SENATE—*Wednesday, June 13, 1984*

(Legislative day of Monday, June 11, 1984)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

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

Let us pray.

Father in Heaven, Senators are weary—the staffs are weary—there is much to be done and time is short. Issues are critical—emotions are deep—the pressure is on. Gracious God, we need Thee whether we realize it or not—we need Thy wisdom and power. Loving Father, impress upon us Your nearness, Your grace, Your instant and constant availability. In the name of Thy Son. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

SENATE SCHEDULE

Mr. BAKER. Mr. President, after the extensive time for special orders today, there will be a period for morning business to be followed by the resumption of debate on the Department of Defense authorization bill. I have not yet had an opportunity to confer with the distinguished chairman of the Armed Services Committee about how long he wants to run tonight. But my present information is that he wishes to stay late, and I am willing to ask the Senate to remain late as long as we are doing useful work, meaning taking up, debating, and perhaps disposing, I hope, of amendments. If I were guessing at this point, I would guess we will be in until 10 or 11 o'clock tonight. But I will have a further announcement to make during the day after I confer with the chairman on a more precise estimate.

Mr. President, I have no further statement this morning, I believe.

I ask unanimous consent that I may reserve 1 minute of my time under the standing order for use at some other time during this calendar day.

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

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

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The distinguished acting minority leader.

Mr. CHILES. Mr. President, I request unanimous consent that the time normally designated to the minority leader at this time be reserved for his use at a further time as appropriate.

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

Mr. BAKER. Mr. President.

The PRESIDENT pro tempore. The majority leader.

Mr. BAKER. Who has the first special order, may I inquire?

The PRESIDENT pro tempore. The distinguished Senator from Wisconsin (Mr. KASTEN) I believe.

Mr. BAKER. I ask unanimous consent that I may suggest the absence of a quorum without charging it against the time allocated to any Senator under the special orders; and, further, I ask unanimous consent that in order to expedite the execution of the special orders that at the request of Members they may change the order and sequence of the special orders.

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

Mr. BAKER. I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

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

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

S. 2751—A BILL TO PROVIDE FOR COORDINATED MANAGEMENT AND REHABILITATION OF THE GREAT LAKES

SAVE THE LAKES

Mr. KASTEN. Mr. President, today I am introducing legislation to provide for comprehensive environmental assessment and management of the Great Lakes. This legislation will be known as the Save the Lakes Act.

The Great Lakes are the largest body of fresh water in the world. They contain 95 percent of the surface fresh water in the United States and 20 percent of the world's fresh water supply. Millions of people depend on the Great Lakes for their drinking water, and they are essential to commerce and industry in the Midwest.

In Washington, however, the Great Lakes are treated like an ugly stepchild. There is no single group with responsibility for overseeing the Great Lakes. Instead, there are over 20 separate Federal, State, and international groups with responsibilities relating to the Great Lakes. While these groups perform important functions, they are not doing an adequate job. Efforts are frequently duplicated, or worse yet, major issues fall between the cracks. Someone must have responsibility for the comprehensive management of the Great Lakes.

The Federal Government has been the source of many of these problems. For the past several years, the scientific research stations on the lakes have been targets of budget cuts. These labs have been attacked despite a growing recognition of serious environmental threats to the Great Lakes. Instead of defending critical programs, we should be strengthening research that directly protects the public's health and welfare.

The legislation I am introducing today will correct many of these management problems. The "Save the Lakes Act," establishes an office within the National Oceanographic and Atmospheric Administration [NOAA] with responsibility for comprehensive management of the Great Lakes. This office, the Research Management and Planning Office, will be responsible for coordinating scientific research on the lakes, and providing a comprehensive assessment of the condition of the Great Lakes. Finally, this office will prepare an annual State of the Lakes Report. This report will be presented to Congress each year. It will describe the condition of the Great Lakes and a program for the environmental rehabilitation of the Great Lakes.

Mr. President, over the next several days I will focus the Senate's attention on many of the problems facing the Great Lakes. These problems include the accumulation of toxic materials in the food chain that directly threatens human health and wildlife, the loss of critical habitat, our failure to live up to international agreements on Great Lakes water quality and several other major threats to the lakes.

Mr. President, I invite my colleagues to join with me in efforts to protect the Great Lakes.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

A recent issue of Outdoor America, the Journal of the Izaak Walton League, summarized many of the problems facing the Great Lakes. I ask unanimous consent that the text of these articles be printed in the RECORD at this point.

