENIAL.—The Administrator or a State delegated authority under this Act may deny a permit under any environmental law to the owner or operator of any covered facility which has not prepared and implemented a Plan or submitted reports and updates, as required under sections 5, 6, and 8 of this Act. The Administrator may also deny a permit to the owner or operator of any facility which is required to submit information pursuant to the requirements of section 13 relating to audit and fails to submit the information or fails to implement the recommendations in the audit.

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SECTION-BY-SECTION DESCRIPTION OF THE HAZARDOUS POLLUTION PREVENTION PLANNING ACT

1. Section 1—Short Title: The Act shall be cited as the "Hazardous Pollution Prevention Planning Act of 1991".

2. Section 2—Findings:

The Environmental Protection Agency estimates that billions of pounds of toxic chemicals are emitted into the air, land or water each year.

The release of these toxic chemicals into the environment can harm human health, welfare and the environment.

Traditional approaches to environmental regulations which have emphasized controlling pollution after it has been created are not sufficient to address all our environmental problems.

Hazardous pollution prevention must become the centerpiece of our long-term strategy for achieving environmental protection.

There are proven and cost-effective technologies and management practices that can achieve hazardous pollution prevention.

Hazardous pollution prevention can have a tremendous cost benefit for industry by avoiding costs of control, cleanup and liability and by leading to increases in industrial efficiency and productivity through savings in purchases of chemicals, energy, water and other input materials.

Hazardous pollution prevention often prevents the solution to one environmental problem from re-emerging as another kind of environmental problem.

An important step in hazardous pollution prevention is the development of plans with numerical goals for reduction.

There is a need to provide technical assistance and training to firms, especially smaller firms, in preparing such plans.

There is need for research to develop new industrial technologies and practices that will reduce the social, economic and institutional barriers to preventing hazardous pollution.
sions of the Act to States which have demonstrated that their program includes sufficient requirements to evaluate plans and reports.

Section 10—Technical assistance and research:
Requires the Administrator to make matching grants to States for programs to provide technical assistance and training programs for citizens, workers, and local government groups in understanding the reports submitted by facilities under this Act.

Section 11—The Administrator to establish at the Hazardous Substance Research Centers operated under section 311(d) of the Comprehensive Environmental Response, Compensation, and Liability Act, a research program to assist the Agency's Office of Pollution Prevention in conducting basic research into reductions in the use of toxic chemicals and to develop and demonstrate innovative technologies for source reduction.

Section 12—Regulatory incentives:
Requires the Administrator to establish a demonstration program to provide regulatory incentives for achieving reductions in use of toxic chemicals and byproduct. The Administrator may designate up to 50 facilities to participate in the demonstration program. As part of the demonstration program, the Administrator is authorized after providing for public comment and an opportunity for a public meeting, to modify the requirements of permits or agreements, if certain criteria are met, including: greater net protection of public health and the environment than required under existing environmental laws; a significant increase in reductions in the use of toxic chemicals and by-product, as compared to reductions that would have resulted under existing environmental laws; and showing that the modification will contribute to achieving these reductions.

Section 13—Prioritizing user segments:
Requires the Administrator in consultation with the Governor of each State to identify by regulation 5 user segments which the Administrator determines needs improvements in reducing the amount of byproduct and use of toxic chemicals. An additional 10 user segments shall be designated by the Administrator every 12 months.

Section 14—Hazardous pollution prevention guidance:
Requires the Administrator to publish guidance for obtaining reductions in use of toxic chemicals and byproduct at facilities within the designated priority user segments.

Section 15—Environmental audits:
Requires large quantity facilities within a priority user segment to conduct a hazardous pollution prevention audit. The audit must be conducted by an individual, firm, or organization certified by the Administrator as an environmental auditor upon the satisfactory completion of a program of testing.

The audit shall contain specific recommendations for reductions in accordance with the guidance issued by the Administrator. The owner or operator of each facility required to prepare an audit shall implement the recommendations according to the schedule in the audit.

The Administrator is authorized to extend this requirement to other facilities within the user segment.

Requires that the Administrator require a compliance audit at covered facilities where the Administrator finds that, based on a history of noncompliance with the terms of permits issued under the environmental laws, the facility may present a threat to human health, welfare, or the environment.

Section 16—Environmental audit training and certification:
Requires the Administrator to develop and conduct training and certification programs to train individuals, firms, and organizations as proficient in environmental auditing and to certify those entities as proficient.

Requires the Administrator to promulgate regulations governing the testing and certification of auditors.

Requires the Administrator to collect fees for training and certification of auditors.

Section 17—Audit oversight and evaluation:
Requires the Administrator to provide for oversight and evaluation of environmental audits.

Establishes the Environmental Audit Oversight Board to advise the Administrator in the development and implementation of auditing and certification of auditors. The Board shall be composed of ten persons and shall represent the scientific community, regulated parties and public interest groups.

Section 18—Confidentiality:
Requires that reports prepared under section 6, updates of the reports and audits shall be available to the public and sets forth procedures for claiming confidentiality protection for information contained in those documents.

Section 19—Penalties:
Provides for a penalty not to exceed $200,000 for any owner or operator who submits a false certification in connection with an audit and for any person who willfully divulges information which is confidential under this Act.

Provides for penalties up to $35,000 per day for any owner or operator required to conduct an audit who fails to submit reports or other information required as part of an audit, or who fails to implement the recommendations in an audit.

Provides for penalties up to $10,000 per day for any owner or operator who fails to submit a report summarizing a Plan or fails to prepare or implement a Plan.

Authorizes the Administrator to bring a civil action seeking penalties or compliance or both on a person who willfully divulges information which is confidential under this Act.

Section 20—Relationship to other environmental statutes:
Provides that states may adopt and enforce any law that is more stringent than the provisions of the Act or impose any additional liability.

Authorizes the Administrator or a State to deny a permit under any environmental law to the owner or operator of a covered facility if the owner or operator has not prepared or implemented a Plan, submitted a report, submitted information required as part of the auditing provisions, or implemented the recommendations in the audit.

Section 21—Authorizations:

By Mr. REID:
S. 762. A bill to amend title II of the Social Security Act to provide for an increase of up to 5 in number of years disregarded in determining average earnings on which benefit amounts are based upon a showing of preclusion from remunerative work during such years occasioned by need to provide child care or care of the chronically ill relative, to the Committee on Finance.

SOCIAL SECURITY CAREGIVERS ACT
Mr. REID, Mr. President, I rise today to offer the Social Security Caregivers Act.

As we all know, a Social Security beneficiary's monthly check is based on a man or woman's work history. The more years you work, the higher your Social Security check will be.

I have seen many people work, however, year after year, yet their monthly Social Security check does not reflect their hard work. As a result, this special group of people receives much less in benefits than others.

The people I am describing are a group I call caregivers. They are the men and women who stay out of what I affectionately refer to as the work-force. They stay at home and care for children, elderly parents, and other dependent relatives. They tend to domestic responsibilities like taking care of their homes. And, as you would expect, when they turn 65, they don't receive much in Social Security benefits.

Although men certainly work in their homes, caregivers are traditionally women. Because of this, women are receiving much less in Social Security benefits than men, when they spent just as many years working—only not as salaried employees.

This inequity accounts for, in part, the fact that nearly three-fourths of older Americans living below the pov­erty level are women. What is further troubling—this number is growing. Studies show that two out of five elderly women will need the help of a family member in the year 2020. The average monthly Social Security benefit for men is $628. The average monthly benefit for women is $459.

The Social Security Caregivers Act will allow women and men to drop out of 5 years of either zero or very low earnings from the Social Security benefit calculation providing those years have been dedicated to caregiving. This means a mother or father who stays at home to care for children will not be penalized for those years at home by the Social Security System.

I hope my colleagues agree that Americans should not be penalized for tending to family responsibilities, and will support this Act.

By Mr. LUGAR:
S. 763. A bill to suspend temporarily the duty on certain composite diagnostic or laboratory reagents; to the Committee on Finance.
AFRICAN DEVELOPMENT FOUNDATION

Hon. J. Danforth Quayle,

Vice President of the United States and Presi­dent of the Senate, U.S. Senate, Washington,
DC.


The bill authorizes the appropriation of $14,950,000 for the African Development Foundation, and for Fiscal Year 1993, such sums as may be necessary.

Sincerely yours,

GREGORY ROBBEN SMITH,

President.

By Mr. Breaux (for himself, Mr. Durbin, Mr. Johnson, Mr. Gordon, Mr. Bryan, Mr. Kasten, Mr. Reid, Mr.arkin, Mr. Shelby, Mr. Exon, Mr. Helms, Mr. Grassley, and Mr. Burns):

S. 765. A bill to amend the Internal Revenue Code of 1986 to exclude the im­position of employer social security taxes on cash slips; to the Committee on Finance.

REFEAL OF THE FICA TAX ON TIPS

Mr. Breaux. Mr. President, each time Congress passes a law it is with the implicit understanding that imple­mentation of that law will be reviewed and evaluated. Sometimes Congress makes a mistake. Sometimes it finds it has passed a law that places an unfair burden on certain members of society. This is, I believe, to be the case under a law adopted in 1987 requiring employ­ers to pay FICA payroll taxes on tips even though tips are not payroll income provided by an employer. FICA taxes are payroll taxes imposed on an employee's wages, half of the tax is withheld from the employee's wages and half of the tax is paid by the employer. The current combined employer/employee FICA tax rate is 15.02 percent.

Tips are compensation provided to an employee by a third party and not by an employer. Congress has struggled with how to treat this special form of compensation for over 20 years. Since 1965 and prior to 1987, Congress properly treated tips as self-employment income and required only the employee to pay FICA taxes on reported tips. Employers were required to pay FICA taxes only on wages he paid and the value of the tip credit. The tip credit allowed employers to pay tipped em­ployees less than the minimum wage, provided these employees reported tips equal to or greater than the tip credit amount. The employers were required to pay FICA taxes on wages and any tip income used by the employee as a tip credit to meet the minimum wage. This policy was consistent and fair, with tips treated uniformly for both FICA and minimum wage pur­poses. I believe this policy, Mr. Presi­dent, was the correct policy and the only fair way to treat tips.

However, in 1987 Congress reversed this policy when it required employers to pay FICA taxes on all reported tips. As a result, tips are treated inconsist­ently for purposes of the minimum wage laws, and for purposes of the FICA tax. This policy has also been devast­ating to the restaurant industry which is made up primarily of small businesses. According to 1987 census figures, nearly 80 percent of eating and drinking establishments has annual sales of less than $500,000. Clearly these taxes increase costs, reduce profits, and act as powerful disincentives for job creation by small businesses.

This requirement also puts restau­rant employees in the position of incur­ring unknown liabilities for taxes, interest, and penalties when employees do not fully report tip income. The 1982 Tax Equity and Fiscal Responsibility Act (TEFRA) requires that certain restau­rant employers must annually report information that includes gross receipts, total amount of charge re­ceipts, the total amount of charged tips, and the total amount of tips re­ported by employees. The TEFRA pro­vision also requires that if the total amount of tip income reported by em­ployees to employers was less than 8 percent of the establishment's totals sales, employers must allocate the di­ference between 8 percent and the re­ported amount among the individual employees as tip income. This law puts the restaurant employer at the mercy of his tipped worker. Although an em­ployer has no control over the amounts of tips received or reported, if an em­ployee underreports his tips, the em­ployer could be held liable for the untruthful return.

We believe the best way to approach this problem is to maintain the status quo. Congress has a duty to ensure that the rules of tax collection are applied consistently for both minimum wage and employment security purposes. I am introducing this bill in an effort to codify the current treatment of tips as exempt from self employment.
The bill I am introducing today would help alleviate the unfair administra­
tion of spoils. It would only be disposed of by the United States on those small businessmen. Quite simply, this bill reinstates the former and longstanding congressional policy, and the only policy that makes sense, that tips in excess of the tip credit are not payroll. Under the bill, tips would be treated consistently for purposes of the minimum wage laws and for purposes of imposing the FICA tax.

Mr. President, the average restaurant in America is not the palm or the prime rib—it is the local highway truck stop or the local diner. In many rural areas, such as in my State of Louisiana, restaurants are a primary employer. Restaurants have been hard hit by FICA on tips, reducing or elimin­ating thin profit margins. The industry average pretax profit is 2 to 4 percent of total sales. The unfair tax burden now carried by these small busi­nessmen needs lifting and I look for­ward to working with my colleagues in the Senate towards that end.

By Mr. MOYNIHAN:
S. 766. A bill to govern the transfer of spoils of war to foreign governments, groups and persons; to the Committee on Foreign Relations.

TRANSFERS OF SPOILS OF WAR

Mr. MOYNIHAN. Mr. President, the conflict in the Persian Gulf has left the United States in possession of vast quantities of Iraqi weapons: Sophisti­cated tanks, caches of light arms, ad­vanced artillery, and much, much more. It is an anomaly of our statute, however, that while there is a well-es­tablished structure of laws governing the transfer of weapons manufactured in the United States, there are no laws on the books which directly and explic­itly control the transfer of captured weapons, despite the fact that the United States has captured weapons in the past.

Already we have read reports that some of these Iraqi weapons will be provided to Syria. Another report states that weapons experts from all over the world are descending on the Persian Gulf to pick over and ultimately dispose of thousands of Iraqi tanks, cannons and other military equipment abandoned during the six-week war and now strewn all over the battlefield.

Historically the Department of State has taken the position that these weapons belong to the United States by vir­tue of customary international law and the terms of the Hague Convention of 1907. This is, I am confident, a correct interpretation of the law. And because captured weapons become U.S. property, they should only be disposed of in accordance with law. As I said, I be­lieve that this is the correct interpre­tation of international law, but interpre­tations have been known to change.

Thus I believe that is only prudent to place these weapons explicitly under the existing laws governing the trans­fer of U.S. arms, including the prohibi­tion on providing weapons to govern­ments which support terrorism.

The Senate made a good beginning at addressing this problem when it adopt­ed H.R. 1282, the supplemental appro­priation bill for Operation Desert Shield and Operation Desert Storm. Section 105(e) of the act forbids the transfer of captured Iraqi weapons to certain governments without congres­sional approval. However, it is fairly clear that this provision falls short of solving the larger problem. It is limited to Iraqi weapons, and will, there­fore, not apply to the next instance of captured weapons. We should close this potential loophole for the future as well. Section 105(e) only forbids the transfer of weapons to government or governmental entities. I believe that it is vitally important that we govern the transfer of weapons to nongovern­mental entities, such as the guerrilla movements, as well as individuals. The language of H.R. 1282 applies solely to governments in the Middle East, although the problem is global in scope. Finally, I believe that rather than cre­ating a new hybrid procedure we should instead place captured weapons under the already established arms transfer provisions.

Mr. President, I ask unanimous con­sent that the text of this legislation be printed in the RECORD and I urge my colleagues to support its adoption.

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

S. 766

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 Spoils of War Act of 1991".

SEC. 2. TRANSFERS OF SPOILS OF WAR.

(a) ELIGIBILITY FOR TRANSFER.—Spoils of war are those weapons and other property of the United States that may be transferred to any other party, including any government, group or person, by sale, grant, loan or in any other manner, only to the extent and in the same manner that property of the same type, if otherwise owned by the United States, may be so transferred.

(b) TERMS AND CONDITIONS.—Any transfer pursuant to subsection (a) shall be subject to all of the terms, conditions and requirements applicable to the transfer of property of the same type otherwise owned by the United States.

SEC. 3. PROHIBITION ON TRANSFERS TO COUNTRIES WHICH SUPPORT TERRORISM.

Spoils of war in the possession, custody or control of the United States may not be transferred to any country determined by the Secretary of State, for purposes of section 40 of the Arms Export Control Act, to be a nation whose government has repeatedly provided support for acts of international terrorism.

Mr. KASTENBERGER. By Mr. KASTENBERGER:
S. 190. Joint resolution designating January 5, 1992 through January 11, 1992 as “National Law Enforce­ment Training Week”; to the Committee on the Judiciary.

NATIONAL LAW ENFORCEMENT TRAINING WEEK

Mr. KASTENBERGER. Mr. President, I rise today to introduce a joint resolution to design­ate January 5 through January 11, 1992 as “National Law Enforcement Training Week.” My colleague, Les Aspin, yesterday introduced a companion measure in the House of Represent­atives.

It is an understatement to say that law enforcement trainers play a criti­cal role in ensuring the safety of our Nation. The sad truth is that we live today in a world where children are forced to carry bullet-proof backpacks to school, where women in cities fear to go out alone at night, and where our nation’s elderly must confront crim­i­nals and drug gangs in their own back­yards. In such a world, hundreds of po­lice officers are assaulted, injured or killed while protecting our neighbor­hoods. Never has the role of law en­forcement been so vital, nor has the training that police officers receive become more critical to our current security. Yet despite the dangers, each day when we read the paper or watch the news on television, we can see law enforcement officials working to protect citizens.
from crime and drugs. And every day, many of these same officers risk their lives to ensure public safety.

The most effective tool for law enforcement professionals is quality training. Good training protects the lives of police officers while enabling these officers to protect the public. In my own state, the American Society of Law Enforcement Trainers has brought a national membership of law enforcement professionals together for several years, supporting progressive and innovative law enforcement education.

Mr. President, National Law Enforcement Training Week has helped to heighten public awareness about law enforcement training for 2 years. I believe that we must continue to support the efforts that honor the officials who serve our nation by training the people who guarantee our safety. That is why I hope my colleagues will join me in cosponsoring this resolution, and why I believe that it will soon be signed into law.

I ask unanimous consent that the text of the Joint resolution be printed in the RECORD.

The Senator from West Virginia with no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 100

Whereas law enforcement training and sciences related to law enforcement are critical to the immediate and long-term safety and well-being of this Nation because law enforcement professionals provide service and protection to citizens in all sectors of our society;

Whereas law enforcement training is a critical component of national efforts to protect the citizens of this Nation from violent crime, to combat the malignancy of illicit drugs, and to apprehend criminals who commit personal, property and business crimes;

Whereas law enforcement training serves the hard working and law abiding citizens of this Nation;

Whereas it is essential that the citizens of this Nation be able to enjoy an inherent right of freedom from fear and learn of the significant contributions that law enforcement trainers have made to assure such right;

Whereas it is vital to build and maintain a highly trained and motivated law enforcement work force that is educated and trained in the skills of law enforcement and sciences related to law enforcement in order to take advantage of the opportunities that law enforcement provides;

Whereas it is in the national interest to stimulate and encourage the youth of this Nation to appreciate the intellectual fascination of law enforcement training and to the safety and security of all citizens;

Whereas it is in the national interest to encourage the youth of this Nation to appreciate the intellectual fascination of law enforcement training and to the safety and security of all citizens;

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 5, 1992, is designated as "National Law Enforcement Training Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate exhibits, ceremonies, and activities, including programs designed to heighten the awareness of the citizens of this Nation of the importance of law enforcement training and related disciplines.

By Mr. GORE:

DEFORESTATION IN PAPUA NEW GUINEA

Mr. GORE. Mr. President, I would like to introduce a resolution today and tell my colleagues about it. Yesterday, I had an opportunity to meet with Justice Thomas Barnett, until recently of Papua New Guinea. The story he told was chilling. I rise today to introduce a resolution calling to the attention of my distinguished colleagues and the executive branch of our Government the tragic experience now underway for the people of Papua New Guinea.

I would also like to point out at this time that a resolution virtually identical to this one will be introduced next week in the Japanese Diet and a third version of this resolution will be introduced next week in the European Parliament.

The story Justice Barnett tells is one rife with corruption, fraud, human rights abuse, and environmental devastation. Papua New Guinea, is a small nation jutting into the South Pacific, and the home to some 3 million people. These are, for the most part, indigenous peoples, depending significantly on the forests of New Guinea, which constitute the largest remaining expanse of intact tropical rain forest in Asia. The trauma Justice Barnett has suffered and to the tragic experience now underway for the people of Papua New Guinea.

That January 5, 1992, is designated as "National Law Enforcement Training Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate exhibits, ceremonies, and activities, including programs designed to heighten the awareness of the citizens of this Nation of the importance of law enforcement training and related disciplines.

S.J. Res. 101. Joint resolution noting the finding of the Commission of Inquiry into aspects of the forest industry in Papua New Guinea, and calling for appropriate actions; to the Committee on Foreign Relations.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 5, 1992, is designated as "National Law Enforcement Training Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate exhibits, ceremonies, and activities, including programs designed to heighten the awareness of the citizens of this Nation of the importance of law enforcement training and related disciplines.

March 21, 1991

Justice Barnett discovered, for example, that the logging companies were making many tens of millions of dollars in profit, and yet, until 1986, not a single company declared any profit to the Government of Papua New Guinea.

Moreover, the companies were promising the indigenous peoples homes, money, and education in exchange for their land. What they delivered, however, was deprivation and destruction, forcing workers to labor in the forests 7 days a week and under the most deplorable conditions. The companies in many cases paid them no royalties and in no case constructed for them the replacement communities that had been promised.

To the contrary, entire villages were bulldozed by companies eager to move logs. People were left in temporary shanty villages, sometimes on bare hillsides. Churches were destroyed, graves desecrated.

The companies would not tolerate resistance to their presence in the rain forest and harassed these indigenous lands into submission.