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

THE GREAT LAKES

Spanning some 1,200 miles from Duluth, Minn., to the St. Lawrence River and containing some 65 trillion gallons of water, the Great Lakes are the largest freshwater reserve on the face of the earth. Because the lakes are so vast, it was long thought that in addition to providing clean water for drinking, fish and recreation, they could also assimilate the wastes of one of the most heavily populated and industrialized regions of the country.

By the early 1960s, however, we received dramatic evidence of the fallacy of that assumption when Lake Erie was declared "dead" and fish kills and excessive algae blooms were widely reported on the other lower lakes. Thanks to government action, the Great Lakes have begun to rebound. Today, the waters look visibly cleaner and fish are making a comeback in many areas.

Yet serious problems still plague our valuable "inland seas." In this special report, Outdoor America examines three of the most pressing ones. Two—"nonpoint" pollution and toxic contamination—can be traced to wastes entering the lake. A third article examines threats to fish and wildlife posed by a proposal to open the Great Lakes to winter shipping.

But we also have some good news to report. We wrap up our look at the Great Lakes with a story on successful efforts to control a Great Lakes invader, the predatory sea lamprey—an effort that is giving the lake trout and other native fish a fighting chance at a comeback.

TOXICS: THE INVISIBLE MENACE

(By Tom Kuchenberg)

Fishermen sit relaxed in their boats, lines drifting off beneath the calm, silvery water. Seeming to feel the weight of the August heat, even the gulls move slowly overhead. A humid haze blurs the horizon, and the nearby city seems far away. But suddenly the stillness is broken as a series of tugs in one of the boats signal a strike.

It is a scene that has been familiar for more than a century along the shores of the Great Lakes.

Increasingly, however, something happens that occurred only rarely 100, 50 or even 25 years ago. As the fisherman pulls his catch into the boat, his face registers a look of disgust. He frees the hook and tosses the wriggling creature back into the water. His brief glance revealed a swollen and distorted parody of a fish. A "bad" fish.

The most extreme forms of toxic contamination in the Great Lakes have become visible in the form of badly diseased fish. As with an iceberg, however, the bulk of the problem lies beyond the reach of the naked eye.

Stretching across the eastern third of the U.S.-Canadian border, these "inland seas" lie at the core of one of the world's most intensely industrialized regions. The lakes form a "sink" to their surrounding basins, and contaminants from industries, cities, dumps and farms can easily be carried to the lakes by inflowing water and by wind and rain.

Traces of more than 950 substances of "potential concern" have been found in the ecosystem, according to the International Joint Commission (IJC), the body charged with monitoring the progress of the 1978 U.S.-Canada Great Lakes Water Quality Agreement. These include organic chemicals such as dioxin and polychlorinated biphenyls (PCBs) and heavy metals such as mercury, zinc, cadmium and arsenic.

Not all of the lakes are equally affected. Water flows from Lake Superior to Lakes Michigan, Huron, Erie, Ontario and finally through the St. Lawrence River to the Atlantic. Superior, the largest of the lakes and the least populated, is relatively free of point source contaminants, but is particularly vulnerable to airborne pollution. Lake Michigan's south shore and Green Bay, and Huron's Saginaw Bay have serious problems. However, the most intense cluster of toxic sources lies along or near the St. Clair and Detroit Rivers and Lake St. Clair, which connect Lake Huron with Lake Erie, and along the Niagara River, which connects Erie with Ontario. Downstream Ontario ultimately receives pollution souvenirs from all the other lakes.

The IJC has designated 18 of the worst regions in the basin as "class A" problem areas with seriously degraded water quality. Relatively pristine Superior has no such areas, while Huron has two, Michigan and Ontario four and Erie eight.

It is remarkable how little is known about many of these contaminants. For some, there are understood human health and/or environmental dangers upon which restrictions and controls can be based. For many more, however, data is minimal, and hazards and risks have not been established for the substances at *any* concentration. Without such information, control strategies cannot even be considered.

If the potential risks of many individual toxics are not known, it is not surprising that the effects of a collection of such substances remain a mystery. It is known that some chemicals may be strengthened by the presence of others and that the combination of certain chemicals may actually be a good deal more potent than the sum of the parts. In some areas of the lakes where there are numerous pollution sources present, it is this "stew" of contaminants that concerns researchers. For example, in the St. Clair River, near Detroit, 84 different organic compounds have been detected.