As Justice Barnett continued his official investigation, he discovered some high level government officials were deeply involved with the companies in their campaign of fraud and corruption. At that point the enthusiasm for the investigation quickly vanished.

Justice Barnett's final report has been suppressed. Documents demonstrating the rampant corruption have been destroyed in fires, and Justice Barnett's life has been threatened. He was stabbed nearly fatally outside his home and has now been forced to leave Papua New Guinea.

The names of the companies primarily responsible for this destruction are familiar to us—the Nissho Iwai and Sumitomo companies are examples—continuing their pattern of destruction so evident in Indonesia and in Malaysia.

These large Japanese companies are inflicting incredible harm on the indigenous peoples of the forest and on the living species that are being destroyed as the forests are torn down and burned.

The carnage must be stopped. In this resolution, among other things, I call on the Japanese Government to investigate the activities of these large companies and bring an end to their abuses.
Again, Mr. President, this resolution will also be introduced next week in the Japanese Diet.

But not only the Japanese bear responsibility for this tragedy; we, too, are involved. While United States companies do not log in Papua New Guinea, we are a huge market for tropical wood torn from similar forests.

I, therefore, urge my colleagues to join me in calling for arrangements of technical and financial assistance enabling the people of the forest to survive and to stop the wanton destruction of the habitats of the many species that are being lost forever.

Mr. President, I will print the complete text of this resolution in the RECORD.

I might just say as a footnote, the coordinated action in the Japanese Diet and the European Parliament is being facilitated by the Global Legislators Organized for a Balanced Environment which is made up of legislators from countries throughout the world.

We have seen in several different locations of the tropics particular areas of rain forests that are singled out for intensive logging. Sarawak has been talked about quite a bit. The Amazon, of course, is probably the most famous example. Now Papua New Guinea has been singled out.

The ferocity of this onslaught is just devastating. The harm done, as I have tried to note in these remarks, is so great that the world as a whole must speak out in an effort to stop this.

I hope, as a result, my colleagues will support this resolution.

Mr. President, I ask unanimous consent that the text of this 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. 101

Whereas the tropical forests of our planet are being destroyed at the rate of 40 to 50 million acres per year, often causing great damage, impairing local economies and biological diversity, impoverishing local communities and societies, and reducing resources for mankind's future;

Whereas this destruction, particularly in various nations of Southeast Asia, is closely connected to the logging and extraction of timber by European Community and the United States; and whereas the largest remaining expanse of relatively intact tropical rain forest in Asia is on the island of New Guinea, biologically one of the richest areas on Earth;

Whereas the Government of Papua New Guinea (PNG) commissioned an investigation under its Commission of Inquiry Into Aspects of the Timber Industry in that major timber-exporting nation;

Whereas the Commission of Inquiry produced a 20-volume, 6,000-page report detailing severe abuses and illegal activities by companies operating there, including defrauding the government of timber royalties, export duties and tax revenues through the practice of transfer pricing by virtually all large companies investigated; bribery of high-level government officials; violations of regulations intended to reduce damage caused by the construction of roads and the operation of logging; falsification of the species, quality, volume and value of exported timber; theft and illegal sales of undeclared timber; cheating landowners of proper royalties and benefits, and others;

Whereas the Commission of Inquiry concluded that the activities of timber companies in Papua New Guinea impaired the sovereignty of that country, and are major corrupting influences on the development of democracy in that emerging nation, having shattered the hopes and livelihoods of the poorest people in the country;

Whereas the findings of this Commission of Inquiry were not made public, nor have they formed the basis for criminal proceedings and other activities to ensure that illegal corporations are banned from logging and trading, and many corporations found to have broken laws still operate without impunity; and whereas only a few of the recommendations for needed reforms of the timber industry are being pursued, such as with the drafting of a new Forestry Bill, and the Commission of Inquiry deciding that penalties called upon the international community to provide necessary support to reform its forestry sector and have developed importing nations to restrain their demand for timber so as to not place an onerous and unmanageable burden on the timber resources of that country or exceed that nation's ability to manage its forests well;

Whereas the PNG Commission of Inquiry provides a level of detail about the disturbing operations of companies participating in the international timber trade to a degree unlikely to be duplicated in any other country, and yet likely reflecting the nature of problems occurring in other timber exporting regions, and therefore should provide the basis for efforts to reform and control the international tropical timber trade and aid tropical forest nations to conserve their forests;

Whereas the creation of an international system to monitor international timber trade records and to authenticate the origin, species, and conditions of production of timber, thereby creating a capacity to help countries to implement regulations, prevent illegal logging and profiteering, and would contribute to the preservation of forests, such as biological diversity, and services to local communities;

Whereas timber companies should not be encouraged to pursue logging operations in primary tropical forests, as they have been found repeatedly and in violation of the most basic laws and regulations relating to income reporting and others, much less the more stringent regulations which would be needed to ensure that logging does not endanger the sustainability of forest ecosystems and their many irreplaceable assets, such as such as biological diversity, and services to local communities;

Whereas large proportions of the timber companies operating in Papua New Guinea are closely linked to companies headquartered in Japan, not only the largest timber importing country in the world, and a nation criticized by the United Nations for the effects of its timber consumption on the forests in various timber-exporting regions, most particularly Sarawak and Sabah states of Malaysia; and whereas over sixty percent of logs exported from Papua New Guinea, and is involved in the trade of the bulk of the remainder;

Whereas the Commission of Inquiry found wrongdoing on the part of companies affiliated with companies based in Japan, and many in Japan are concerned about the use of that nation's Official Development Assistance (ODA) funds and other foreign aid, and other facilities for use by Japanese-funded corporations involved in the exploitation of Papua New Guinea's forests;

Whereas the fate of Papua New Guinea's forest resources and prospects for the proper administration of the international tropical timber trade depend on the recognition of the need for the United Nations, the United States, and all timber-importing nations to stop the destruction of that nation's forests;

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States should call upon the government of Papua New Guinea to make available to interested parties the findings of, and take immediate all timber; implement the recommendations of, the Commission of Inquiry Into Aspects of the Forest Industry, and for the United States, through multilateral and bilateral aid arrangements, to provide technical and financial assistance to achieve these ends, including training and strengthening the institutional capacity of the PNG government, educating landowners and providing funds for less-damaging extractive economies which preserve the environment; and whereas the United States and the government of Japan should call upon the government of Japan to investigate the activities of certain of that country's private corporations and official aid agencies in violation of PNG laws and regulations in the conduct of their dealings in Papua New Guinea and in causing the destruction of the tropical forest; and to urgently seek the enactment of tax treaties and other arrangements with the governments of Papua New Guinea and other timber exporting countries to actively reduce illegal activities which impede the flow of trade information; and to urgently work to reduce Japan's consumption of timber and to monitor and regulate its trade to ensure that all other traded comes from sustainable sources;

That it should be the policy of the United States to call upon the International Tropical Timber Organization to create a system whereby all internationally traded timber is authenticated to ensure its true origin, specifications, volume, value and price, the PNG government, and implement an urgent plan of action to ensure that all timber traded by the year 1994 comes only from sources managed with oversight to the environmental and societies in timber-exporting nations.

By Mr. ROCKEFELLER (for himself, Mr. BURNS and Mr. HOLLINGS):

S.J. Res. 102. Joint resolution designating the second week in May 1991 as "National Tourism Week"; to the Committee on the Judiciary.

NATIONAL TOURISM WEEK

Mr. ROCKEFELLER. Mr. President, today I am introducing a joint resolution designating the second week of May 1991 as "National Tourism Week." I am pleased to have joining me today the co-chairmen of the Senate Tourism Caucus.

This year will mark the eighth annual observance of National Tourism Week. Communities and States all over the country will take part in the celebration. I am sure it will be a great success, as it has in previous years.
This year, however, I feel a stronger need than in past years to recognize and celebrate Tourism Week. As everyone knows, the situation since the terrorist incidents in the traveling public. Threats of terrorism caused cancellations of airline flights and postponements of vacations. Americans were afraid to venture far away from home. One knows, the world situation has cre­
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Many people do not realize the importance of tourism in our economy. There are those who think that tourism is something that is done in one’s spare time. Let me point out that tourism is the third largest retail industry and the second largest employer in the United States. One can see that our economic health is dependent on the development and promotion of such an important industry. Very simply put, dollars spent on tourism are an invest­
ment which pays many times over in jobs and tax revenues.

National Tourism Week has several purposes. First, the celebration of this event is intended to emphasize the importance of the industry to our econ­
omony. In addition, it provides an opport­
tunity for the many segments that comprise the travel and tourism industry to recognize their common goals and unity of purpose. Finally, National Tourism Week is a forum for our States, our regions, and our local areas to display this unity and to promote the local tourist trade.

Mr. President, a multifaceted part­
nership between our business commu­
nity and our various levels of Govern­
ment has nurtured the development of a strong travel and tourism economy in America. By celebrating National Tourism Week, we week to strengthen that partnership in the interest of sus­
taining the incredible growth of this industry.

I strongly urge my colleagues to sup­
port this Joint resolution and join with me as cosponsors. 

Mr. BURNS. Mr. President, I am proud to be an original sponsor of this resolution to designate the second week of May 1991 as “National Tourism Week.”

The travel and tourism industry has become a critical part of our country’s economic activity. Travel, tourism, and recreation are the first, second, or third leading business and generated $377 billion in revenues nationwide last year. In fact, tourism was the leading U.S. export business in 1990.

In my home State, we have miles and miles of open roads. Montana’s beauty and splendor can be matched by few States. We welcome out-of-State vis­
tors, and in 1990 our guests spent $750 million dollars. That’s a 14 percent in­
crease from the $658 million spent in 1986.

The tourism industry in Montana is growing faster than most States, and it had an estimated $1.7 billion impact on our economy last year. Of the $750 mil­
ion spent in Montana in 1990 by out-of­
State visitors, $687 million went di­
rectly to the State’s economy. The tourism industry spent $347 million buy­
ning products or services from other businesses in Montana, and an addi­
tional $377 million was generated in wages paid to those working in the tourism industry and in profits for businesses that sold products to the travel industry.

We recognize the importance of the travel and tourism industry in Montana. In fact, the Governor’s con­erence on tourism and recreation held in Helena just finished up last night. More than 400 people, including busi­
ness leaders, travel agents, and park authorities, participated in the con­
ference.

Those of us who rely on tourism for our State’s well being must work dou­
tle time to increase the awareness and appreciation for what a large industry tourism is. That is why my good friend Senator ROCKEFELLER and I have intro­
duced the Travel Policy and Export Promotion Act of 1991. If passed, this legislation will do much to boost the travel and tourism industry in our country.

But it is important that we don’t stop with this one piece of legislation. I intend to continue my efforts to find ways to encourage the growth and prosperity of our travel and tourism indus­
try. The resolution being intro­
duced here today is one way we can do this, and I encourage my colleagues to support the designation of the second week of May as “National Tourism Week.”

By Mr. THURMOND (for himself and Mr. DECONCINI):

S.J. Res. 103. Joint resolution to au­
thorize the National Committee of American Airmen Rescued by General Draza Mihailovich to erect a monument in Washington. I am pleased that Senator DECONCINI joined as co­sponsor.

The reason for having such a monu­
ment goes back to World War II. Dur­
ing that war the United States and Great Britain initially supported the nationalist resistance movement in Yugoslavia with Gen. Draza Mihailovich. Due to a tragic combination of intelligence errors and mistaken information, the Allies with­
drew their support for General Mihailovich at the end of 1943 and began backing the Communist resist­
ance movement of Marshal Tito.

Despite his abandonment by the Al­
lies and despite the merciless war waged against him by both the Com­
munists and the Nazis during 1944, Gen­
eral Draza Mihailovich and his forces, known as the Chetniks, succeeded in rescuing some 500 American airmen who were shot down behind enemy lines over Yugoslavia. These men were safely evacuated from Nazi­
occupied Yugoslavia to Italy.

In 1948, President Harry S. Truman awarded posthumously the Legion of Merit to General Mihailovich for his heroics in rescuing American airmen and for his larger services to the Allied cause. Unfortunately, the American public was unaware of this award since the State Department, fearful of off­
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slav Communist government, kept the award secret for almost 20 years.

Since that time, a group of American airmen have organized themselves into a National Committee of American Airmen Rescued by General Mihailovich. This fine organization has launched a movement to build a memo­
rial in Washington, DC, dedicated to the man who saved their lives. This ef­
fort has been ongoing since 1974, with the support of many Members of Con­
gress. I can think of no better way to honor this effort than to authorize these airmen to erect the monument they have in mind.

Mr. President, in voicing my support for this project, I want to emphasize that it is to be financed, not by the American taxpayers, but through the fundraising efforts of the airmen’s group. All costs for the construction and maintenance of this memorial will be borne by the private sector.

This legislation is virtually identical to previous measures that were ap­

Mr. President, the airmen who seek authority to have this monument erected do not wish to make political state­
ments that would offend the present Government of Yugoslavia. They only seek to acknowledge their deep sense of gratitude to the man who was instrumental in rescuing over 500 downed American flyers during World War II. They merely want the simple
CONGRESSIONAL RECORD—SENATE

Mr. D'AMATO. Mr. President, I rise today to introduce a joint resolution designating the week of April 7 to 13, 1991, as "National Manufacturing Week." Congressman Fisher has recently introduced a similar resolution in the House.

Too often, Mr. President, this body takes for granted the importance of manufacturing to the U.S. economy. In this time of economic downturn—a time which forces millions to focus on matters fundamental—it is appropriate to ponder the contributions of the manufacturing sector.

Consider the fact that in this other- wise moribund economy exports of manufactured goods continue to surge. Manufacturing exports have grown at an annual rate of 15 percent over the last 5 years. They have contributed 30 to 40 percent of economic growth in the last 3 years, and an impressive 97 percent of U.S. growth last year. Exports to the EC, moreover, have increased dramatically, from a deficit of $20 billion in 1987 to a surplus of $10 billion today.

Consider the fact that in the area of productivity, manufacturing is without equal. Productivity growth in manufacturing has averaged more than 3 percent a year since 1979, in many years exceeding 4 percent, and in the most recent quarter, was running above a 5 percent annual rate. This rigorous productivity growth is the surest, most concrete way to expand the economic pie for all.

Consider the fact that most private sector research and development is undertaken by manufacturing. Ninety percent of all private R&D is undertaken by the manufacturing sector. Three quarters of all engineers and scientists work in manufacturing, moreover.

Consider the fact that manufacturing alone is responsible for producing the means by which America remains strong and free. American manufacturing prowess was vividly demonstrated in the gulf, proving decisive on land, at sea, and in the air.

Mr. President, the importance of manufacturing to the health of a nation has long been recognized. In his famous "Report on Manufactures," Alexander Hamilton pointed to the path whereby the United States was to attain wealth and power beyond the dreams of its founders. He opined, Not only the wealth but the independence and safety of a country appear to be materially connected with the prosperity of manufactures.

Mr. President, I invite all my colleagues to join me in giving well-deserved recognition to the accomplishments of the manufacturing community.

Thank you, Mr. President. I ask unanimous consent that the resolution be printed following my remarks.

Whereas manufacturing contributes to high standards of living by employing over 18 million Americans with compensation exceeding $17 billion, and accounts for 23 percent of the U.S. gross national product;

Whereas manufacturing employs two-thirds of all U.S. engineers, one-third of the nation's scientists, 40 percent of all science and engineering technicians, and 50 percent of all scientists and engineers;

Whereas manufacturing sector productivity has increased annually during the 1980s by over 3.6 percent, compared to 1.2 percent in non-farming business as a whole;

Whereas manufacturing leads the U.S. in exports with over $300 billion in annual exports and accounts for nearly 40 percent of the 4.5 percent U.S. economic growth rate of recent years; and,

Whereas manufacturing supplies the precision products that help defend American security, and which have proved to be decisive in the Middle East; protecting innocent civilians and giving a technological edge to al­li­ance. Now, therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing April 7, 1991, and ending April 13, 1991, is designated as "National Manufacturing Week" and the President of the United States is authorized and requested to issue a proclamation calling on the people of the United States and interested groups to observe such week with appropriate ceremonies, activities and programs, thereby demonstrating support for U.S. manufacturing.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):
S.J. Res. 106. A resolution to designate April 14, 1991, to April 21, 1991, and May 3 to May 10, 1992, as "Jewish Heritage Week"; to the Committee on the Judiciary.

JEWISH HERITAGE WEEK

Mr. D'AMATO. Mr. President, I rise today to introduce a joint resolution which would declare April 14 to 21, 1991, and May 3 to 10, 1992, as "Jewish Heritage Week."

In our diverse and varied Nation, the contributions of all cultural and ethnic groups are indispensable. More specifically, the significant contributions of the American-Jewish population to our society have proven to be outstanding. Advances in a variety of fields such as industry, medicine, and education are to be credited to the efforts of Jews, and their contribution to the sciences alone has been noteworthy.

The upcoming spring months are ones of special historic and religious interest to the Jewish community, and Jewish Heritage Week seeks to highlight these important occasions. One such occasion is the 43d anniversary of Israel's Independence Day, which is celebrated on April 18, 1991. Needless to say, the alliance between the United States and Israel is an important and cherished one, and one that certainly deserves our recognition.

March 21, 1991

CONGRESSIONAL RECORD—HOUSE

S.J. Res. 104

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to author­ization by the Secretary of the Interior pursuant to section 2 and the provisions of Public Law 96-593, the National Committee of American Airmen Rescued by General Mihailovich is authorized to establish a monument on public grounds in the District of Columbia or its environs, to honor General Draza Mihailovich for the role he played in saving the lives of more than five hundred United States airmen in Yugoslavia during World War II.

SEC. 2. (a) The Secretary of the Interior, in consultation with the National Committee of American Airmen Rescued by General Mihailovich, shall select with the approval of the Commission of Fine Arts and the National Capital Planning Commission a suitable site on grounds owned by the Federal Government in the District of Columbia or its environs for erection of the monument referred to in the first section of this joint reso­lution.

(b) The National Committee of American Airmen Rescued by General Mihailovich shall be responsible for the development of the design and plans of such monument, which shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission. If the Secretary of the Interior, the Commission of Fine Arts, or the National Capital Planning Commission fails to approve or make specific objection to such design and plans within ninety days after submission, such approval shall be deemed to be given.

(c) Neither the United States nor the District of Columbia shall bear any expenses in the erection of the monument other than expenses incurred in the process of site selec­tion and approval of design and plans.

SEC. 3. The Secretary of the Interior shall permit the construction of the monument only after he determines that sufficient funds are available to complete the monument in accordance with the approved design and plans.

SEC. 4. The authority conferred by this joint resolution shall lapse unless the con­struction of the monument begins within two years after the date of the approval of this joint resolution.

SEC. 5. The maintenance and care of the monument and any structures erected under this joint resolution shall be the responsibility of the Na­tional Committee of American Airmen Rescued by General Mihailovich.

By Mr. D'AMATO:
S.J. Res. 104. Joint resolution to designate April 7 to 13, 1991, as "National Manu­facturing Week"; to the Committee on the Judiciary.

NATIONAL MANUFACTURING WEEK

Mr. D'AMATO. Mr. President, I rise today to introduce a joint resolution designating the week of April 7 to 13, 1991, as "National Manufacturing Week."
Another approaching event to be commemorated by Jewish Heritage Week is Holocaust Memorial Day, which will be observed this year on April 11, 1991. In remembrance of the Holocaust, not only Jews but all people mourn the senseless and brutal tragedy inflicted on countless innocent individuals and families in World War II. April 11 also commemorates the Warsaw ghetto uprising, which demonstrated the courage and strength of Jews imprisoned in Warsaw.

Passover, too, will be commemorated by Jewish Heritage Week. This religious occasion, which occurs from March 30 to April 6, 1991, celebrates the historic journey made by the Hebrew people as Moses led them from slavery in Egypt to freedom in the promised land.

Finally, Jerusalem Day, which will be observed on May 12, 1991, signals the anniversary of the unification of Jerusalem after the Six-Day War.

Jewish Heritage Week will designate the week of April 14 through 21, 1991, as a significant celebration to commemorate the Jewish experience. As the United Nations has designated the 1990's, “the Decade of the Child,” this year's celebration of Jewish Heritage Week will focus on the Jewish child. The week will be characterized by appropriate activities and celebrations, and I urge all of my colleagues to join me in cosponsoring this joint resolution.

I ask unanimous consent that the text of this resolution be printed in the RECORD immediately following my statement.

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

S.J. Res. 107

Whereas April 18, 1991, and May 7, 1992, mark the 43rd and 44th anniversaries of the founding of the State of Israel;

Whereas the months of April, May, and June are days of major significance in the Jewish calendar, including Passover, the anniversary of the Warsaw ghetto uprising, Holocaust Memorial Day, and Jerusalem Day;

Whereas the Congress recognizes that an understanding of the heritage of all ethnic groups in this Nation contributes to the unity of this Nation;

Whereas understanding among ethnic groups in this Nation may be fostered further through an appreciation of the culture, history, and traditions of the Jewish community and the contributions of Jewish people to this Nation: Now, therefore be it:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States does designate October 15, 1991, as “National Law Enforcement Memorial Dedication Day”; to the Committee on the Judiciary;

NATIONAL LAW ENFORCEMENT MEMORIAL DEDICATION DAY

• Mr. MOYNIHAN, Mr. President I rise today, to request that the Congress of the United States, by joint resolution, to designate October 15, 1991 National Law Enforcement Memorial Dedication Day. Seven years ago this body approved a joint resolution, signed into law by President Reagan, creating the law enforcement officers memorial fund to establish such a memorial in the District of Columbia. In October of this year, the memorial is scheduled to be completed, 2 years after ground was broken.

The memorial was designed by Davis Buckley and will sit in Judiciary Square, bordered by Fourth, Fifth, E and F Streets, Northwest. The centerpiece will be two 300-foot marble walls, each lined by trees and benches. Engraved on the walls will be the names of officers killed in the line of duty since January 1, 1979, when U.S. Marshall Robert Forsyth was shot while trying to serve a court summons on two brothers in Augusta, GA. He is believed to be the first law enforcement officer killed in the line of duty; we have since added more than 12,500 to that list.

Each day and night, brave men and women risk their lives for us in what can legitimately be called a war. Crime in our streets and neighborhoods is unabated, largely fueled by drugs and the competition to sell them. Military-style assault weapons have become commonplace among those our police must apprehend.

Half a million law enforcement officers serve and protect us. Each year more than 1 in 10 officers is assaulted, and one third of those are injured. Over the last decade 1,500 officers have lost their lives in the line of duty. At least 136 died last year. Law enforcement officers and their families deserve recognition and thanks for their service and sacrifices.

Section 1 of this resolution would designate Tuesday, October 15, 1991, as National Law Enforcement Memorial Dedication Day. Section 2 would request President Bush to issue and publish in the Federal Register an appropriate proclamation on that day.

I urge Members of the Senate who wish to express their gratitude for law enforcement officers in their States and communities.

Mr. President, I request unanimous consent that the text of this resolution be printed in the RECORD.

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

S.J. Res. 107

Whereas each day over 600,000 law enforcement officers place their lives at risk in order to maintain law and order in society and apprehend people who violate Federal, State, and local laws;

Whereas over the last 10 years over 1,500 law enforcement officers have been killed in the line of duty;

Whereas in 1989, 148 law enforcement officers were killed in the line of duty and preliminary figures for 1990 indicate that 119 law enforcement officers were killed;

Whereas over 50,000 law enforcement officers are assaulted in the line of duty each year, resulting in over 20,000 injuries; and

Whereas the National Law Enforcement Officers Memorial was established by an Act of Congress in 1984, and the memorial is scheduled for completion at Judiciary Square in Washington, District of Columbia in October 1991: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States, by joint resolution, to designate October 15, 1991, as “National Law Enforcement Memorial Dedication Day”;

By Mr. ADAMS (for himself, Mr. PELL, Mr. DODD, Mr. COCHRAN, and Mr. DURENBERGER):

S.J. Res. 108. Joint resolution to designate May 13, 1991, as “National Senior Nutrition Week”;

Mr. ADAMS. Mr. President, I am pleased to introduce this joint resolution today which designates May 13, 1991, through May 19, 1991, as “National Senior Nutrition Week.” This resolution appropriately recognizes the importance of congregate and home delivered meal programs which are providing and maintaining the well-being of older Americans. It is estimated that in 1991, 260 million meals will be served through title III-C of the Older Americans Act [OAA]. Of these, approximately 145 million will be delivered in congregate settings and 115 million will be home delivered.

This joint resolution commemorates the importance of these services and of the people, including the older Americans, who, through the volunteer corps, dedicated to ensuring that older individuals in our society receive adequate nutrition and have opportunity for social interaction and other community activities so often stimulated through these meal programs. Recognition of these programs is particularly important this year as we work to reauthorize the Older Americans Act.

I would like to take this opportunity to commend the National Association of Nutrition and Aging Services for their work in this area as well as Congressman Downey who is sponsoring this resolution in the House. I am pleased that Senators PELL, DODD, COCHRAN and DURENBERGER are joining me today in introducing this measure.
I welcome and encourage other Members to join us in supporting this measure. ●

By Mr. DECONCINI (for himself and Mr. D'AMATO):

S. Res. 109. Joint resolution designating August 12 through August 18, 1991, as "National Parents of Murdered Children Week"; to the Committee on the Judiciary.

NATIONAL PARENTS OF MURDERED CHILDREN WEEK

Mr. DECONCINI. Mr. President, today I am introducing, along with Senator D'AMATO, the Judiciary.

The parents, spouse, and children of a murder victim become victims as well because murder is, above all, a family affair. When your child dies, you have lost your past. When your child dies, you have lost your future. The parents, spouse, and children of a murder victim become victims as well because murder is, above all, a family affair. It intrudes on normal lives to create lasting torment, for those the victim leaves behind. The courts tend to forget that. Like most bureaucracies, the judicial system is wary of "outsiders"; even a victim's relatives can be regarded as interlopers. Sometimes a murder suspect is apprehended; sometimes not. In either case, there is additional pain. Trials and sentencing, preliminary hearings and postponements force grieving families to face what may seem to be a lack of justice.

Parents of Murdered Children is a non-profit self-help group of parents and other survivors that provides ongoing emotional support for many parents and family members. It was founded by Bob and Charlotte Hullinger in Cincinnati, OH in 1978. 3 months after their daughter, Lisa, died from injuries inflicted by her former boyfriend. The group now has over 6,000 members with 65 regional groups and 40 State groups throughout the country.

The murder of a child is almost too heartbreaking to talk about and too painful to accept. But it does happen. One day life is there and the next, it is gone. In its place are left grief, anger, emptiness, and the haunting questions of why. Friends and relatives offer comfort and compassion, but they cannot offer understanding. No one really can, group members say, unless he or she has experienced that unique hurt.

Parents of Murdered Children understand that when a loved one dies, bereaved families go through intense personal grief. When a child or other family member is murdered, this grief process is further complicated by intrusions into the family's grief. Police, lawyers and other members of the criminal justice system need information, evidence and testimony. Television and newspaper focus upon the victim and the grieving family.

This resolution honors the memory of all murdered children and remembers in a special way the victims left behind—the parents. We are grateful for support groups such as Parents of Murdered Children that do what they can to ease the ceaseless heartbreak created by murder. ●

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. BIDEN, the name of the Senator from Georgia (Mr. FOWLER) was added as a cosponsor of S. 15, a bill to combat violence and crimes against women on the streets and in homes.

S. 21

At the request of Mr. CHANSTON, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 21, a bill to provide for the protection of the public lands in the California desert.

S. 67

At the request of Mr. THURMOND, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 67, a bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax.

S. 83

At the request of Mr. SYMMS, the names of the Senator from Oregon (Mr. PACKWOOD) and the Senator from Minnesota (Mr. DURKHNERGER) were added as cosponsors of S. 83, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to subsidize the cost of energy and water conservation services and measures.

S. 167

At the request of Mr. RIEVEL, the names of the Senator from Arizona (Mr. DECONCINI) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 167, a bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds.

S. 173

At the request of Mr. HOLLINGS, the name of the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 173, a bill to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment, and for other purposes.

S. 264

At the request of Mr. COCHRAN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 264, a bill to authorize a grant to the National Writing Project.

S. 401

At the request of Mr. DOMENICI, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to exempt from the luxury excise tax parts or accessories installed for the use of passenger vehicles by disabled individuals.

S. 479

At the request of Mr. LEAHY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 479, a bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States.

S. 546

At the request of Mr. SIMON, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 546, a bill to prevent potential abuses of electronic monitoring in the workplace.

S. 594

At the request of Mr. LOTT, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 594, a bill to authorize a gold medal on behalf of the Congress to General H. Norman Schwarzkopf, and to provide for the production of bronze duplicates of such medal for sale to the public.

At the request of Mr. BINGHAMAN, his name was added as a cosponsor of S. 594, supra.

S. 565

At the request of Mr. FORD, his name was added as a cosponsor of S. 565, a bill to authorize the President to award a gold medal on behalf of the Congress to Gen. Colin L. Powell, and to provide for the production of bronze duplicates of such medal for sale to the public.

At the request of Mr. WARNER, the names of the Senator from Vermont (Mr. FORD) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 565, supra.

At the request of Mr. HOLLINGS, his name was added as a cosponsor of S. 565, supra.

S. 574

At the request of Mr. CRANSTON, the name of the Senator from Washington (Mr. ADAMS) was added as a cosponsor of S. 574, a bill to amend the Civil Rights Act of 1964 to prohibit discrimination on the basis of affectional or sexual orientation, and for other purposes.
At the request of Mr. MITCHELL, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 596, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 644, a bill to amend the Budget Enforcement Act of 1990 to allow offsetting transfers among discretionary spending categories.

At the request of Mr. GARN, the names of the Senator from Kansas [Mrs. KASSERBAUM], the Senator from Montana [Mr. BURNS], and the Senator from Florida [Mr. MACK], were added as cosponsors of S. 651, a bill to improve the administration of the Federal Deposit Insurance Corporation, and to make technical amendments to the Federal Deposit Insurance Act, the Federal Home Loan Bank Act, and the National Bank Act.

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 676, a bill to provide testing for the use, in violation of law or Federal regulation, of alcohol or controlled substances by persons who operate aircraft, trains, and commercial motor vehicles, and for other purposes.

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 693, a bill to amend the Internal Revenue Code of 1986 to allow individuals who are involuntarily unemployed to withdraw funds from individual retirement accounts and other qualified retirement plans without incurring a tax penalty.

At the request of Mr. JEFFORDS, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 716, a bill to establish a replacement fuel and alternative fuels program, and for other purposes.

At the request of Mr. THURMOND, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 15, a joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

At the request of Mr. THURMOND, the name of the Senator from Michigan [Mr. LEVIN], the Senator from Arkansas [Mr. FAYOR], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Joint Resolution 16, a joint resolution designating the week of April 21-27, 1991, as "National Crime Victims' Rights Week."

At the request of Mr. THURMOND, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of Senate Joint Resolution 43, a joint resolution to authorize and request the President to designate May 1991 as "National Physical Fitness and Sports Month."

At the request of Mr. D'AMATO, the names of the Senator from Utah [Mr. GARN] and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 65, a joint resolution designating the week beginning May 12, 1991, as "Emergency Medical Services Week."

At the request of Mr. SPECTER, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 72, a joint resolution to designate the week of September 15, 1991, through September 21, 1991, as "National Rehabilitation Week."

At the request of Mr. DOLE, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 77, a joint resolution relative to telephone rates and procedures for Operation Desert Storm personnel.

At the request of Mr. GARN, the names of the Senator from Ohio [Mr. GLINN], the Senator from Connecticut [Mr. DODD], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Joint Resolution 86, a joint resolution designating April 21 through April 27, 1991 and April 19 through April 25, 1992 as "National Organ and Tissue Donor Awareness Week."

At the request of Mr. BROWN, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 94, a joint resolution relative to Iraq.

At the request of Mr. PELL, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Joint Resolution 96, a joint resolution designating October 1981 as "National Breast Cancer Awareness Month."

At the request of Mr. LEVIN, his name was added as a cosponsor of Senate Joint Resolution 96, supra.

At the request of Mr. DOMENICI, the names of the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from New York [Mr. D'AMATO], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Washington [Mr. GORTON], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MUKOWSKI], the Senator from Delaware [Mr. ROTA], the Senator from South Carolina [Mr. THURMOND], the Senator from Wyoming [Mr. WALLOP], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 97, a joint resolution to recognize and honor members of the Reserve components of the Armed Forces of the United States for their contribution to victory in the Persian Gulf.

At the request of Mr. LEVIN, his name was added as a cosponsor of Senate Concurrent Resolution 16, a concurrent resolution urging Arab States to recognize, and end the state of belligerency with, Israel.

At the request of Mr. SMITH, the names of the Senator from Illinois [Mr. DIXON] and the Senator from Delaware [Mr. ROTA] were added as cosponsors of Senate Resolution 83, a resolution to establish a Select Committee on POW/MIA Affairs.

WHEREAS the Panama Canal is a vital strategic asset to the United States and its allies;

WHEREAS the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and the Panama Canal Treaty, both signed on September 7, 1977, mandates that (1) no United States troops are to remain in Panama after December 31, 1999; (2) the Canal Zone is to be incorporated into Panama; (3) United States Panama-based communications facilities are to be phased out; (4) all United States training in Panama of Latin American soldiers is to be halted; and (5) management and operational control of the Canal is to be turned over to Panamanian authorities;

WHEREAS the government of President Guillermo Endara has demonstrated its determination to restore democracy to Panama by quickly moving to implement changes in the nation's political, economic, and judicial systems;

WHEREAS friendly cooperative relations currently exist between the United States and the Republic of Panama;

WHEREAS the region has a history of unstable governments which pose a threat to the future operation of the Panama Canal, and the United States must have the discretion and the means to defend the Canal and ensure its continuous operation and availability to the military and commercial shipping
of the United States and its allies in times of crisis;
Whereas the Panama Canal is vulnerable to disruption by underwater events in Panama, by terrorist attack, and by air strikes or other attack by foreign powers;
Whereas the United States fleet depends upon the Panama Canal for rapid transit ocean to ocean in times of emergency, as demonstrated during World War II, the Korean War, the Vietnam War, the Cuban Missile Crisis, and the Persian Gulf War, thereby saving 13,000 miles and three weeks steering effort to and from Cape Horn;
Whereas the Republic of Panama has dissolved its defense forces and has no standing army, or other defense forces, capable of defending the Panama Canal from aggressors and, therefore, remains vulnerable to attack from both inside and outside of Panama and this may impair or interrupt the operation and accessibility of the Panama Canal;
Whereas the presence of the United States Armed Forces offers the best defense against sabotage or other threats to the Panama Canal; and
Whereas the 10,000 United States military personnel now based in the Canal Zone, including the headquarters of the United States Southern Command, cannot remain there beyond December 31, 1999, without a new agreement with Panama: Now, therefore,
Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should—
(1) negotiate a new bases agreement with the Government of Panama—
(A) to allow the permanent stationing of United States military forces in Panama beyond December 31, 1999, and
(B) to ensure that United States will be able to act independently after December 31, 1999, to maintain the security of the Panama Canal and to guarantee its regular operation; and
(2) consult with the Congress throughout the negotiations described in paragraph (1).
* Mr. CRAIG. Mr. President, today I am pleased to be introducing legislation to preserve the United States' interest in the Panama Canal and promote security in the volatile region.
* My resolution expresses the sense of the Congress that the President should seek to negotiate a new bases agreement with Panama to allow United States military forces to remain in Panama beyond December 31, 1999. It also states that the troops should retain the ability to act independently to protect U.S. interests and the operation of the Canal.
* There has been a great deal of controversy over the Panama Canal treaties. As is well known, they gradually relinquish United States control of the Panama Canal and require the withdrawal of all United States military personnel by the end of 1999.
* Serious concerns have been raised about the propriety of the ratification of the treaties. While we may have varying degrees of concern, I think we can agree that the base rights must be addressed in any rational agreement. As we neared December 31, 1991, we drew nearer to putting U.S. interests and regional security at risk.

CONGRESSIONAL RECORD—SENATE

S. CON. RES. 25—RELATING TO THE PROTECTION OF CIVIL RIGHTS AND CIVIL LIBERTIES OF ALL AMERICANS, INCLUDING ARAB-AMERICANS

Mr. HATCH submitted the following resolution; which was referred to the Committee on the Judiciary.

It would be difficult to overstate the strategic and economic importance of the Panama Canal zone to the United States. Panama is an important center for international maritime commerce. Restriction from using the canal would mean a greatly increased cost as well as increasing costs for transporting goods. Currently, 15 percent of all U.S. imports and exports pass through the canal annually, and that percentage is on the rise.

The fact that the waterway is a strategic choke point in times of crisis is clearly illustrated by the fact that the number of warships to transit the canal after the beginning of the Persian Gulf crisis actually doubled. Without the canal, ships would have had to make a 13,000-mile trip around Cape Horn which takes approximately 3 weeks. Even in the best of situations, loss of the use of the canal would create a security risk.

The Panama Canal is of vital importance to the United States. Its security cannot be jeopardized. While there is no question that Panamanian President Guillermo Endara has demonstrated that he can restore democracy to Panama, we cannot ignore the fact that Panama has a history of unstable governments.

I commend President Endara for his commitment to democracy. However, Panama has dissolved its defense forces and has no standing army, or other forces capable of defending the Panama Canal from aggressors. As recently as December 1989, there was a coup attempt in which 100 renegade policemen, led by former police chief Col. Eduardo Herrera, seized control of police headquarters in Panama City. At the request of the Panamanian Government, the rebellion was stifled by the assistance of United States troops. Had the uprising not been subdued, it is possible that Panama would now be controlled by another Noriega-style dictator.

Unless we act in time, the canal will be turned over to Panama with no real safeguards against a third party hostile to the United States taking control of the area of restricting use by United States ships. National security and economic interests demand that we give careful consideration to any policy alternatives that will prevent such a mistake from happening. For these reasons, I ask my colleagues to join me in supporting this legislation.*

S. CON. RES. 25—WHEREAS reports of harassment and violence against Arab-Americans increased after Iraq invaded Kuwait on August 2, 1990, which was followed again after the war began on January 17, 1991;
* Whereas on September 24, 1990, President Bush declared that death threats, physical attacks, vandalism, religious violence, and discrimination against Arab-Americans must end and that a crisis abroad is no excuse for discrimination at home;
* Whereas the Federal Bureau of Investigation is responsible for protecting civil rights and civil liberties of all citizens;
* Whereas in January 1991, the Federal Bureau of Investigation opened more than investigations of hate crimes against Arab-Americans since August 2, 1990;
* Whereas the violation of an individual's civil rights based on his or her ethnicity is repugnant and clearly violates the Constitution of the United States: Now, therefore, be it
* Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—
(1) all Members condemn any acts of violence or discrimination against any American including Arab-Americans;
(2) all government agencies should avoid activities that encourage the civil rights and civil liberties of all Americans or legal residents of the United States;
(3) the civil rights and civil liberties of all Americans, including Arab-Americans, should be protected at all times, and particularly during times of international conflict;
(4) the Federal Bureau of Investigation should continue to investigate hate crimes against all Americans including Arab-Americans; and
(5) the Federal Bureau of Investigation should continue to work with other Federal, State, and local government agencies and community leaders to prevent, investigate, and report hate crimes and related crimes against Arab-Americans and other minorities.

Mr. HATCH. Mr. President, today I am submitting a concurrent resolution expressing the sense of the Congress that the civil rights and civil liberties of all Americans, including Arab-Americans, should be protected at all times, and particularly during times of international conflict. Since the Iraqi invasion of Kuwait and the American and allied response to that invasion, Arab-Americans have been the targets of increased violence and harassment. This is totally unacceptable and un-American.

I have long been concerned about hate crimes directed at any group in our society. Last year, along with Senator SIMON, I was co-chairman of the Hate Crimes Statistics Act. That measure requires collection of data on hate crimes based on race, ethnicity, religion, or sexual orientation. It was a step in the right direction. But, when a particular group in America is being subjected to hate crimes as a result of
a particular event here or abroad, I believe it is appropriate for the Congress to go on record as expressing its concern.

I also note that after the Persian Gulf crisis was under way, the Federal Bureau of Investigation [FBI] contacted over 100 Arab-Americans to solicit information on possible terrorist acts and to seek assistance in combating terrorist threats in the United States and abroad. The FBI states that these contacts were not part of any investigation. Moreover, the FBI makes the point that it necessarily relies upon the cooperation and assistance of the American public. This FBI contact program, however, generated concern among a number of Arab-Americans and others who believed that Arab-Americans were being singled out unfairly. I believe the FBI has operated in good faith in trying to fulfill its many duties in this crisis, including protecting this country from threatened terrorist acts, trying to prevent hate crimes from occurring, and investigating those which do occur. Nevertheless, I believe it is useful for Congress to restate some general principles, including that governmental agencies should avoid activities encroaching upon the civil rights and civil liberties of citizens or legal residents, without suggesting that the FBI has transgressed these principles during the Persian Gulf crisis. I believe the concurrent resolution I am submitting is an appropriate way to address concerns that have arisen during this crisis.

SENATE RESOLUTION 90—EXTEND A WARM WELCOME TO HIS EXCELLENCY LECH WALESA, PRESIDENT OF THE REPUBLIC OF POLAND

Mr. MITCHELL, for himself, Mr. DOLE, Mr. MIKULSKI, Mr. MURkowski, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BINGHAM, Mr. BOND, Mr. BOREN, Mr. BRADLEY, Mr. BREAUx, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. BYRD, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DASCHLE, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. Gorton, Mr. GRAHAM, Mr. GRAMM, Mr. GRASSLEY, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. Heflin, Mr. HEINZ, Mr. HELMS, Mr. HILL, Mr. INFELD, Mr. JORDAN, Mr. Jeffords, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. KERRY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. Levin, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. McCaIN, Mr. McCOLLUM, Mr. McCURD, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. Pryor, Mr. REID, Mr. RIEGEL, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SIMON, Mr. SIMPSON, Mr. Smith, Mr. SPECTER, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. WELLSStONE, and Mr. WIRTH submitted the following resolution; which was considered and agreed to:

WHEREAS Poland has made an historic transition from communism to democracy;

WHEREAS Poland has held the first free and direct elections for President in its history;

WHEREAS Lech Walesa, internationally recognized as a leader of the struggle for democracy and human rights, was elected President of the Republic of Poland on the occasion of his State Visit to the United States;

WHEREAS, under President Lech Walesa's leadership, Poland is continuing on its courageous course of fundamental economic and political reform;

WHEREAS President Lech Walesa is making his first State Visit to the United States since his election; Now, therefore, be it

Resolved, That it is the Sense of the Senate that—

1. The United States deplores the excessive use of force being employed against civilians in Kashmir, and similarly denounces the violent tactics of Kashmiri militants;

2. The United States urges the Government of India to re-open Kashmir to the media, to human rights organizations, and to the International Red Cross and other relief groups;

3. The United States urges all parties to the Kashmir conflict to enter into negotiations on guaranteeing protection of human rights in Kashmir, and ensuring the ethnic integrity of its people;

4. The United States should provide humanitarian assistance to the civilians of Kashmir during the ongoing crisis, and should encourage other governments to assist in relief efforts.

Mr. METZENBAUM, Mr. President, the level of human rights abuse in the Indian Province of Kashmir has reached a particularly distressing level. I rise to introduce a simple, straightforward sense of the Senate resolution which calls on the parties to the Kashmir conflict, the international community, and on the U.S. Government, to seek a peaceful resolution without delay.

Kashmir is a northern province of India, a culturally and ethnically distinct region which has struggled to maintain its identity for many years. In 1949, the United Nations promised a plebiscite in which Kashmiris could choose their own future. No plebiscite has been held in the intervening 41 years. Two wars, hundreds of skirmishes, and countless abuses by security forces have occurred during this time, however. The unrest in Moslem Kashmir has made a flashpoint for the simmering disagreements between similarly Moslem Pakistan and Hindu India.

Mr. President, one aspect of the conflict in Kashmir is of special concern to this Senator. In its attempt to restore order, the Government of India has barred most journalists and all international relief and human rights workers from entering Kashmir. Kashmir is, in effect, closed to the outside world, with few exceptions. This is unjustified, and unacceptable. The State Department's Annual Report on Human Rights goes into considerable detail on the low level to which conditions in Kashmir have sunk during 1990. The report includes the usual litany of abuses by security forces. In goes on to note that, by law, security forces are immune from liabil-
ity for any human rights violations they may commit.

Mr. President, I recognize that India must maintain order within its borders, and I recognize that Kashmiri militiamen have themselves resorted to violence. But the free hand that the Indian Government has given to its forces in Kashmir is simply not acceptable.

Mr. President, India should be proud of its status as the most populous democracy in the world. Yet there is something wrong when a democracy, even one with unrest within its borders, must employ brutality and isolation to a small ethnic minority under its control.

Mr. President, I regret that a settlement of the conflict in Kashmir will be a very long time in coming. Clearly there are deeply rooted disputes at the heart of the violence in Kashmir. These rifts are not an excuse for human rights abuses, however, and they do not excuse India's refusal to allow impartial observers into Kashmir on a consistent basis. In my view, the United States needs to look more closely at areas such as Kashmir, and it is my hope that this resolution will help to focus our attention.

Mr. President, I ask unanimous consent that the following article: a March 11, 1991 OP-ED piece from the Cleveland Plain Dealer; an October 27, 1990 Editorial from the Washington Post; a November 9, 1990 article from the Wall Street Journal, and a November 16, 1990 article from the New York Times be printed in the Record.

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

(From the Cleveland Plain Dealer, Mar. 11, 1991)

KASHMIR IS A VEIL OF TEARS

(Or, Dr. Ghulam Nabi Fal)

I get a call every day from concerned Kashmiri-Americans who ask me how world opinion can remain silent as hundreds upon thousands of Kashmiris are killed and tortured in India's brutal occupation of their country. Why, they ask, if the United Nations condemns the brutality of Iraq, China, South Africa and the Soviet Union, do they not speak out against Indian brutality in Kashmir?

While Indian troops fire into unarmed crowds of Kashmiri civilians, while Kashmiri women and young girls are raped by Indian security forces, while innocent boys are tortured, the international community remains silent. Where, they ask, are the declarations of concern from the White House? Where are the resolutions condemning the atrocities in the U.S. Congress?

I share their concern about the silence, but I tell them to have hope. The tide of change is on our side.

With the war in the Persian Gulf, the United States is setting important new standards for international behavior. President Bush told Congress last month in his State of the Union address that the war against Iraq is about to end, more than three-quarters of liberation of Kuwait. It is about establishing a new world order.

Said the president, "What is at stake here is more than one small country. It is a big idea: a new world order where diverse nations are able to cooperate in the common cause to achieve the universal aspirations of all mankind: peace, security and rule of law."

We in the Kashmiri community take the president at his word. In Kashmir there is no peace, security or rule of law. Since 1947, the Kashmiri people have been denied their right of self-determination and today live under the brutal occupation of Indian security forces.

This is our reality;

It is estimated by the international press that more than 2,400 civilians, men, women and children, have died at the hands of the Indian Army in the last year.

The recent State Department Human Rights Report, the Indian Army has fired into unarmed crowds, and numerous Indian human rights groups have detailed security forces in Kashmir, including beatings, burning with cigarettes, suspension by the feet and electric shock.

The most recent report says that "there were credible reports of widespread arbitrary arrest and detention... Members of the Bar Association claim that last midyear as many as 500 and 15,000 Kashmiris had been detained."

In a recent report on Kashmir, Asia Watch documented how the Kashmiri people cry out simply for international intervention to bring about a cease-fire. The Kashmiri nation was divided by the cease-fire line in this settlement.

Both governments agreed that the final status of Kashmir should be decided by a plebiscite or referendum under the impartial auspices of the United Nations. This position was supported by the international community in two consecutive U.N. resolutions in 1948 and 1949, both of which were co-authored and co-sponsored by the United States.

Pakistan maintained control of the area of Kashmir on its side of the cease-fire line, awaiting the withdrawal of Indian troops as envisaged by the U.N. plan. India reneged on its commitment and annexed the portion of Kashmir under its control.

Today, the Kashmiri people cry out simply for the right to self-determination—for the implementation of the U.N. resolutions that would allow them to vote on their final status.

India answers their calls for freedom with brutal suppression. Faced with a grassroots movement for self-determination, the Indian military has fought a campaign of terror in Kashmir, which most recently has included burning entire villages to the ground, while preventing the escape of the villages' inhabitants.

The Kashmiri people are by their nature peaceful. The vast majority of Kashmiris would probably be willing to see peaceful, negotiated settlement to the crisis. There is, however, a small but growing, militant movement in Kashmir which, given India's historic intransigence, sees no chance of India being peacefully persuaded to agree to regional settlement.

The longer the status quo of death and brutality continues—the longer the international community remains inactive—the stronger the militants will become, as people lose hope for peaceful settlement. By its inaction, the world is pushing Kashmir to the breaking point, sending it into a downward spiral of violence.

The people of Kashmir do not know "peace, security and rule of law." And it is this "universal aspiration of mankind" which President Bush identified in his speech that the people of Kashmir hope to achieve.

And yet, the U.S. government has remained curiously silent about the atrocities in Kashmir. Despite the massive human rights violations, despite the implications for regional stability, there has been no U.S. diplomatic initiative to stop India's brutality and to bring about implementation of the U.N. resolutions.

The United States must be consistent in its policies. As Sen. George Mitchell said in the Democratic response to the president's address, "We seek a world where justices and human rights are respected everywhere. We cannot oppose repression in one place and overlook it in another."

It is our duty as Americans, the president told Congress, to do their part in the work of freedom. "There is no freedom, no rule of law, in Kashmir. But the United States does nothing."

With his speech, President Bush set the standard for the new world order. Be it in the Baltic, or the Persian Gulf, or in Kashmir, it is incumbent upon the United States to help enforce that standard.

(From the Washington Post, Aug. 27, 1990)}
quality of secondhand accounts. As the world now works, that suffices to drop Kashmir far down on the list of international concerns. Unlikely to be an unexpected turning point for the world's attention, it's all too easy to see the situation as a mere bargaining chip in a game of power. The world, distrusting the accuracy of the narratives it hears, is content to let the situation simmer and await better information. But the situation in Kashmir is not merely a game. It is the lifeblood of millions, the source of their identity, their livelihood, and their hope. The gas and missiles, the dogs that find the corpses before the curfew, the shuttered shops, the abandoned neighbors, the charred villages and bombed out buildings, the glistening lakes, and tourists marveling at ends. It's a cycle, and a vicious one. The economic impact of the rebellion is ap­parently rigging elections and allowing corrup­tion to burgeon unabated. But Mr. Gandhi contends the policies of V.P. Singh actually live in place.

Last December, Mr. Singh traded five jailed Moslem militants for the kidnapped daughter of India's home minister, and that is a story of which V.P. Singh probably is justifiably proud. But he also has two other stories to tell. His party, the Right-wing Bharatiya Janata Party (BJP), has reappeared six days later. It was the BJP that called for and still sup­ports a military crackdown against Moslem guerrillas in Kashmir.

"We are hard-headed realists," says Kedar Nath Sahani, a BJP general secretary. "The economic impact of the rebellion is ap­parently rigging elections and allowing corrup­tion to burgeon unabated. But Mr. Gandhi contends the policies of V.P. Singh actually live in place."

The convulsions in India recall, on a much smaller scale, the convulsions that followed the 1947 partition of the subcontinent into Pakistan, an Islamic state, and India, a secu­lar democracy. Then, hundreds of thousands died as uprooted Moslems and Hindus fought for each other, and for their God and their country, in an explosion of violence.

Today, this same religious hatred, long dormant, is being fanned anew in parts of India. The nation now has a population of 800 million, the world's second largest, and many, many other religions. This time, the broader con­flict between Hindu and Moslem is over a 18th-century mosque in Uttar Pradesh that Hindus want to replace with a temple—a sacred site re­spected by a Hindu fundamentalist political party. At the same time India is again finding itself wracked by caste warfare. Over the last several weeks, some 150 upper-caste Hindu youth have committed suicide, many by dousing them­selves with gasoline and setting themselves on fire, to protest a government affirmative-action plan to give Hindus from lower, less­privileged castes more government jobs.

The temple issue particularly reflects a rising strain of Hindu chauvinism within In­dia's vast population. Hindu fanatics have been espousing violence against religious mi­norities, such as Moslems and Christians, as a way to assert historical domination of Hindus by Moslems and Muslims. "For 750 years no Hindu held power in Delhi," writes author M.J. Akbar. "From 1192 to 1857 Moslem kings ... sat on the throne of Delhi. And in 1857 British Christians replaced them."

It was followers of the most fanatical Hindu fundamentalist group, the Rashtriya Swayamsewak Sangh, or R.S.S., who assassi­nated India's firmest devotee of religious harmony, Mohandas K. Gandhi, in 1948. This group has been gaining strength since the assassi­nation of Indira Gandhi by Sikhs in 1984, and has been further fueled, some Indi­ans say, by the rise of Islamic fundamental­ism in the country. Today, the R.S.S. is just one group under the umbrella of the funda­mentalist Bharatiya Janata Party (BJP), which raised the mosque-temple issue.

It was the BJP that also helped patch to­gether a ruling coalition that made V.P. Singh prime minister last November. And it was the BJP that called for and still sup­ports a military crackdown against Moslem guerrillas in Kashmir.

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Kashmir has emerged as a festering sore in India-Pakistan relations for more than 40 years, nearly sparking a fourth war between the nuclear-armed neighbors. It has come to represent something more in recent months. As this country spirals into sectar­ian and religious violence, Kashmir is em­barrassingly emblematic of one of this nation's greatest men­dences: Hindu and Moslem still share only a tentative common ground in India.

The 90s threaten to be the most critical decade in the history of free India," writes Dileep Padaonkar, editor of the Times of India Review of Books. Acknowledging the chronic problems of poverty, malnutrition, illiteracy, population growth and insur­gencies, he notes: "India is also witness to the [rapid] growth of militant religious orga­nizations whose actions are polarizing Indian society along altogether alarming lines." Kashmir is but one of many casualties. This week, the upheaval spreading across this country claimed the administration of Vishwanath Pratap Singh, India's prime minister for the past 11 months.

OLD WOUNDS

The convulsions in India recall, on a much smaller scale, the convulsions that followed the 1947 partition of the subcontinent into Pakistan, an Islamic state, and India, a secu­lar democracy. Then, hundreds of thousands died as uprooted Moslems and Hindus fought for each other, and for their God and their country, in an explosion of violence.

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March 21, 1991

INDEPENDENT NUCLEAR SAFETY BOARD ACT

KERRY (AND BIDEN) AMENDMENT NO. 64

(Ordered referred to the Committee on Environment and Public Works.)

Mr. Kerry (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by them to the bill (S. 732) to amend the Energy Reorganization Act of 1974 to create an Independent Nuclear Safety Board, as follows:

On page 5, line 24, change (I) to (III), and insert the following:

"NEW ROLE FOR TROOPS

He said that Indian forces were trying to establish defenses in internationally recognized neutral territory. The Pakistan Army is not going to allow that, Brigadier Rizvi said. The Indian Government makes similar charges, and threats.

The influx of refugees from Indian Kashmir—several thousand in the last few months, officials say—has given border areas a new role in debriefing and sorting arrivals.

"Since the army has been deployed eyeball to eyeball with the Indians since 1948, we are the only line of defense, the only line of defense," Brigadier Zahb said. Among the exiles are many young Indian-Kashmiri men who are "hunted like birds" by Indian troops.

"There is one demand from all these youth coming over," Brigadier Zahb said. "They want to be trained and armed and go back to fight alongside the others in the valley."

But war of one kind or another is never far away. Almost every day, groups of exhausted, hunger-striking people cross the border, said Zahb. The Pakistan army men are fighting "a kind of war" for more than four decades, a Pakistani Army officer said. In 1947, 1965 and 1971 it flared into full-scale conflict. With the steady spread of insurgency in the Kashmir Valley, for which India officially blames Pakistan, the number of skirmishes is increasing. After sending villagers running from their homes and fields under the muffled booms of artillery, "WE ARE AT WAR"

A real inferno has been going on here," British journalist Robin Byott, who has been briefed several reporters who had been flown by helicopter through narrow mountain valleys to the battle area spread over peaks and defiles.

"We are at war," he said. "It may be a local one, but that's what it is."

These days, Pakistani military officers Brigadier Rizvi, commander of the Kashmir Valley, Brig. Zahb Zaman, commander of the Neelum Valley, and Brig. Zahb Rizvi, described the battle that is going on in the valley as a "scorched-earth policy" that relies on "terror and violence."

At the same time, Indian soldiers have been trying to move their bunkers and other defenses "frighteningly close" to Pakistan, Brigadier Rizvi said. Since late July, he added, four major attacks have taken place in this region, during which firing and shelling of "unusual intensity" were followed by infantry assaults."

Mr. LEAHY. Mr. President, I would like to announce that the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition and Forestry will hold a hearing on April 11, 1991 at 9:30 a.m. in SR-332. The hearing will address the timber sales in the Klamath region, including the Siskiyou National Forest management.

For further information, please contact Ben Yarbrough of the subcommittee staff at 224-5207.

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CONGRESSIONAL RECORD—SENATE
March 21, 1991

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Education, Arts, and Humanities be authorized to meet during the session of the Senate on Thursday, March 21, 1991, at 9:30 a.m., in 485 Russell Senate Office Building, on the San Carlos Water Rights Settlement Act of 1990.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on March 21, 1991, at 10:00 a.m. in 485 Russell Senate Office Building, on the San Carlos Water Rights Settlement Act of 1990.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 21, 1991, at 1:30 p.m., to hold an open hearing on Intelligence matters.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Tuesday, March 26, 1991, at 10:00 a.m. and 2:00 p.m. to conduct a hearing on the bank insurance fund.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, March 21, 1991, at 9:30 a.m., to receive testimony on S. 259, the National Voter Registration Act of 1991. Witnesses include Gov. Barbara Roberts of the State of Oregon; Secretary of State Ralph Munro of Washington State; Mr. Emmett H. Fremaux, Jr., executive director of the D.C. Board of Elections and Ethics; Ms. Anita Tatum, director of voter registration for the State of Alabama; and Dr. Susan S. Lederman, president, the League of Women Voters.

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

SUBCOMMITTEE ON GOVERNMENT INFORMATION AND REGULATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Government Information and Regulation be authorized to meet on Thursday, March 21, 1991 at 9:30 a.m., on the subject: Improving access to student loan financial aid information.

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

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on International Trade be authorized to meet on Thursday, March 21, 1991, at 10:00 a.m. to hold a hearing on the renewal of the United States-Japan Semiconductor Trade Agreement.

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

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, March 21, 1991, at 2:30 p.m., to conduct a hearing on the application of pricing to surface transportation policy.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., March 21, 1991, to receive testimony on the following bills: S. 292, S. 363, S. 545, S. 549.

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

SUBCOMMITTEE ON CONSUMERS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation, be authorized to meet during the session of the Senate on March 21, 1991, at 10:30 a.m. on S. 591, Highway Fatality and Injury Reduction Act.

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

SUBCOMMITTEE ON CONSUMERS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on the Judiciary be authorized to hold a business meeting during the session of the Senate on March 21, 1991, at 10:00 a.m.

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

ADDITIONAL STATEMENTS

IN MEMORY OF JOHN K. EVANS, OIL ENTREPRENEUR AND PHILANTHROPIST

Mr. AKAKA. Mr. President, I rise today to pay tribute to John K. "Jack" Evans, who passed away at age 84 on Sunday, March 10, 1991, in Houston, TX. My acquaintance with Jack dates back to the mid-1970's, when I first came to Washington as a Member of the House of Representatives and Jack served on the board of directors of Pacific Resources, Inc. of Hawaii.

Jack's relationship with Hawaii began when the late Governor John Burns sought his advice on how to increase competition in the oil refinery business in the State. As a result of their discussions, a foreign trade zone was established and Jack founded Hawaiian Independent Refinery, Inc., a subsidiary of Pacific Resources, Inc. He served on Pacific Resources, Inc.'s board of directors from 1975 to 1979, and...
remained an advisory director even after the company was acquired by Broken Hill Proprietary Co., Ltd., of Australia in 1989.

Jack was well known to many members and alumni of the Energy Committee, he attended both the Senate and House where he was recognized for his detailed knowledge of the petroleum industry.

Orphaned at 10, Jack chose to leave his home in Portmadog, Wales, as a teenager, to emigrate to Canada as a farmhand, and entered the United States in the mid-1920’s by simply walking over the border. He then spent the next 10 years at a variety of jobs—construction worker, porter, busboy, and even a summer stock actor with Bette Davis, according to one biographer, who also recounts that Jack’s career in oil began when he was a waiter in a New York City speakeasy. There he met a vice president of Shell Oil Co., who offered him a job as a trainee. He rose to the position of marketing manager in the New England area, and in 1950 he was sent to Africa.

There he met a vice president of Shell Oil, who embodied knowledge of the petroleum industry. Eventually Shell Oil Co. hired Evans as a trainee. He was its marketing manager for New England when World War II began. He enlisted in the army as a private, but the army soon saw his potential, and arranged for his U.S. citizenship. He was sent to Officer’s Training School. He retired as a full colonel in 1972.

Jack’s knowledge of the oil business came to the attention of his superior officers who arranged for his naturalization as a U.S. citizen so he could attend Officers’ Training School. He spent the remainder of the war as an adviser to the Army-Navy Petroleum Board of the Joint Chiefs of Staff, and retired as a full colonel in 1972.

After the war, Jack rejoined Shell Oil. In 1947, he came to Washington, D.C., first as a representative of Royal Dutch Shell, and in 1955, as Shell’s director of government affairs. Retiring from Shell Oil in 1966, he established his own firm, the Independent Fuel Oil Marketers of America, representing the concerns of small oil companies.

Jack was known as a caring philanthropist, who with his wife, Jean, contributed to the Rotary Foundation of Rotary International to establish merit scholarships and the Shriner’s Hospital for Crippled Children. He was the donor of the John K. Evans Award in their dedication of the 1989 book, 'The Oil Market in the 1990s: Challenges for the New Era.'

The book was subtitled: "Essays in Honor of John K. Evans," said: "Jack Evans has touched the lives of many people. He is a man who speaks his mind. Although a practical man, he is blessed with high intelligence, directness, and outspoken words sometimes hid his very warm and soft heart—how he gives so generously to worthwhile causes, how he promotes international understanding, and how he tries to help those in need, both with love, moral support and money."

Ed Futa, president of his own international trading company and past district governor of Rotary, said he met Evans, a participant in a Hawaii Rotary seminar for young people.

"I was very impressed," Futa said. "The young people were enthralled with his stories. He explained how important education is and how much he missed having a formal one. He wasn’t even a high school graduate, but he tried to educate himself.

He emphasized how important it is to be able to read and to write in order to express yourself, and how important friendships were in business. He had several mentors along the way that he said were important to his development."

"He was quite a philosopher. Toward the end, he turned more spiritual," Futa said.

Evans was involved in many foundations, including the National Welsh-American Foundation and the Young Entrepreneurs of America Inc.

Together with his wife, Jean, he founded the Golden Rule Foundation.

Memorial services will be at 6 p.m. April 3 at the National Press Club in Washington, D.C.

Tribute to Former U.S. Senator Eugene McCarthy

Mr. DURENBURGER, Mr. President, I rise today to salute a man who, during his time in public service, came to personify the grassroots, independent, and thoughtful political activist that has put Minnesota in a national leadership role for decades. I congratulate former Minnesota Senator Eugene McCarthy on his 75th birthday, March 29, 1991.

Eugene McCarthy was born in Watkins, near my own home in central Minnesota. His much admired wit, intelligence, collegiality, and gentle spirit were inherited from his parents and nurtured in his years at St. John’s Preparatory School and St. John’s University.

He tells the story on himself that he was thrown off the St. John’s Prep football team by his father, for being too small. He did go on to play college baseball and hockey, and coach in a high school in North Dakota. In Al Eisele’s book, “Almost to the Presidency,” it is noted that Eugene McCarthy, however, excelled academically, graduating cum laude from St. John’s in 1935. He was 19 years old.
Eisele notes that the yearbook predicted that “McCarthy’s really breath-taking accomplishment is yet to be recorded.”

In 1946, McCarthy took a teaching position at the College of St. Thomas in St. Paul. It was at that time that his political and social philosophy began to take shape. The Democratic Farmer Labor Party [DFL] in St. Paul was tightly controlled by labor bosses, and, as did the party in Minneapolis, had extreme leftist leanings. McCarthy, the professor, rallied new activists, fellow professors and students among them, who worked at the grassroots level to reshape the local DFL.

The Fourth District of Minnesota sent McCarthy to Washington, DC in 1948. Eisele says McCarthy accounted for two reasons for running: he was the only one to make the Minnesota DFL a party for the independent liberal as well as for the working man, and the conviction that a man backed only by organized labor could not defeat the opponent. He said his major legislative interests were working in the fields of labor and civil rights.

Throughout the early 1950’s, McCarthy worked on his agenda. When he announced in 1958 his intention to run for the U.S. Senate, the Washington Evening Star wrote: “McCarthy has gained the reputation for serenely cleaving to his principles, no matter what the prevailing political winds.”

McCarthy was one of the first to beat against the United State’s role in Vietnam. He was in the eye of the storm in the 1960’s, an articulate shaper of the debate that would change the course of history.

Independence of thought has been the trademark of Eugene McCarthy to this day. He has been a prolific author, poet and philosopher as well as an occasional candidate for the Presidency. His campaigns, most recently in 1988, have been viewed mainly as a series of issues including campaign financing laws and the need for the third party option.

Mr. President, on the diamond anniversary of his birth, Eugene McCarthy continues to be a jewel of independent thought. His many-faceted political legacy is to be considered and valued by all in Minnesota and in this Chamber.

TEXTILE CUSTOMS FRAUD STRIKES AGAIN

Mr. HEINZ. Mr. President, two recent articles from Women’s Wear Daily provide a sad reminder of what our battered textile and apparel industry is up against. The lead paragraph of the first article says it all:

Federal prosecutors in May are expected to ask several grand juries to indict numerous U.S. firms for knowingly importing Chinese apparel that was transshipped through third countries. It was learned.
CONGRESSIONAL RECORD—SENATE

March 21, 1991

C ont e n t s

COMMERCIAL FRAUD ENFORCEMENT TEXTILE TEAM, S aid he anticipates indictments of American importing firms.

"A large number of search warrants have been executed," Dorsett said. Customs officials said about 600 investigations of suspected transshipments were under way in the U.S. and in foreign cities. Dorsett declined to say through which ports the suspected apparel was exported.

Dorsett explained that once the grand juries hand up their indictments, which he expects to be in May, the cases would be turned over to the Justice Department for prosecution.

Dorsett speculated that any company charged with quota and related violations would not receive the maximum sentences. The aggregate penalties can add up to such a large jail sentence that "generally, if there is a preponderance of evidence, we end up with a plea bargain where a person accepts a fine and/or a jail sentence," rather than going to trial, he said.

Dorsett declined to give any information about apparel import companies now under investigation, save to say "the same people seem to get back into it over and over." For example, he had said that the 1978 case of transshipment and the same person came back in 1980 to be charged with similar violations. Now we've reopened the case again.

"Part of the problem, I guess, is that we're not giving them a hard enough slap on the hands. We plea bargain (with repeat offenders)."

Customs data made available to WWD indicated the magnitude of the alleged transshipment of apparel.

In reporting various investigations, the data noted, for example, that Customs officials in Milan, in 1988 and 1989, identified about 25,000 dozen shirts and pants that were labeled "Made in Lebanon," but were traced to China, via Europe and New York.

In another incident, the documents stated: "The Special Agent In Charge, New York, executed a federal search warrant on the premises of a U.S. importer. Records seized during the search included diversion of over 150,000 dozen garments from China through these countries to the U.S. from January to May 1990."

The biggest single seizure of China-made product allegedly transshipped through Panama into New York included almost 151,000 dozen of women's and girls' pants and shorts. This was followed by 2,329 dozen of women's an girls' shirts and blouses and 3,711 dozen men's and boys' pants.

Meanwhile, Laura Jones, executive director of the U.S. Association of Importers of Textiles and Apparel, cautioned against drawing the "wrong conclusions" about the pending anti-dumping action.

"It is important to remember that any allegations must be proved in court. It is very possible that these importers are the victims of transshipment and several of them may have had any idea where these [Chinese] goods came from," she said.

"There are things companies can do to verify these goods' origin, but the bottom line is that in the end it is hard to know for sure.

"The vast majority of people in this industry are honest," Jones said. "They operate in compliance with all government regulations," she said, but adding "if any of these allegations are true they [could] give the industry a bad name."

CUSTOMS, TAIWAN DISCUSS TRANSSHIPMENT SUSPICIONS

(By Steve Farnsworth and Jim Ostrom)

WASHINGTON—U.S. Customs Service officials and representatives of the Taiwan government held a series of meetings to discuss possible cases of suspected transshipment of apparel through the island nation.

"We have got documents that look bad to us," said Bob Epstein, chief of Customs' commercial compliance branch in Washington. "We think we have got transshipment."

Dorsett said U.S. and Taiwan representatives traded information on cases of men's and women's apparel thought to have been made elsewhere, including China, and shipped under "Taiwan's import quota. The two governments agreed at the meeting to discuss the matter further.

"We are asking for their help in looking into this," Dorsett said. "They are being more cooperative than we thought they would be."

Dorsett cautioned that Customs' investigation is still in its early stages. He said the U.S. government was at least several months away from getting any leads to deny entry to goods or to assess chargebacks against the quotas of other nations thought to be the actual country of origin. A U.S. government trade official, who declined to be identified, said: "There is great concern within the government and the U.S. industry over a substantial transshipment problem with Taiwan. It could be of the magnitude of the situation with Macau."

Last fall the U.S. detailed or refused entry for about $3 million worth of sweaters allegedly made in China, but transshipped through Macau.

The U.S. later demanded and received assurances from trade officials within the col­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­…
and the international community have developed nearly universal screening procedures of airline passengers for weapons. As a result, hijackings have declined dramatically.

International cooperation: Since the mid-1980’s, the United States has provided training to more than 4,000 people from over 40 countries in counterterrorism techniques. This has paid off in improved airline security, bomb squads, and intelligence monitoring. The United States also has successfully renegotiated extradition treaties with Great Britain, Germany, Canada, among others, in order to facilitate the trials of terrorists. Finally, Western and Third World intelligence officials now meet on a regular basis, whereas contacts in the past were sporadic.

Despite this progress, there is still much work that must be done in other areas:

Airl ine security: Since the Pan Am 103 bombing in 1988, the United States has urgently sought to develop devices that can detect the Semtex explosive that brought down the aircraft. The most promising device uses low energy neutrons to activate the nitrogen nuclei that are usually found in explosives—thermal neutron analysis. The nuclei then produce gamma radiation of a characteristic energy, which are detected and identified. Unfortunately, this machine still suffers from a high false alarm rate. Further progress in TNA devices is necessary.

Other devices must also be examined, including the following:

- Computerized tomography, based on x-ray and computing technologies, could produce a detailed three-dimensional image of explosives.
- Advanced vapor detectors may be able to “sniff out” explosives.
- None of these technologies are on the verge of ready application, but progress in miniaturization is permitting more accurate devices.
- Weapons of mass destruction: There has been much discussion of chemical and biological threats as a result of the war with Iraq. Based on my discussions, it appears that biological weapons have a potential to kill hundreds of individuals, but probably not thousands. Chemical weapons are bulky, but still could be used by terrorists in such targets as air conditioning systems of skyscrapers. We need, therefore, better devices that can ferret out these kinds of materials.
- Research and development: Because of the terrorism threat; regarding air-line security and weapons of mass destruction, we must continue to expend time and money for more research and development (R&D). We have already created a national counterterrorism R&D program, overseen by the State Department. About two dozen other agencies take part in the program through a coordinating committee called the Technical Support Working Group (TSWG).

Unfortunately, the amount of funds for this program, the Seabury-Riggs cut in recent years. Last year, for example, Congress did authorize and appropriate the Administration’s full request of $3 million for R&D as part of the State Department appropriations bill for fiscal year 1991. This year, the Administration subsequently cut the program by $1 million. The cuts were ostensibly made because of the unexpected evacuations and other expenses resulting from the Persian Gulf crisis.

Nonetheless, there is always a danger of placing a higher priority on short-term requirements, as opposed to longer term ones, such as R&D. Such cuts are regrettable since the amount of money involved—only several million dollars—is paltry in comparison with the potential pay-offs. In short, this program should no longer be slighted.

Executive Order 12333: Executive Order 12333, which was signed in 1974, bars agencies of the U.S. Government from participating in the assassination of any foreign individual. Even if the U.S. Government, for example, knew of a terrorist act being planned by Iraqi terrorists, it could not try to prevent it by targeting those individuals. This conceivably could save many American and foreign lives. No other government in the world has such a prohibition. We should clearly revisit this issue.

Mr. President, no one can promise a world free of terrorists. We still have a long and difficult struggle before us. Intelligence regarding terrorist groups is often difficult to obtain because of the tight-knit nature of these organizations. Captured terrorists willing to talk after an attack are often low-level operatives who don’t know much about the inner workings of their organization. Even if we learn about the terrorist leaders, we may not know where they are located at any given time.

Nonetheless, we have already made progress regarding international cooperation, as a result of any foreign individual. Even if the U.S. Government, for example, knew of a terrorist act being planned by Iraqi terrorists, it could not try to prevent it by targeting those individuals. This conceivably could save many American and foreign lives. No other government in the world has such a prohibition. We should clearly revisit this issue.

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Buried deep in Sunday's New York Times was a story about a speech given last Friday by a courageous man. Addressing the black family conference at Hampton University in Hampton, VA, the speaker, a middle-aged black man, dared to say what many are thinking:

During every 100 hours on our streets, we lose more young men that were killed in 100 hours of ground war in the Persian Gulf. Where are the yellow ribbons of hope and remembrance for our youth dying in the streets? This is a war against ourselves, and it is devastating our communities.

He had just read the study by the National Center for Disease Control. The study found that 48 percent of black male Americans from 15 to 19 years of age who died in 1988 were killed by guns. In 1984, the percentage was 38 percent, it was 35 percent. The number is three times the rate for white youths of the same age.

The speaker personalized the numbers:

As a black man and a father of three this really hits home. And the idea of really thinking about what we need is a return to the culture of character.

A culture in which parents invest time and attention in their children and the children of their neighborhood, a culture in which children growing up without a father are a small minority, not the majority, and a culture in which neighbors become actively involved in making their neighborhoods a safe haven for children.

The speaker was Dr. Louis Sullivan, Secretary of Health and Human Services. I wish more of us were shaken to the core of their being by these numbers. Then, maybe we would advance toward the culture of character envisioned by Dr. Sullivan.

Perhaps we would make the public investments needed if this vision is to become a reality. Our black neighborhoods are too run down, personal income and job skills too low, and families too shattered to expect a reversal without a major investment of capital: housing, health care, and education with a focus on the family unit and an emphasis on personal responsibility. We must invest by fully funding WIC and Head Start. In Nebraska, we must come to the principals of Omaha schools like Marrs, Walnut Hill, Kellum, Fontenelle, and Field Club to say: What can we do to help with your students? What do you need now?

The investment needed in our urban or troubled neighborhoods are the worse but not by any means the only case of neglect. If we continue drawing a boundary line around poverty our response will be inadequate. We will make the problem worse and we will create more, not less, division between Americans.

If we felt the intense anxiety of many working American families about the cost of education, we would quit our haggling over decreasing opportunity for their children, we would quit our haggling over the irrelevant and get to work on those things that matter to a child in America today. We would insist on solutions which affect all of us and not just a few.

We who do not live in the environment where these young people are dying, can talk about the problem in a cold detached manner. We can blame the welfare system or wonder why they just don't work a little harder. For good sake the paper is full of help wanted ads—or worse we can merely look for ways to keep their violence away from us.

Political leaders propose solutions we would never propose if we were closer to the subject. For example, the crime package which the President wants passed by Congress in 100 days could not have been presented to the same audience Dr. Sullivan addressed. They would have greeted with skepticism the irrelevance of one of its key points: The death penalty for treason and spying.

We have no difficulty understanding the value of private and public investments made when we try to keep our State university well funded, get special highway allocations for our States, or some other project designed to stimulate our economy. We understand the value of equity when we are trying to pay our own mortgages with salaries that are 20 times higher than 25 percent of America's children who today live in poverty.

Sometimes we understand, but do not act, when we face the problems faced by the poor because we fear being accused of making liberal expenditures. The political played field has never been level for liberal and conservative expenditures. We constantly act upon the almost tragic absence of fear felt when we make conservative expenditures. Thus, we are able to give away large amounts of money to wealthy people so they can continue to live unencumbered with excessive obstacles.

The feelings of Dr. Sullivan must guide us to overcome the unlevel nature of the political landscape, because every day we wait we see the earth splitting between those who have and those who have not in America. The chasm which separates them from us widens every day.

And, unlike many things of this life, we are definitely not powerless to stop it. We could if we wanted to.

We will want to if we see this violence as a seamless web from which we cannot escape. On July 30, 1988, Bill Hotz gave us good advice when he said: "I remember after his son Dan, had been killed a few blocks from the Capitol in Washington, DC, by another youth who was desperate for money:

There is something so seriously wrong with our country. How are we going to turn this around? We can't go on like this . . .

we're 200 years old and we're going down the drain. I tried to call the President to talk to him about the killing of my son, about violence, drugs, poverty, and homelessness.

The violence in America is growing, not receding. We are feeding the supply by neglecting our children and the demand by ignoring the impact of the technologies of communication. We have the power to do something about both.

To act, we would have to look beyond the crush of corporate and special interest representatives who approach us feverishly looking for their little slice of the budget or tax pie. We would have to look them in the eye and say: We're mad as hell about what is going on in America and we're not going to take it anymore. We don't care what you say in your next newsletter or at our next election. We are going to pay attention to the children of this country before it is too late.

To act, we cannot allow ourselves to walk away from our feelings when we see others, whether white or black, walking the streets. To act, we cannot see the violence as a consequence of liberal or conservative failures; or the simple result of racism, insensitivity, and abuse.

To act, we must see a common agenda for those who are dying from the violence—poor youth, disproportionately black, but all races—and those who fear they will become innocent victims—all the rest of us. That common agenda includes a health care system which does not deny us care simply because we do not earn more than $100,000 a year as do Members of Congress, for example. It also includes a school system which takes responsibility for its failure to educate our children, rather than merely blaming us for the failure. It includes a broad-based effort to increase the attention we pay to all our babies. It includes a tax system which at times seems so unfair—but only if you try to save money if your income is $15,000 a year as it is when your income is $115,000 a year.

To act, we must read the statistics, look out our windows, glance at the world of our streets, and like Dr. Sullivan allow what we see to shake us to the core of our being. If that core gets shaken, we will move. Otherwise, we will not.
time by the Europeans rather than us.

In particular, the EC found that EPROMs were being dumped in the Community at margins of between 35 and 106 percent—not small amounts, by the way. The article goes on to report that in response seven key Japanese manufacturers—names we would all recognize—have agreed to sell their product in the community at minimum prices that presumably eliminate the dumping. Parenthetically, the article notes that the Commission has also initiated an investigation against Korean dumping of DRAMS.

I bring this matter up, Mr. President, because it reflects several ironies in the trading system. The most amusing one, I suppose, is that the Europeans, who vigorously attacked our semiconductor agreement's pricing system, are now doing exactly the same thing. It has always amazed me how different one's perspective is when you are the victim rather than the observer. This is without commenting on the merits of a minimum pricing scheme as a solution to dumping; rather I would issue a plea for less hypocrisy in our trading relationships. If such a scheme was bad when we employed it, it is hard to see how it suddenly becomes good when Europeans employ it.

The more important irony, of course, is that this episode demonstrates that the Japanese are employing exactly the same tactics in seeking to take over the European high technology market as they employed in virtually taking over ours. That strategy is based largely on massive dumping and other unfair tactics and partly on acquisition of technology. Only a day before this article appeared, Fujitsu announced that it had acquired a 74.9-percent share in the products division of Fulcrum Communications, British Telecom's last domestically based manufacturing operation. The implication is critical access to the EC telecommunication equipment market.

I had thought that perhaps the Europeans would have learned from our mistakes, but these two events suggest that the lesson has not been completely digested. They have watched us wrestle with Japanese dumping and have moved more quickly than we did to address it. It remains to be seen whether their strategy will be more effective than ours. It would be hard to be less effective. However, they have not yet learned the investment lesson, although to be fair about it, neither have we. As usual, however, the people who have learned their lessons the best are the Japanese, who have discovered exactly how to conquer a market and are proceeding to open a second front in Europe.

Mr. President, I ask that the text of the article I referred to be printed at this point in the Record.

The article follows:

(1) BRUSSELS, BELGIUM—The European Commission said Tuesday that Japanese semiconductor manufacturers have agreed to sell their product in the Community at minimum floor price for their exports of memory chips to the European Community.

The agreement followed the commission's finding of extensive dumping of Japanese EPROMs, which are used primarily for read-only memories, in the EC in the mid-1980s. EPROMs are widely used in computers, video recorders and other electronic equipment.

Anti-dumping actions normally end with the imposition of duties. However, the companies involved can also choose to increase or maintain prices above normal domestic levels.

By doing so, the Japanese manufacturers have agreed to managed trade in computer chips in order to avoid friction with the EC. The commission said Japanese manufacturers' dumping margins varied between 35% and 106% from April 1986 to March 1987, the period covered by its dumping investigation, and their sales of EPROMs rose from a capacity of 1.2 million megabits in 1984 to 3 million megabits in 1986.

Rising sales of Japanese EPROMs sold at prices below production costs had harmed the EC EPROM industry, which could not use its capacity and benefit from economies of scale. Their sales fell, their stocks increased and the companies ran up considerable financial losses, the commission said.

The complaint was lodged by the European Electronic Component Manufacturers' Association on behalf of EPROM producers, including SGS and Thomson of France.

Seven Japanese manufacturers—Fujitsu, Hitachi, Mitsubishi, NEC, Texas Instruments, Sharp and Toshiba—that account for 80% of all EPROM exports to the EC, have undertaken to sell at minimum prices equivalent to average production costs plus a profit margin of 12.5%.

In a bid to safeguard the effectiveness of the floor price, the commission also said it is setting a dumping duty of 94% to cover "gray market" sales to the EC.

Tuesday's announcement ends one of the most sensitive, and unusual, anti-dumping probes ever launched in Brussels.

Last year, in a related action, the commission secured agreement by 11 Japanese companies to set a minimum price for DRAMS, dynamic random access memory chips.

That agreement also applied to new generation computer chips, unprecedented in an anti-dumping accord. It also marked the first use by the EC of anti-dumping action against imported components.

The commission last week opened an anti-dumping inquiry into South Korean exports of DRAMS, which are worth from 300,000 units in 1986 to 4 million in 1989.

The European Electronic Component Manufacturers' Association said Korean manufacturers had boosted their sales rapidly after last year's agreement by 11 Japanese DRAM producers by undercutting their minimum price.

If it finds evidence of dumping, the commission is expected to seek an minimum price agreement with the Korean producers.

S. 635—THE COMPREHENSIVE VIOLENT CRIME CONTROL ACT OF 1991

Mr. MCCAIN. Mr. President, I am pleased to be a cosponsor of S. 635, the Comprehensive Violent Crime Control Act of 1991. I wish to commend Senator THURMOND for his dedication to this issue. I also wish to commend President Bush for his leadership in fighting crime. The President has presented Congress with the challenge to vote within 100 days on a crime bill that would stiffen the penalties for criminals who commit the most heinous crimes against men, women and children. I believe that Congress can meet that challenge. We owe it to the American people to work quickly and effec-
CONGRESSIONAL RECORD—SENATE

rule of admissibility for evidence of commission of other similar crimes by a defendant accused of sexual assault or child molestation. The bill also increases penalties for drug distribution to pregnant women, for various sex offenses. First, it imposes a 10-year mandatory sentence against criminals. First, it imposes a 10-year mandatory prison term for the use of firearms during the commission of a felony. S. 635 also incorporates the Equal Justice Act, which assures that the principle of equal justice, regardless of sex, be applied in all Federal court adjudications, and the appointment of a public defender in capital cases. These reforms are necessary in order to prevent the abuse of habeas corpus, which leads to long, drawn-out cases without any conclusion. These abuses only serve to hurt the legal system, and undermine the laws intended to deter violent crime.

Mr. President, this measure is long overdue. America has had enough of violent crime. America is tired of being afraid. This legislation gives America the chance to be rid of heinous crimes in our streets. If we can attain peace in the Persian Gulf, even against such a brutal adversary as Saddam Hussein, there is no reason why we cannot achieve peace in America. Congress must act and rise to meet President Bush’s challenge, and we can meet that challenge through the passage of S. 635.

REQUEST FOR GAO STUDY OF THE IRS’ ADMINISTRATION OF THE COMPTROLLER GENERAL’S AUTHORITY PROCESS UNDER BILATERAL TAX TREATIES

Mr. HEINZ. Mr. President, today I am making a formal request of the Comptroller General that GAO study the Internal Revenue Service’s administration of the competent authority (CA) process. The scope of the study will also include work with foreign tax administrators and CA’s to gain an appreciation of their structures, policies and outlook regarding the CA process. Three groups of countries have been identified as important to study: those that work smoothly with the United States, such as Canada and the United Kingdom; those with which the United States has an average rate of success in concluding mutual agreement procedures under CA, such as Belgium and Korea; and, third, those with the United States CA has experienced persistent and sustained difficulty in achieving agreements satisfactory to the United States, the taxpayer, and the other country, such as Japan and Germany.

International tax cooperation has become essential with the advent of multilateral investment in an electronically linked global economy. Specifically, the CA mechanism provides treaty partners—governments—a means to: First, resolve differences in treaty interpretation between the contracting States; and, third, serve as a point of exchange for tax information on taxpayers operating in both countries.

I am concerned by reports from taxpayers that the CA process may have serious problems. Of special concern is the widely held perception of its inability to provide a most basic taxpayer service—the relatively speedy, certain, and fair resolution of double taxation cases.

METHODOLoGY

The methodology of the CA study will include contact with academics in the tax field, international tax practitioners, United States and foreign corporate clients who used or avoided the CA process, and United States and foreign government officials. The objectives will be to: First, determine how effective CA has been since its 1971 codification; second, identify what changes, if any, are needed to improve CA’s effectiveness; and third, identify possible changes in the future role of the CA process.

The scope of the study will also include work with foreign tax administrators and CA’s to gain an appreciation of their structures, policies and outlook regarding the CA process. Three groups of countries have been identified as important to study: those that work smoothly with the United States, such as Canada and the United Kingdom; those with which the United States has an average rate of success in concluding mutual agreement procedures under CA, such as Belgium and Korea; and, third, those with the United States CA has experienced persistent and sustained difficulty in achieving agreements satisfactory to the United States, the taxpayer, and the other country, such as Japan and Germany.

CONTRIBUTION TO INTERNATIONAL TAX POLICY/ADMINISTRATION

The goal of this study is to develop recommendations for making U.S. international tax policy a coherent part of U.S. global economic policy. The nexus between trade and tax policy has been largely ignored; a potentially injurious omission given the opportunity for tax subsidies to subvert the international protections on free trade. I hope that this study can assist in improving the trade tax base, and that U.S. taxpayers are entitled to, improving IRS’ administration of the international aspects of the Tax Code, simplifying segments of the Tax Code that place unnecessary resource demands on U.S. business, improving the level and means of international cooperation in
the international tax area, and possibly refining U.S. tax policies to better reflect the international economic conditions that govern world trade and investment.

Mr. President, I look forward to sharing the results of this study with my colleagues at its completion, and ask that the text of my letter including attachment to Comptroller General Bowsher be printed at this point.

The material follows:


Mr. CHARLES A. BOWSHIER, Comptroller General of the United States, Washington, DC.

Dear Mr. Bowsher: I am writing to request a study of the Internal Revenue Service's administration of the competent authority process. As codified in various bilateral tax treaties, competent authority provides the United States and its treaty partners with a means of exchanging tax information and resolving cases of double taxation.

I am concerned by reports from taxpayers that the competent authority process may have serious problems. Of special concern is the widely held perception of its inability to provide a most basic taxpayer service—the relatively speedy, certain and fair resolution of double taxation cases. Accordingly, I would appreciate your review of the competent authority process and the time involved with each step of the process, and any suggestions that you have as to how the process could be improved.

In summarizing the results of the process, the Internal Revenue Service (IRS) takes the position that it provides full relief to the taxpayer in almost 80 percent of the cases that go to Competent Authority. How does IRS define full relief, an adjustment to the tax bill and/or allowing of the foreign tax credit? Do taxpayers agree that they have received full relief of the double taxation via the resolution of their cases? If possible, test the full relief statement of IRS against the actual tax returns of the taxpayer.

In a follow-up to the full relief issue, please address the question of the payment or lack of payment of interest in Competent Authority cases. Is this a problem? If so, what can be done to resolve the interest problem?

I understand that the majority of cases involve Canada and that the successful two of these cases is due to circumstances not repeated with any of our other treaty partners. As such, an argument can be made that the inclusion of the Canadian cases in the overall statistics has the effect of providing a false sense of success to the process. What is the success rate of Competent Authority if two or more categories (Canada and Other Countries and the Pacific Rim) are used? What are your views on using this system in the future?

In the past, IRS published the results of its Competent Authority process. Taxpayers tell me that for the last several years IRS has not published these statistics, but that IRS officials will occasionally provide some insight on the statistics during various public forums. Is this correct? If it is true, why has IRS made this change? Are there any problems associated with scheduling reporting on the results of Competent Authority to allow taxpayers some insights as to what is happening?

IRS audits of taxpayers are often not completed until several years after a taxpayer has filed a return. In the meantime, the statute of limitations may have expired. Do you believe that the taxpayer may have a double taxation problem. Thus, the taxpayer cannot seek the service of Competent Authority, does the taxpayer have in this situation? How serious a problem is this for taxpayers? What, if any, changes would you suggest to correct this situation?

Some taxpayers have stated that certain countries have not shown good faith in terms of resolving double taxation cases. How valid are these complaints? What actions have IRS taken to impose tax on the willing or unwilling of other countries to resolve these cases? What have been the results of these actions, or the reason why they were not successful? What options does IRS have to retaliate against a lack of good faith in the Competent Authority process?

The new United States-German tax treaty contains a provision that provides for binding arbitration of certain issues that cannot be resolved via Competent Authority. How will this procedure work? What impact will it have on the process? Do you think that the United States should adopt this or some other arbitration procedure in its other tax treaties, and why?

IRS is instituting various changes that have been promised to the American public and the competent authority process. These sections give sufficient staff to complement the added workload resulting from the increased demands placed on their IRS counterparts.

Some taxpayers have expressed concern that certain older problems associated with Competent Authority are the result of the lack of specialists in the Competent Authority section. Specifically, they have stressed the need for tax economists, lawyers, and internationalists to be assigned to the section and work in specialty teams. Are these concerns valid? What level of specialist-related staffing is needed?

IRS officials have stated that they are making changes to improve the performance of the Competent Authority process. What changes have they made or are in the process of making, and what is the impact of these changes?

Lynn Walker, on this work. Thank you for your interest and cooperation in this matter.

Sincerely,

JOHN HEINZ, U.S. Senate.

COMMITTEE ON JUDICIARY


Mr. GRASSLEY. Mr. President, I introduced S. 488 on February 26, 1991. This bill amends the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders.

I discovered, through calls to my office from interested parties, that there had been a printing mistake in the CONGRESSIONAL RECORD in this bill. But I was relieved to find that, in the printed bill, there was no mistake. In the CONGRESSIONAL RECORD section 442, part C read:

There are authorized to be appropriated to carry out this section $36,000,000 for the National Institute of Arthritis and Musculo-Skeletal and Skin Diseases, $34,000,000 for the National Institute on Aging, and $2,000,000 for the National Institute of Diabetes and Digestive and Kidney Diseases for each of the fiscal years 1992 through 1994, and such sums as may be necessary for subsequent fiscal years.

It should have been printed:

There are authorized to be appropriated to carry out this section $36,000,000 for the National Institute of Arthritis and Musculo-Skeletal and Skin Diseases, $34,000,000 for the National Institute on Aging, and $2,000,000 for the National Institute of Diabetes and Digestive and Kidney Diseases for each of the fiscal years 1992 through 1994, and such sums as may be necessary for subsequent fiscal years.

As I noted above, the printed version of the bill itself is correct.

TRIBUTE TO JANAE MARTIN, 1990-1991 VOICE OF DEMOCRACY WINNER, STATE OF INDIANA

Mr. COATS. Mr. President, I rise today to pay tribute to an outstanding high school student from my home State of Indiana, Miss Janae Martin.

Miss Martin is a 10th grade student at Northridge High School in Elkhart, IN, and is the State winner of the 1990-91 Voice of Democracy Speech writing competition sponsored by the Veterans of Foreign Wars. Over 1,750 competitors in this years contest were required to write and prepare a recording of a 3 to 5-minute script on the theme—"Democracy—the Vanguard of Freedom."

Miss Martin’s winning entry shows a keen appreciation of the freedoms which we as Americans enjoy, and it is encouraging to know of her high regard for this great Nation. I congratulate Janae on representing Indiana at the national finals held recently here in Washington, and I wish her continued success with her future academic endeavors. At this time, Mr. President, I ask that Miss Martin’s essay be inserted into the CONGRESSIONAL RECORD.

The essay follows:

DEMOCRACY—THE VANGUARD OF FREEDOM

(By Janae Martin)

They fulfilled their pledge. They paid the price. And freedom was won. To be born free is a privilege. To die free is an awesome re-
sponsibility. Yet freedom is never free. It is always a costly gift.

It was a sultry summer in Philadelphia. July 4, 1776, that 56 men signed their names beneath the Declaration of Independence. Each knew when they signed that they were risking everything. They knew that if they succeeded, the best they could expect would be years of hardship in a struggling new nation. If they lost, they would face a hangman's noose as traitors. Indeed, the leaders of this movement, willing to work with new and unfamiliar ideas—beneath the Declaration of Independence—understand the unfolding saga of events that shaped this nation.

Whatever impression we had of the men who met that hot summer in Philadelphia we must remember this about them. They considered liberty, they had learned that liberty is more important than security. They pledged their lives, their fortunes and their sacred honor. And they fulfilled their pledge. They paid the price. And freedom was born.

Mr. BOND. I would also like to recognize the Veterans of Foreign Wars who, in addition to providing scholarships for students to achieve their academic goals, selflessly assist our country's many veterans. As we welcome home our newest generation of veterans from the Middle East, the VFW's will become increasingly important. They are to be commended for their patriotic efforts on behalf of our veterans and, indeed, all Americans.

Mr. CHAFEE. I would also like to recognize the Veterans of Foreign Wars who, in addition to providing scholarships for students to achieve their academic goals, selflessly assist our country's many veterans. As we welcome home our newest generation of veterans from the Middle East, the VFW's will become increasingly important. They are to be commended for their patriotic efforts on behalf of our veterans and, indeed, all Americans.

HONORING THE ADRIAN JOURNAL, ADRIAN, MO

Mr. BOND. Mr. President, I rise today to recognize the important role that the Adrian Journal has played in its community for over 100 years.

On January 10, 1889, the Adrian Journal commemorated their 100th anniversary and has continued to provide important information about the community to the people of Adrian and surrounding towns.

The first issue of the Adrian Journal was published on January 10, 1889, and in the years following the newspaper continued to grow in circulation and size. The Adrian Journal was owned and managed by the Dowell family for the first 63 years of its operation. In October 1956, the Adrian Journal was purchased by Bob and Lila Gunn, who have continued the tradition of providing the citizens of Bates County with a reliable source of local news. In 1962, the Adrian Journal was incorporated, and Stephen and Linda Oldfield were taken in as co-owners.

Mr. President, I would like to extend my congratulations and best wishes to the Adrian Journal for its over 100 years of service, and hopes for continued success in the future.

HONORING RICKY BELL, RECIPIENT OF THE VETERANS AFFAIRS SECRETARY'S HANDS AND HEART AWARD FOR 1990

Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to a remarkable man who has been named recipient of the Department of Veterans Affairs Secretary's Hands and Heart Award for 1990 at the Harry S. Truman Memorial Veterans Hospital in Columbia, MO. I am speaking of Ricky Bell.

The purpose of the prestigious Hands and Heart Award is to provide recognition to the employee in each VA medical facility whose compassionate direct patient care has been exceptional. Eligibility for this award encompasses the whole spectrum of personnel involved in direct patient care including doctors, nurses, nursing assistants, therapists, and social workers.

Ricky Bell, an employee of Truman Memorial Veterans Hospital for over 3 years, has provided direct social work
support to the VA hospital's nursing home care unit residents, and to orthopedic, neurologists, and urology patients. In addition, Ricky has provided backup coverage to social workers involved in the community care program.

Mr. President. I join Ricky's family and friends in congratulating him as he accepts the Department of Veterans Affairs Secretary's Hands and Heart Award. Both the Truman Veterans Hospital and the State of Missouri have benefited from his hard work, and we look forward to his continued dedication to the service of veterans and their families.

NATIONAL ENERGY EFFICIENCY AND DEVELOPMENT ACT

• Mr. HATFIELD. Mr. President, today I am pleased to join Senator WIRTH as an original cosponsor of his National Energy Efficiency and Development Act of 1991. As some of my colleagues may recall, I have been a strident supporter of energy conservation, energy efficiency, and renewable energy measures throughout my tenure in the Senate. Senator WIRTH's legislation would further advance the Nation's commitment to conservation and alternative energy sources and I am pleased to be associated with this effort.

My support of this bill is a reaffirmation of my commitment to reducing the United States' dependence on imported oil. The need to diversify our Nation's energy mix and generating capabilities has never been more apparent than in the wake of the Persian Gulf war, which at least in part, was fought over world access to Middle Eastern oil. In effect, this legislation is a comprehensive energy package that focuses on our vital need to enhance efficiency, conservation, and renewable energy measures.

Mr. President, I would like to clarify that my support of this bill in no way will prevent me from supporting other energy strategy bills or amendments that may come before the Senate for consideration. For example, Senators Johnston's and Wallop's comprehensive energy legislation contains many provisions of which I am very supportive. The administration's National Energy Security Act of 1991 also includes several provisions that would make our Nation much less dependent on imported oil, and I am supportive of many of these measures.

While I am predominantly interested in advancing conservation and renewable energy resources, I also realize that any comprehensive national energy package must contain a variety of provisions to effectively reduce our dependence on foreign oil—including provisions to increase the production of our own domestic oil resources. If we continue to rely predominantly on imported oil to meet our energy needs, the day will come once again when we will send our military into battle in the Persian Gulf region.

Clearly, Mr. President, the time has come for us to work toward developing an energy policy that will ensure our Nation's future security, and I believe the legislation I am cosponsoring today will, if passed, contribute significantly to that goal.

PAGOSA SPRINGS, CO.
CENTENNIAL

• Mr. BROWN. Mr. President, the town of Pagosa Springs, CO, will be celebrating its 100th birthday on April 13, 1891. The Pagosa Springs centennial celebration will make note of the diverse nature of the community and its rich history. For example, the town will recreate its first town board meeting of 1891.

In honor of the Pagosa Springs centennial celebration will make note of the diverse nature of the community and its rich history. For example, the town will recreate its first town board meeting of 1891.

Pagosa Springs has experienced vast and dramatic changes in the town's 100-year history. The rich heritage of the town reflects the native American culture of the Ute Indians. Ute legends and lifestyles have formed the cultural base upon which Pagosa Springs has been built. The first white settlers arrived in 1876. The town grew, eventually becoming incorporated in 1891.

Since the first mayor of Pagosa Springs, John L. Dowell, to the present mayor, Ross Aragon, the town has gone through many of the great eras in American history. The arrival of the railroad in 1900, the lumber booms of the 1920's and 1930's, and the ever-present influence of a ranching region, have forever changed the face of Pagosa Springs and the surrounding area of Colorado.

The centennial celebration comes as we near the end of the 20th century. The rich interweaving of Indian, Anglo-Saxon, and Hispanic cultures, combined with a strong sense of community, have given Pagosa Springs a unique character among the communities of Colorado.

Pagosa Springs is situated in beautiful Archuleta County, which is today one of Colorado's most popular tourist locations. The continued development of the community is a testament to the strength of the people, the vision of the land, and the wisdom of the region's natural resources. It is the combination of these elements that gives Pagosa Springs such a strong and enduring place in southwest Colorado's past and its future.

The Pagosa Springs centennial celebration is a proud occasion that represents the cultural multiplicity and the historical significance of the community. This is an important point in history for the town and the State of Colorado. It is a time to reflect on the town's proud history and a time to look toward the bright future.

I urge my colleagues to join me in congratulating the town of Pagosa Springs and all its residents. In addition to Mayor Ross Aragon, special mention should be made of Karl Ibeber, the town's chamber of commerce, and all the many hard-working, dedicated individuals who are making this celebration possible.

FIRST BAPTIST CHURCH OF LEBANON—100 YEARS OF SERVICE

• Mr. BOND. Mr. President, today I would like to take a few moments to recognize the First Baptist Church of Lebanon, MO, for its 100 years of dedicated service in fulfilling the needs of its members.

In 1890 there were 2,218 people living in Lebanon. New oak plank sidewalks lined the streets of Lebanon and Kaffenberger's Bakery was busy making daily deliveries of their bread. The 500 room Gasconade Hotel was just opened that year. The St. Louis Mercantile Co. had plans of making Lebanon a resort town. In November 1890, Dr. A.F. Baker, who was the State Secretary of Missouri Baptists at the time, came to Lebanon in an attempt to start a church, and by March 1891 a revival was scheduled. At the close of the revival 15 conversions were recorded.

With those results, First Baptist Church was organized on April 3, 1891, with Dr. Baker reading the Articles of Faith from Pendleton's manual. There were six charter members; M.F. and Minerva Smart, Nancy Burns, Phillip and Sarah Lawyer, and Mary Spiller. Another revival meeting, led by H.G. and S.B. Youngblood of Springfield, was held on June 6 of the same year with 40 conversions and additions recorded. H.G. Youngblood became church moderator until J.L. Taylor was called as the first pastor of the church in 1893, for 14 months. The church continued to grow in membership from 50 members in 1891 to 1,479 members in 1955.

The church first met in the Greenleaf Building on Commercial Street until the frame church was constructed at the corner of Harrison and Second Street. The church met there until 1905 when the then pastor, C. Knudson, had the frame church moved to the corner of Third and Madison where the present facilities stand.

On Wednesday, March 8, 1922, tragedy struck the church when it was destroyed by fire. The church met in a garage on Commercial Street which was a movie picture theatre until a portion of the basement was completed in 1922. The church met in the basement for almost 8 years. Although the cornerstone of the sanctuary was laid with the assistance of Rev. C.B. Day, he did not live to see it completed, suc-
CONGRESSIONAL RECORD - SENATE

March 21, 1991

Mr. BAUCUS. Mr. President, I am pleased to announce to my Senate colleagues that Myrna Loy, one of America's great film stars who made more than 120 films over the course of a 50-year career, will finally receive this evening the ultimate recognition for her major contributions to the film industry, when she accepts an honorary Oscar at the academy awards ceremony.

Following my comments about this honor being bestowed upon Miss Loy, I ask unanimous consent that there be included in the RECORD a copy of four newspaper articles which describe the award Miss Loy will be receiving and present brief histories of her illustrious career.

I have long been an avid fan of Myrna Loy. After all, she grew up in my hometown of Helena, MT. Her movies, including especially The Thin Man series, are a continuing delight for me to watch. Although these films are approaching 50 years in age, they retain a certain timeliness, primarily because of the Hollywood good humor that Myrna Loy and her costar, William Powell, exuded.

Also, as we reflect on the recent hostilities in the Persian Gulf, and as we celebrate the homecoming of our military combatants in that struggle, I can't help but remember how many of us felt when Myrna Loy portrayed the patient housewife who received her returning warrior in "Best Years of Our Lives," which, coincidentally, won Oscars for about everyone but Myrna. Finally, she is getting the critical recognition that she deserves.

It should be no surprise that in the 1930's the American movie-going public voted Myrna Loy and Clark Gable to be the most famous movie couple in America. Myrna certainly deserved it then. Yet, it is heartwarming that the Academy would see fit to honor her now, more than 50 years after she was America's movie queen.

For the past several years I have been working with some of my constituents in Helena to erect a living memorial in honor of the extraordinary career of Myrna Loy. This memorial, which includes a 200-seat auditorium and 40-seat theater, is located in Helena in the historic 100-year-old Lewis and Clark County jail, which stands only a few blocks distant from where Myrna grew up.

I asked the copy of a New York Times article, describing the Myrna Loy Theater, be printed in the RECORD following these comments.

The article follows:

It is indeed a fitting and timely convergence of events that the theater honoring Myrna Loy would be opened at the time the American Academy of Motion Pictures would see fit to recognize her for her extraordinary contribution to film.

I had the honor of visiting with Miss Loy in her apartment several years ago when I went to her personally to ask whether we could build a theater in her honor in my hometown. It was an exciting moment for me, especially when she graciously accepted our offer.

Since that time, I have learned more about Miss Loy's career. Not only was she a great film actress, but her peers at the Academy of Motion Pictures have recognized her for her numerous civic contributions to our society, including work with the United Nations, Red Cross, and the National Committee Against Discrimination in Housing. Additionally, Miss Loy was a vigilant supporter of free speech, especially in her defense of the film industry and its workers.

I told Miss Loy when we last met how proud her home town of Helena, Montana is of her achievements. I am sure that the pride of Montana will expand even further now with her much deserved Oscar.

I am also pleased that her peers at the American Academy of Motion Pictures have not forgotten the extraordinary contributions that Myrna Loy made to the American film industry and, more importantly, to the movie-going public.

Let me stop at this point and give some credit to one of my former staff members, Sandra Jean Medallis, who sent some of this information to me. Like Miss Loy, Sandy is working in the film industry and is a credit to the industry.

I hope that in the days to come, we will seefit to honor her for her contributions to film and the community, and that the film industry will continue to recognize her for her accomplishments.

I am also pleased that her peers at the American Academy of Motion Pictures have recognized her for her numerous civic contributions to our society, including work with the United Nations, Red Cross, and the National Committee Against Discrimination in Housing. Additionally, Miss Loy was a vigilant supporter of free speech, especially in her defense of the film industry and its workers.

I also commend Richard Mark, the executive finance officer of the church. Behind the scenes, Richard has tirelessly sought ways to cut hospital costs and seek new areas of potential funding, just to give the hospital the best possible care in the best possible way. Of course, the poor handmaids of Jesus Christ are grateful to the Poor Handmaids of Jesus Christ for their continued support of the hospital. We must find a way to support our local hospitals in the best possible way.

THE LAST BASTION OF CARE

Mr. SIMON. Mr. President, East St. Louis, IL, the city that used to be the second largest rail center in the country, is waging a daily battle against despair and despair.

Ninety-five percent of East St. Louis' 40,000 residents are black. The per capita income is around $4,000. Over 40 percent are on public aid. A black male in East St. Louis is less likely to reach the age of 65 than his counterpart in Bangladesh.

In the midst of this, the city has been left with one hospital-St. Mary's. Two years ago St. Mary's celebrated its 100th birthday-not knowing whether it would survive to its second century. Last year the hospital lost $4 million; last year the losses were more than $6 million. While St. Mary's is still operating, the hospital lives hand to mouth. It is a private hospital filling a public need, but receiving no tax support from either the State or the Federal Government. It meets the health care needs of the community from providing basic health care to those without health insurance to treating some of the most violent traumatic cases in the country.

Dr. Frederick Cason is a trauma surgeon on St. Mary's staff. He says, 'I spent 14 years in the military but I never saw the war until I came here-St. Mary's.'

Last year my colleague Senator Dixon and I attempted to get some short-term help for St. Mary's. While we were unsuccessful we are again looking for Federal, State and other sources of money to stabilize St. Mary's, allowing it to remain open filling a void that so few are still willing to take on today.

Earlier this month, Business Week ran an article on St. Mary's Hospital. In reading the article, one cannot escape the sense of despair in the East St. Louis community. The reader is also hit, however, with the many people who are bound and determined to make it work and keep St. Mary's alive and well in East St. Louis. I commend Chuck Windsor who joined St. Mary's about 18 months ago as CEO. Mr. Windsor knew the odds were against him, but he has proved to be up to the fight. I also commend Richard Mark, the executive finance officer.

Richard has tirelessly sought ways to cut hospital costs and seek new areas of potential funding, just to give the hospital the best possible care in the best possible way. Of course, the poor handmaids of Jesus Christ are grateful to the Poor Handmaids of Jesus Christ for their continued support of the hospital. We must find a way to support our local hospitals in the best possible way.
Gary Triplett is one of the patients in the emergency room of St. Mary's Hospital, East St. Louis. Ill. Plastic tubes stick up his nose; others wind their way to a vein in his left arm. Bare-chested except for a craniofacial bandage, he still wears his stone-washed jeans, but his sneakers are on the floor. A few hours earlier, a Saturday-night drinking bout had erupted into an argument that left the young man bleeding from a stab wound in his chest.

The delicate tissue of his lung was punctured, but Triplett is alert at 3 a.m. He confides that he lost his job as a city hall clerk in his first child, a son. When a policeman shows up to take a report, Triplett declines to be questioned, but asks, "Why did the city lay me off?"

"Don't know," answers the officer. "I don't know why the city didn't pay me yesterday, either."

The nurse and the cop leave. Triplett and I are alone. The emergency room is hushed, and the city around him lies asleep. Triplett, who suddenly seems younger than his 22 years, tells me this is his third trip to the emergency room. Once, he was shot. Another time, he was hurt in a car wreck. At this rate, I ask, isn't he afraid he won't live to see his son grow up? "I don't fear death," Triplett tells me. "I fear life. It's harder to live than to die."

BURNT-OUT SHELLS

His words ring true in East St. Louis, a place where men are less likely to reach their 65th birthdays than in famine-plagued Bangladesh. The mortality rate among black infants in this city is more than twice that of New York City's Harlem and five times the rate of the nation as a whole. In 1987, the city quit picking up streets, alleys, and lots. The decaying sewer system has repeatedly heaved raw human waste through streets and sinks, forcing schools to close for days at a time because of the health risk and the stench.

But nowhere can the distress of this city be felt more deeply than at St. Mary's. With the closure of Gateway Community Hospital a year ago, this battered doyenne of the city's northwestern corner, sent into remaining hospital. St. Mary's emergency room is often the first and only provider of health care for the city's poor, most of whom don't have regular doctors. It is also the biggest private employer in a city where the official unemployment rate is nearly twice the national average. It operates the city's only outpatient mental health center and is the only trauma center in the county.

St. Mary's has become a haven of last resort. Rocking back and forth in her chair, a teenage girl waits outside the emergency room. Her hair is pulled into half a dozen puffs on top of her head. A roll of toilet paper peeks out of her purse. She wears a pair of dirty white slippers with powder blue ribbons at the toe. She has been in the beige-tiled waiting room for several hours. A blazing television mounted on the wall keeps her company. Dapper talk-show host Arsenio Hall whoops it up with his studio audience. Hollywood couldn't be farther from East St. Louis on this bleak winter night.

Inside the emergency room sits the nurse response center, a sort of hospital with an exasperated expression, a woman with an outline of lipstick that has smudged off her lips. She rapidly phones local shelters begging a place for the young woman to stay the night. "The problem is that all the shelters are filled up," says the nurse, explaining that the 19-year-old, who has had half a dozen hospitalizations, has come to the emergency room after a fight with her mother. "There's no room at the inn," says the nurse.

At 4:00 a.m., people do show up at St. Mary's looking for little else than a room. Every year, a few mothers try to check their kids in at Christmas time to make sure they get a warm place to sleep. Healthy children aren't admitted, but Santa Claus does visit those who end up spending the holidays in the hospital. Older people try to check into St. Mary's just to find some companionship.

FROZEN CHICKEN

But whether this hospital will be around next Christmas is unclear. Ancilla Systems Inc., a health care company owned by the Poor Handmaids of Jesus Christ, an order of nuns, is weighing whether to shut it down. In 1989, the hospital lost $4.4 million, compared with a $3.36 million loss the previous year. Its 1990 losses have been projected at $7.3 million. In part, St. Mary's rate is so high because of such difficult straits because it provided $3.5 million in uncompensated care last year. But it's also suffering from dependence on government payments. Fully 78% of its patients are enrolled in the medicaid and medicare programs. For many treatments, these programs pay the hospital less than the cost of labor and supplies. It also has been forced to pay the cost of an emergency-room visit by a medicaid patient. The average cost of caring for a stabbing or gunshot victim, who typically requires the services of surgeons, anesthesiologists, and lab technicians, is $2,300—before room costs.

St. Mary's occupancy rate has dwindled to 40%, as patients with private insurance have shunned it in favor of suburban hospitals, such as Belleville Memorial, that offer more services. Last summer, new management was brought in to aid the efforts to turn the hospital around and shut a new cancer clinic. To cut costs, the hours for CT scans and ultrasonics are now restricted. The hospital cafeteria, once known for its homemade fresh fried chicken, is currently closed evenings and weekends. And these days, it often serves frozen chicken.

Mr. Mary's new chief executive, Charles E. Windsor, recently recruited from Harlem Hospital in Manhattan, expects losses to narrow to $2.5 million in 1991. But the belt­tightening is taking its toll. Patients often delayed, and people in pain, the wait in the emergency room on Saturday night can seem endless.

"I'm hurting," says Ernest Rodriguez, with a bowed and bandaged head. In the fleshy area between his thumb and forefinger is a homemade tattoo. "Rico Robin," and his right ear. Next to him stands Shelly Boyce, a police­man from the neighboring town of Washington Park. Rodriguez, says Boyce, was hit in the face with a glass jar in the afternoon after pulling a straight razor on another man. At 4 p.m., Rodriguezes and Boyce were still waiting for the results of a CT scan that the doctor has ordered to make sure no glass has lodged inside Rodriguez's brain.

WAR ZONE

"They closed down the other hospital in East St. Louis," says Rodriguez, a Texas native who was wounded in a war. "I'd like to take care of you if your ass was shot, stabbed, anything. I sat in here for hours, and nobody's taken care of me." With long, dirty fingernails and dark splatters of blood on his shirt, Rodriguez looks more and more miserable as the night wears on. Several times, he says, "Officer Boyce, give me a cigarette. That's not an easy task in a no-smoking hospital, but somehow Boyce manages.

This shift is nothing special, though. Every night, St. Mary's is treated to a visitor who paid a visit to the emergency room. Many experience such a visit with the smell of blood and frustration and death. "I fight a war here every day," says Dr. Frederick D. Cason, a Navy-trained surgeon who operates the city's only psychiatric hospital. "My patients are psychiatric patients. They come here, and I can't help them."

SPEECHLESSNESS

Community hospitals often suffer from a speechlessness as the patients who end up in their hallways would not or could not pay, garbage is strewn on streets, alleys, and lots. The decaying sewer system has repeatedly heaved raw human waste through streets and sinks, forcing schools to close for days at a time because of the health risk and the stench.
CONGRESSIONAL RECORD—SENATE
March 21, 1991

A TRIBUTE TO JOHN R. SCHREITER

Mr. KOHL. Mr. President, Outagamie County Executive John R. Schreiter is retiring from public service after 36 years. On Thursday, April 11, 1991, Mr. Schreiter will be honored for his extensive government service. I believe that any member of any elected body in this country would look at Mr. Schreiter's record of public service with envy. He has been the Outagamie County executive for 12 years, county board supervisor of Outagamie from 1955 until 1978, including 3 years as its chairman. His years of service also include a post as president of the Wisconsin County Executives and Administrators Association, chairman of the East Central Wisconsin Regional Planning Commission, and chairman of the Fox Valley Water Quality Planning Agency.

I am proud, Mr. President, that the State of Wisconsin can boast of residents like John R. Schreiter. He has devoted his entire professional career to the service of his community. It is also with a bit of sorrow that I am announcing Mr. Schreiter's retirement, Mr. President. Mr. Schreiter, a person with his dedication and record of service are too few and far between.

SOLVING THE REAL ESTATE CRISIS

Mr. KERRY. Mr. President, for more than a year now the Nation has been caught in a treacherous downward economic spiral as a result of the credit crunch and the weakened position of the country's financial institutions. The contraction of the thrift industry, the imposition of new lending restrictions by Federal regulators, a massive budget deficit and spending cutbacks by the United States as well as international factors, such as financial instability in Japan, the growing need for capital to rebuild Eastern Europe, and the financial drain of war—and now reconstruction—in the gulf have all contributed to this decline.

The real estate and construction industries, which have long played leading roles in job creation and economic growth in this country have been particularly hard hit by the events of the past year. While construction had outpaced demand in many markets and some correction was overdue, the scale and nature of these special needs. I urge my colleagues to act on this legislation.

Several of my Senate colleagues have already taken steps in this direction. The Senate Finance Committee, Senator Bentsen, made an excellent statement on the credit crunch and real estate last month in which he specifically talked about the role of pension funds and called for the Finance Committee to hold hearings to explore the subject. In addition, last fall, in connection with the housing bill, Senator SIMON of Illinois introduced an amendment, which was incorporated into the bill, calling upon the Department of Housing and Urban Development to prepare a report for Congress suggesting ways in which the vast resources of the Nation's pension funds can be made available for investment in affordable housing for low- and moderate-income people. Finally, I would add that this is an area where Secretary Kemp has been active as well, having written a letter to the Secretary of Labor in December to encourage approval of a program in New York designed to encourage such pension fund investment.

Mr. President, I ask that the Financial World article be reprinted in the Record.

The article follows:

[From the Financial World, March 19, 1991]

SOLVING THE REAL ESTATE CRISIS

(By Adrienne Linsenmeyer)

For over a year, scare headlines on the real estate crisis have been hitting the street like Scud missiles. The gravity of the situation is obvious: As real estate values deteriorate in various markets, the liquidity crisis at thrifts, banks and insurance companies has worsened.

The question is: What do we do about it? When does the moaning stop and the thinking begin?

Oh, the disease has run its course, say some experts. Things are simply going to get worse for a while as banks and insurance companies, in order to stay solvent, are forced to dump real estate on an already depressed market. "Liquidity will be the driving force in changes we'll see in the financial world," says Richard Zinngrabe, using language more often associated with the real estate crisis these days is a strategy similar to the one Mellon Bank employed successfully in 1987. When Mellon saw itself being crippled by bad real estate loans that
year, Chairman Frank Cahoeht bit the bullet and wrote down $1 billion in nonperforming real estate and energy loans to $277 million, little more than face value. This created a new entity, a "bad bank," to which Mellon transferred the problem assets for liquidation. The healthy assets remained with the good bank, "Green Street National," which was recapitalized with two debt issues and preferred stock. With the junk market in full swing, finding buyers for such paper was hardly a problem. The debt was paid as assets were liquidated out of Green Street. "It worked better than Mellon has envisioned," says Dillen Duff, managing analyst Felsie Gelman. Mellon was able to repay the debt and even got a return on the preference, which it had kept itself.

Can the U.S. use the good bank/bad bank concept to stabilize the frightened real estate market? It all depends on whether buyers can be found, of course. After all, Mellon's liquidation drive started when there was still plenty of money available to buy real estate. Today, however, the traditional lenders, the banks and insurance companies, are starved for capital. If this situation persists, the real estate crisis will only get worse - a member of the Urban Land Institute Credit Crunch Task Force advising the Administration.

Ease up on the money supply, he urges. "If they slam on the brakes (further squeeze credit), the economy will go off the road. But if they pump up the brakes, the economy will come out of the skid."

Even if that doesn't happen, Salomon Brothers' managing director of research, David Shulman, thinks pension funds might step into the void created by the departure of banks and S&Ls from the real estate market. At present, pension funds as a whole have no more than 3% to 5% of their portfolios invested in real estate. If the discount is steep enough, perhaps that patient money could be persuaded to buy properties in greater volume than usual. "Liquidity will be restored from the long end of the market, with pension funds leading the way at the right price," says Shulman. Even Zinngrabe concedes that pension funds are best positioned to participate in the real estate recovery. "But it's a matter of putting a value on properties that there are other potential buyers as well: "There are other pools of nondepository financial capital that are likely to be important," he says.

Add it all up, says Dreyfuls Realtor Advisers' president, Frank Tansey, and there aren't enough prospective buyers approaching prices where deals will get done. How much of a markdown from appraised value does that entail? Zinngrabe figures that in order to attract buyers in this market, prices will have to fall anywhere from 8% to 25% from 1990 appraised values, depending on region and property type. "Once you get to that level, the first deals will be made," says Tansey, "the flow will follow."

Trouble is, pension funds that have real estate portfolios have been expressing interest in forming risk-adjusted pools of assets, says Kevin Haggerty, executive vice president of Cushman & Wakefield, a national commercial real estate firm. "They want to put their distressed properties in a pool at some sort of discount with features for future sharing and appreciation if the world gets better, and sell them to foreign money, the Sam Zeis of the world and pension funds," says Haggerty. Paine-Webber's Cohen thinks real estate securitization is inevitable. "There are deals being made today," he asserts. As corporations try to pare down their debt and banks search for capital, they are going to try to sell real estate through real estate investment trusts (REITs) to raise money. The question is, who will buy?

Some experts are skeptical that many pension funds will ever buy such instruments (see box for one pension-fund manager's views on this topic). Says Dreyfuls' Tansey: "Pension funds are not going to step up and do one for the Gipper."

Tansey thinks pension funds will go directly to troubled developers and buy at deep discounts. "If you believe that today's problems will continue for 15 years, you've got a home run," he says.

Others, such as Pension Realty Advisors' Moore, see increasing interest among pension-fund clients in securitized real estate vehicles. "It's a slow process," he says. "They have to straddle the real estate market and then securities market."

Even the skeptical Tansey says the bad news is cut out on real estate, and that's the good news. Institutional holders of real estate need liquidity and the packaging will depend on what's available. "We're seeing some contrarian buyers in the market now, but so far it doesn't constitute a trend," says Zinngrabe. That will happen once the residential market begins to recover toward the end of this year or early 1992, he goes on. And in that turn, he says, single-family properties will come to the fore. The risk, of course, is that the properties would have to represent the diversity an investor was looking for and be flexible enough to be sold in units. "If the securitized pools could be sold off in shares so everybody could participate, they would attract a lot of capital," he predicts.

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THE AMERICAN DREAM REVISITED

Mr. D'AMATO. Mr. President, many of us in this body can relate stories that we have heard or speak of people that we know, who, with little more than a firm desire to work hard, have succeeded at achieving the American dream of being one's own boss. Some may say that the entrepreneurial spirit that built our Nation has diminished, that Americans no longer have the desire to start things new. Well, I don't believe that. I believe that the American dream is alive, and, for many entrepreneurs it has taken on a different form—business franchises.

In years past, franchising was looked upon as a highly risky venture. One was expected to pay thousands of dollars in franchise fees, up front, pay royalties to the franchisor; and see very
little return for an unspecified period of time. Such demands made franchising unattractive both to men and women. However, in recent years, the thought of owning a franchise has become as realistic as it is appealing. This appeal has grown due to the increased desire of individuals to be in command of their economic fortunes.

Yes, the risks of engaging in franchising are still there, but, I think that they are outweighed by the desire of Americans to succeed at their own enterprise.

This desire to succeed must be tempered with a little caution, though. It is no secret that as an economy suffers, some look to self-employment and enterprise as an alternative career. While franchises are a perfect starting point for such entrepreneurship, the potential disadvantages must be diligent to guard against less than scrupulous franchisors. It is incumbent upon the potential franchisee to make sure that they can negotiate their purchase from a position of equality. They must do this based on the information they receive pertaining to a particular franchisor either through the auspices of government agencies, or through self-discovery. It may be the franchisor's name on the door, but it is the businessperson who supplies the capital and the sweat equity which determines the success or failure of that franchise.

While the vast majority of franchise organizations operate on the level, there have been reports that individuals who have been adversely affected by our current economic state have been mistreated by unscrupulous franchisors. It is incumbent upon the potential franchisee to make sure that they can negotiate their purchase from a position of equality. They must do this based on the information they receive pertaining to a particular franchisor either through the auspices of government agencies, or through self-discovery. It may be the franchisor's name on the door, but it is the businessperson who supplies the capital and the sweat equity which determines the success or failure of that franchise.

Mr. President, there are more than 500,000 franchisees employing upward of 8 million men and women in the United States today. The economic stimulation to our Nation runs into the hundreds of millions of dollars per year. Franchising is a field that I feel will only expand in the years to come. Indeed, by the year 2000, franchise stores are expected to make up roughly 50 percent of all retail business in America. There are risks involved in purchasing a franchise, but these risks must be evaluated by the potential franchisee through the existence of regulations which protect but do not frustrate future entrepreneurs from realizing the American dream of finally becoming the boss.

I congratulate my good friend and New York colleague in the House of Representatives, JOHN LAFLINCE, for his ongoing interest in this important issue. The hearings that he has convened on the subject of franchising have provided a needed dialog giving perspective to the potential opportunity and enterprise looked to by millions as their piece of the American dream.

Fannie Mae

- Mr. RIEGLE. Mr. President, yesterday the Federal National Mortgage Association (Fannie Mae) announced an expansion of its efforts to provide low-cost mortgage financing. The new program will provide an additional $1 billion in low- and moderate-income financing to meet community mortgage credit needs.

I have stated on several occasions that we must ensure that all Americans are given an opportunity for a decent place to live. The program announced by Fannie Mae is an important step in that direction. I commend Fannie Mae for demonstrating this commitment.

I ask unanimous consent that the Chairman of Fannie Mae, James A. Johnson's, remarks on this program be included in the RECORD.

The remarks follow:

OPENING DOORS TO AFFORDABLE HOUSING

(Remarks by James A. Johnson)

We gather today to launch an ambitious program to open doors to affordable housing. I am announcing a significant expansion of our home ownership efforts to provide low-cost home mortgage funds for those who need help achieving their dream of a decent home.

Our goal is to produce $10 billion in commitments for low- and moderate-income and other special housing needs by July 1993, and to turn all of those commitments into deliveries by the end of 1994.

Young families and the elderly, the homeless and those who cannot afford to rent, many people in rural areas and cities, and those who cannot afford to live near their work—all of these people will be the focus of our attention and action.

I know we can succeed in this effort because it depends so much upon you, and you have responded so well to challenge after challenge in the past.

First, let me say thank you to each and every Fannie Mae employee for what you have achieved.

In 1990, Fannie Mae had no MBS business. This January, we passed the $300 billion milestone in MBS outstanding. It was a big challenge, and you met it. In the process, you proved teamwork pays.

In the last 3 years, our customer survey showed a tremendous leap in customer satisfaction. Today, 73 percent of our customers say they are "fully satisfied" with their Fannie Mae relationship. You met, and continue to meet, the challenge of customer service, proving again that teamwork pays.

Insulating our company from interest rate risk through better matching of our assets and liabilities was a critical challenge. It involved finance, technology, sales and marketing, and a corporate commitment to excellence. Working as a team, you met that challenge, too.

Together we met another challenge in a way that shows the kind of company we are. In 1988, we started the Futures 500 Club at Johnson High School. We offered a $500 a semester toward college in a special account for 211 students getting all A's and B's. After the first year of the program began, there were 33 Fannie Mae volunteer mentors. Today there are over 100.

Fannie Mae has a record of thriving on challenges. In 1990, we served over 1.25 million families, more than a third in homes affordable to families with incomes below the median in the area where they lived. The average single-family loan financed by Fannie Mae in 1990 had a balance of $39,700, in a year in which the national median price for an existing home was $55,500 and for a new home, $122,500. On all the single-family loans we own or guarantee, the average balance is less than $50,000.

We earned over $1.1 billion in 1990, after paying the Federal Government over $500 million in Income taxes. We reduced risk. Chargeoffs for losses were less than $225 million on over $400 billion of mortgages financed. Foreclosures fell to just over 5,000 properties out of 6.5 million loans on one-to-four family properties.

In 1987, the company gave fresh emphasis to our public responsibility when it created a separate Office of Affordable Housing. David Maxwell believed that step re-engraved Fannie Mae's mission on our consciousness. Today, our years of experience has given us a great many ideas and convert them into practical products quickly. Let me give you some examples.

We have worked with scores of lenders and community groups in States and cities throughout the country to make homeownership affordable to lower income families, and to tailor programs to local needs. In Washington, we are working with the city government, the Local Initiatives Support Corporation, nine community groups, and three lenders in the innovative HomeSight Program. Likewise, in New York City, the New York Housing Partnership has shown us the way.

We lead the Nation in low-income rental housing investments using the Federal low-income housing tax credit. We have invested in 80 projects in 20 States. In partnership with Rural Housing Services, we have reached corners of the country too long over- looked. With the Bank of America, we have established an equity fund to serve the homeless and others with needs that go beyond shelter.
No one surpasses our work with State and local housing agencies to help them raise funds at lower cost and leverage their scarce resources. We have purchased more than $6 billion in mortgage revenue bonds in fourteen States and the District of Columbia, and contributed $250 million in growth capital, working with the New Jersey Economic Development Authority and Mortgage Finance Agency. Any doubt about the enthusiasm for that program was erased the first time when the agency received a call on a toll-free number of a $250 million Commitment Line, of which more than $200 million was already in the mail. Other agencies have a funds to close. This spring, when we use our nationwide scope to deliver funds efficiently. Our best efforts the ones that can be widely replicated across the country, but we will always be sensitive to unique local needs.

We are a private, profit-making company. We help finance housing, at greater or lesser cost, through investments that must be financially sound.

We care about credit, and believe in prudent underwriting. Borrowers must have a real stake in the housing they are buying. No one benefits when people buy houses they cannot afford. Nevertheless, we encourage lenders to consider nontraditional measures of credit. When a person is willing to make a financial sacrifice to own a home, are almost, always sound business risks.

Using these principles, we will forge ahead. Economic forces may impede the effort, or may accelerate it, but there should be no doubt in anyone's mind that Fannie Mae is fully committed to achieving results. Let me extend an invitation to all lenders and other partners to bring us their good ideas. With the principles I have outlined, Fannie Mae cannot be extinguished. We are determined to work with lenders and other partners to bring us their good ideas. We are working to forge ahead, to develop new products and services.

Minority families of all income levels appear to have less access to housing finance than white families.

One in seven elderly Americans live in poverty, many in unfit housing. Many others are "house rich and cash poor."

In rural America, working families are twice as likely to be overcrowded as those in our cities. In 1985, there were 500,000 more low-income rural families than units of affordable housing.

The lack of affordable housing in urban America makes it difficult for working people to live near their place of work. Including many new workers who are needed to serve our urban communities, such as police officers, fire fighters, teachers, and nurses.

We will succeed in the commitment we are making today because we will build on our strengths and knowhow. We know how to raise large amounts of relatively low-cost money to finance mortgages. We have active relationships with lenders and other partners. We have over 12 million mortgage customers.

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We will be involved in the development of the Housing Opportunities Program (HOPP) which was being designed by the President to be the best way to provide homeless individuals with the support they need to become self-sufficient. The Fannie Mae commitment of $150 million is a down payment on a much larger commitment to affordable housing.

Under the President's plan, Fannie Mae will provide up to $150 million in mortgage revenue bonds to finance the construction of affordable housing for single men and women, elderly, minorities and the physically disabled. This commitment is the first of many that will be made to help meet the housing needs of the homeless.

The new program will provide funds to purchase or construct new housing, to rehabilitate existing homes, or to make improvements to existing homes.

The funds can be used to help finance projects that meet the requirements of the Community Reinvestment Act (CRA). The CRA requires banks to make mortgage credit available to all neighborhoods in all communities.

Fannie Mae will also work with other housing agencies to help them raise funds at lower cost and leverage their scarce resources. We will use our nationwide scope to deliver funds efficiently. Our best efforts are the ones that can be widely replicated across the country, but we will always be sensitive to unique local needs.

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We care about credit, and believe in prudent underwriting. Borrowers must have a real stake in the housing they are buying. No one benefits when people buy houses they cannot afford. Nevertheless, we encourage lenders to consider nontraditional measures of credit. When a person is willing to make a financial sacrifice to own a home, are almost, always sound business risks.

We are committed to doing business with minority-owned businesses. Fannie Mae will purchase its securities from minority-owned dealers and underwriters. Fannie Mae will also work with minority-owned banks and thrifts to develop their mortgage origination capabilities.

Through this decade and beyond, American employers will face a shortage of skilled workers. As many as 2 million Americans experience a shortage of affordable housing. We will succeed in the commitment we are making today because we are committed to affordable housing.

We will continue to work with the Congress, which approved the Cranston-Gonzalez National Affordable Housing Act last session—the first major housing act in a decade— to further expand housing opportunities. We will work with Secretary of Housing and Urban Development Jack Kemp to implement the Act and accomplish his goal of empowering the poor to achieve homeownership.

Much of our effort will be directed to helping families unable to accumulate funds for a down payment and closing costs. An initiative intended to reduce the "32 Option"—will help those families cross the threshold to homeownership by reducing the dollars they have to bring to the closing table.

The "32 Option" allows borrowers to qualify for 5-percent down payment loans by using 3 percent of their own funds coupled with a gift from a family member; or a grant or loan from a nonprofit organization, or State or local government. While mindful of prudent underwriting, the "32 Option" truly makes it possible for a new group of home shoppers to become home buyers.

We will expand and improve the effective- ness of the "92 Option," working with State and local housing finance agencies to reduce the cost of mortgages that are financed with mortgage revenue bonds (MRB). Fannie Mae will also work to pioneer innovations in this type of funding. Our goal is to purchase $1.5 billion in new MRBs by the end of 1992, and to provide $700 million in specialty securities to support reduced-rate mortgages.

Fannie Mae will enhance its tax-credit equity investments by $150 million over the next 2 years to finance a total of more than $400 million of housing for low-income renters.

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Fannie Mae will enhance its tax-credit equity investments by $150 million over the next 2 years to finance a total of more than $400 million of housing for low-income renters. This $150 million is not a ceiling, but an objective we have to exceed. Our invest- ment will be guided by the President's seven goals to achieve the cleanest, greenest, most energy-efficient, most eco-friendly nation in the world. We will work closely with the President and the Congress to meet the requirements of the Community Reinvestment Act called, "Investing In Your Community. We will be giving training..."
THE DEATH GRATUITY

Mr. KASTEN. Mr. President, I rise today to voice my concern about certain exclusions in the conference report on the Operation Desert Shield/Storm Authorization Act that today was sent to the House of Representatives.

The death gratuity, given to survivors of military personnel to assist in funeral and other expenses, was included by the Senate but deleted by the House. The death occurred after January 16, 1991. I am certain that the Senate did not intend to exclude the survivors of Operation Desert Shield personnel whose lives were lost prior to the commencement of the war.

In fact, the definition of the Persian Gulf war in this legislation specifically dates from August 2, 1990. We ought to reflect this date in our death gratuity provision.

It simply makes no sense to exclude the families of those men and women who gave their lives during the most lengthy period of the war. I resolve to correct this inequity and ask my colleagues to join me.

U.S. COMMISSION ON CIVIL RIGHTS REAUTHORIZATION ACT OF 1991

Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 617, a bill to reauthorize the U.S. Commission on Civil Rights for 10 years. Currently, the Commission's authorization expires at the end of the current fiscal year. As most of us know, the Commission has played an important role in helping to eradicate discrimination from the American way of life since it was originally established in 1957.

Since 1957, the Commission on Civil Rights has collected and analyzed information and developments concerning equal protection as well as discrimination. Studies have been made dealing with the administration of justice in areas such as voting rights, enforcement of Federal civil rights laws, and equal opportunity. In addition, the Commission serves as an information pool on discrimination, easily accessible by the President and Congress.

The job performed by the Commission is often difficult, and Commission decisions are not always agreeable to everyone's desires, but, I feel they have helped play a vital role in combating discrimination in the United States today. The duties of the Commission should be allowed to continue without constant congressional intervention and interruption.

Mr. President, the Commission on Civil Rights serves a function that exemplifies one of our nation's goals for equal opportunity. A 10-year reauthorization would enable the Commission to continue uninterrupted for an extended period of time. I commend Senator Hatch for introducing this bill and I encourage my colleagues to join me as a cosponsor.

THE SPARK M. MATSUNAGA MEMORIAL PEACE EDUCATION ACT

Mr. AKAKA. Mr. President, I rise in support of the Spark M. Matsunaga Memorial Peace Education Act introduced by Senator Hatch of Hawaii.

In light of recent events unfolding in the Persian Gulf and Eastern Europe, this bill is most timely and appropriate. It is also an important piece of legislation because it recognizes Spark Matsunaga's lifelong dedication and commitment to the cause of international cooperation and world peace.

Now more than ever, it is vitally important to fulfill our departed colleague's vision of global understanding. The Spark M. Matsunaga Memorial Peace Education Act will continue the efforts of our beloved friend.

Specifically, this legislation establishes the Spark M. Matsunaga Scholarship Program within the U.S. Peace Institute. It will enable the Institute to award scholarships to high school students and outstanding undergraduate students to pursue studies in international peace and conflict management.

Mr. President, throughout 40 years of service to his country, Spark Matsunaga was devoted to the cause of peace. His diligent efforts resulted in the foundation of the U.S. Peace Institute, and with our help, his vision of world peace will be realized. Spark was a man of the future. This legislation will serve as a constant reminder of his vision, determination, and achievements on behalf of this noblest of causes.

In conclusion, as we face up to the critical issues of our Nation at home and abroad, let me return to the memory of our departed colleague and the example he set for us. Spark's passion to the cause of justice, his dedication to the pursuit of peace, his commitment to public service, and his evident faith in the common man's approach to problem solving and conflict resolution are a hallmark of history lessons learned well.

Mr. President, I urge my colleagues to join me in support of the Spark M. Matsunaga Memorial Peace Education Act.

GREEK INDEPENDENCE DAY

Mr. SIMON. Mr. President, it is with pleasure and pride that I join with all the citizens of Greece and all Greek Americans in celebrating March 25 as Greek Independence Day. Senate Joint Resolution 58, "Greek Independence Day,'" which I am pleased to cosponsor, is an important statement of friendship toward Greece and a celebration of the many achievements of Greek Americans over the years.
Greece has added immeasurably to Western civilization through the art and literature, architecture, science, politics and philosophy, and in many other areas of human endeavor. We need only look around at the buildings and other areas of human endeavor. We need only look around at the buildings in Washington, DC, to see the legacy of the great architects of ancient Greece whose genius is still evident in the modern world.

It is also appropriate to remember that the origins of our own Senate lie in the Athenaeum. It is the Greek philosophers, men like Plato and Aristotle, to whom the United States and other democracies owe a debt of gratitude.

As a symbol of the quality of Mr. Tucker's work, he was awarded in 1988 the Department of Justice Director's Award for superior performance—recognition accorded to only 1 percent of assistant U.S. attorneys nationwide.

As further evidence of his contributions, Mr. Tucker has been among those few assistants selected to evaluate other U.S. attorneys throughout the country.

In fact, last year Mr. Tucker visited his 50th State during an evaluation of the U.S. Attorney's Office in Alaska.

It certainly comes as no surprise to me that Mr. Tucker assumes his duties as U.S. attorney with the backing not only of his wonderful family—his wife Judy and his daughter Courtney—but the full support of his office team and law enforcement officials in the Western District of Virginia.

Mr. President, it gives me great pleasure to commend the nomination and confirmation of Mr. Tucker for this important post.

LEADERSHIP AMENDMENT TO S. 578

- Mr. MURkowski. Mr. President, I was pleased to support the leadership amendment to S. 578 which was adopted by the Senate last Thursday. This amendment would provide additional benefits for our military personnel, some of whom served in the Persian Gulf war. I applaud those who have diligently worked on this amendment—especially Senators Dole, Mitchell, McCain, and Glenn.

As former ranking minority member of the Veterans' Affairs Committee and a current member of that committee, I am pleased to have played a role in the development of the veterans portion of this amendment. Our committee will continue to explore the needs of the Persian Gulf war veterans and make necessary adjustments which may be needed in the future.

I am pleased a compromise agreement was reached with respect to the $30,000 death gratuity. Under this package, servicemembers who died after August 2, 1990, and before March 31, 1991, in the performance of military duty will receive a $50,000 death gratuity. The dollar figure is equal to the amount of the proposed increase in the Servicemembers Group Life Insurance Program. I appreciate the leadership's acceptance of the suggestions made by Senator Simpson and myself on this provision.

The package does not include a provision to require employers to rehire reservists who had been employed as temporary employees, as had been suggested by Senator Kennedy. I would note that with respect to seasonal employees—like those who work in some Alaska industries such as fishing—the current practice, as provided for under the law, is that will not be required to reemploy the reservist during the next season. That is, if the season is over, the employer would not be required to create a new job but rather hire the reservist during the next season.

Again, I take this opportunity to acknowledge the outstanding performance of our troops in the Persian Gulf. We are proud of them and I hope that this benefits package will help to address some of the challenges they will face upon their return to the States.

SENATOR MURkowski's STATEMENT IN SUPPORT OF GENERAL AVIATION ACCIDENT LIABILITY STANDARDS—S. 645

- Mr. MURkowski. Mr. President, I rise today in support of legislation introduced by the Senator from Kansas [Mrs. Kassebaum], the General Aviation Accident Liability Standards Act of 1991.

The escalating cost of liability insurance has had a significant impact on the general aviation industry. Not only have manufacturers been subject to astronomical damage awards, which translate into higher liability insurance premiums, but subsequent increases in the cost of small aircraft have priced many consumers out of the market. The bill introduced by the Senator from Kansas injects a sense of realism into the debate over general aviation accident liability standards.

The bill would establish a uniform standard for liability cases in this industry, to address inconsistent State court judgments which have led to instability and unpredictability in the industry. The bill would impose a 20-year statute of repose for aircraft and replacement parts. When a manufacturer sells an aircraft, the new owner is responsible to make any repairs and upkeep of the aircraft. This legislation would ensure that a manufacturer is not held liable for an accident that results from an owner's failure to perform these responsibilities. This is particularly significant in Alaska, where it is not unusual to come across planes still active in general aviation which are 40 or even 50 years old, which have been repaired with parts that have been cannibalized from other aircraft.

The Senator's bill will provide stability to the general aviation industry, which would be very helpful to my State. Alaskans are uniquely dependent upon general aviation aircraft for our way of life. From communities on the Aleutian chain to the North Pole, Alaskans depend on small aircraft for the basic necessities of life. Mail, foodstuffs, and equipment are all trans-
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Ported by small aircraft throughout rural communities that have no access to a road system. Many communities have minimal or no healthcare facilities and residents must depend on general aviation aircraft to transport them to facilities in Anchorage or Fairbanks for treatment. Many communities that have no access to a road system. Many communities that have no access

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take the necessary steps related to student loans to prevent undue financial burdens on participants in Operation Desert Storm. These provisions include deferments and an expansion of the grace period during which loans do not have to be repaid. Identical provisions were included in S. 578, the Desert Storm authorization bill. While these provisions are extremely worthy, I note that they will increase spending by $3 million in 1992.

H.R. 1285 also delays the implementation of certain provisions included in the 1981 Omnibus Budget Reconciliation Act. The delay of these provisions will have a negligible effect on spending in 1981 and will increase spending by $3 million in 1992.

Mr. President, I make these points only because I want my colleagues to be aware of the costs associated with these technical changes to the Higher Education Act.

My colleagues should also be aware that, as scored by the Congressional Budget Office, there is a Budget Act point of order against this bill for 1981. That is because the bill increases spending in 1981, a year for which the Labor and Human Resources Committee has reached its spending allocation. In relation to the pay-as-you-go procedures established last year in the Budget Summit Agreement, the Office of Management and Budget has indicated that H.R. 1285 has net savings of $3 million in 1991 and $28 million over the 1981-95 period. I am pleased that, over 5 years, this bill saves money. Nonetheless I remain concerned that CBO shows an increase in 1991 spending of $3 million without a corresponding offset.

The PRESIDING OFFICER. Are there amendments? If there are no amendments, the bill is deemed read the third time and passed.

So the bill (H.R. 1285) was passed.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

REREFERRAL OF S. 652, THE TELEPHONE PRIVACY ACT OF 1991

The PRESIDING OFFICER. Mr. President, I ask unanimous consent that S. 652, the Telephone Privacy Act of 1991 and that the bill be reevaluated to the Judiciary Committee.

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

MEASURE HELD AT DESK—S. 740

Mr. FORD. Mr. President, I ask unanimous consent that S. 740, the Anti-Terrorism Act of 1991 introduced earli

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Mr. President, I move to reconsider the vote by which the bill (S. 740) was passed.

Mr. DOLE. I move to lay that motion on the table.
ORDERS FOR TOMORROW

Mr. FORD. Mr. President, on behalf of the majority leader I ask unanimous consent that when the Senate completes its business today it stand in recess until 11 a.m., Friday, March 22, that following the prayer the Journal of the proceedings be deemed approved to date; that following the time for the two leaders there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

RECESS UNTIL TOMORROW AT 11 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as under the previous order until 11 a.m., Friday, March 22, 1991.

There being no objection, the Senate, at 6:50 p.m. recessed until Friday, March 22, 1991 at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate March 21, 1991:

DEPARTMENT OF JUSTICE

DIETZ W. LEITENBERGER, OF FLORIDA, TO BE U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF FLORIDA, DESIGNATE, RENOMINATED. IN THE AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL, WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601.

To be lieutenant general

LT. GEN. JAMES S. CARRATT, JR. 320XX-XXX U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601.

To be lieutenant general

LT. GEN. THOMAS B. BAKER, 320XX-XXX U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL, WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601.

To be lieutenant general

LT. GEN. ROBERT L. BUTTERWORTH 320XX-XXX U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL, WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601.

To be lieutenant general

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MEKIN BANE, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING JANUARY 31, 1996.


DEPARTMENT OF HEALTH AND HUMAN SERVICES

BERNADE G. HEALY, OF TEXAS, TO BE DIRECTOR OF THE NATIONAL INSTITUTE OF HEALTH.

DEFENSE BASE CLOSER AND REALIGNMENT COMMISSION


SMALL BUSINESS ADMINISTRATION

PATRICIA F. SAIK, OF HAWAII, TO BE ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION.

U.S. TAX COURT

RENO ADAMS, OF NEW YORK, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM EXPIRING 10 YEARS AFTER HE TAKES OFFICE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENTS TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DUTY CONSTITUTED COMMITTEE OF THE SENATE.

EXECUTIVE OFFICE OF THE PRESIDENT

BOB MARTIN, OF FLORIDA, TO BE DIRECTOR OF NATIONAL DRUG POLICY.

AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RENUMERATED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 320.

To be lieutenant general

LT. GEN. ANTHONY J. BURHISON 320XX-XXX U.S. AIR FORCE.

THE JUDICIARY

ROBIN J. CAUTHRON, OF OKLAHOMA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA.

OLIVER W. WANG, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA.

RICHARD W. GOLDBERG, OF NORTH DAKOTA, TO BE A JUDGE OF THE U.S. COURT OF INTERNATIONAL TRADE.

IN THE FOREIGN SERVICE