EFFECTS ON FISH AND WILDLIFE

In the lakes, minute amounts of toxics, chemicals and heavy metals are taken in by small plants and animals, such as protozoans, which form the diet of larger creatures. At each step upward on the food chain, there is a marked increase in the concentration of many toxics. Some fish at the top of the chain may end up with amounts of toxics in their tissues that are hundreds of thousands of times greater than the amounts originally present in the water.

The effects of these toxic substances on living creatures are only beginning to be understood. But researchers have already discovered a wide range of disorders in fish that live in contaminated environments. Dr. Ronald Sonstegard, a Canadian scientist, has found a high incidence of goiters in coho salmon and reports that nearly 100 percent of the Lake Erie cohos are affected. To demonstrate that toxic contamination of cohos can affect species higher up the food chain, Sonstegard and a colleague fed rats a diet that contained contaminated salmon from Lakes Michigan, Erie and Ontario. While the results varied, all the rats developed thyroid abnormalities, and some also showed liver and immune system changes.

Fish are also developing cancers. Dr. John Black, a cancer research scientist at Roswell Park Memorial Institute in Buffalo, N.Y., found liver and skin cancer in epidemic proportions among bullheads in the Buffalo River, a tributary of Lake Erie. The river sediments contain several known carcinogens. Using extracts of these sediments, Black induced skin and liver cancers in previously healthy fish, providing what is believed to be the first direct experimental evidence that tumors in wild fish are a result of exposure to contaminants in the water.

The extent of fish cancers in the Great Lakes is not yet known, but Dr. Black believes that his experiments in the Buffalo River and other Lake Erie tributaries are not isolated examples. "They just happen to represent instances where competent investigation took a closer look," he said in testimony before Congress last September. "I expect that wherever marine resources interface with urban environments, other examples of pollutant-caused fish neoplasia [tumors] can be identified." In fact, with the exception of Lake Superior, high fish tumor rates have been reported in all the Great Lakes. Thyroid tumors have been found in coho salmon, gonadal tumors in carp-goldfish hybrids and skin cancers in white suckers and freshwater drum.

Creatures higher up the food chain that feed on a steady diet of fish are also beginning to develop disorders. Lake Ontario gulls, for example, have developed goiters, physical abnormalities and reproductive problems. Dr. Sonstegard reports that in a few cases, traces of more than 200 chemical compounds have been found in the tissues of the gulls.

So far there is no tangible evidence that consumption of Great Lakes fish has had any adverse effects on human beings. However, state health and natural resource agencies are advising caution. In eight of the 18 "class A" problem areas identified by the IJC, there are either bans or advisories on the consumption of fish. And government officials suggest that individuals planning to fish in the Great Lakes consult state resource or public health agencies for information on other fishing or consumption warnings that might apply. Because toxics concentrate in the tissues of fish and other organisms, regularly eating contaminated fish poses a far greater potential health risk than drinking Great Lakes water. One scientist has estimated that a human being would have to drink Great Lakes water for 1,000 years in order to take in the amount of PCBs in a one-pound serving of fish contaminated at a level of five parts per million.

ADDRESSING THE PROBLEM

Because the sources of toxic contaminants are so widespread and it is so hard to trace the path of individual substances once they make their way into the lakes, toxic cleanup is an extraordinarily complex problem. Yet, based on the threats toxics pose both to the environment and to the health of man and other creatures, control of toxics is "the most urgent problem facing the Great Lakes," according to the IJC.

Some progress has already been made. Toxics that have been restricted or banned, such as PCBs and DDT, have registered sharp and significant declines in the Great

Lakes. PCB levels in the lakes have dropped by 60 to 70 percent, while DDT levels are down by as much as 80 percent. At the same time, the amounts of toxic substances entering waterways across the nation are declining as the result of controls on industrial discharges required by the Clean Water Act.

But there is much more that remains to be done. The nation still needs to develop an effective means of controlling "nonpoint" pollution, the source of pesticides and chemical-laden runoff from farms and urban areas. Also of pressing concern is the cleanup of toxic "hot spots," those areas that are most severely polluted by industrial wastes. Amendments to the Clean Water Act, which is currently up for reauthorization by Congress, include strategies for addressing both of these severe problem areas for the first time.

There is also a need for an assured commitment to monitoring and research in the Great Lakes. So far, Congress has refused to go along with Reagan administration attempts to cut funds for two key Great Lakes research labs. Cutbacks of the sort that have been proposed would "negate the progress that has been made and leave untouched the serious new problems facing the Lakes," says Robert Ragotzkie, director of the University of Wisconsin Sea Grant Institute, which is involved in Great Lakes research and education.

Over the long-term, there must be a concerted effort to prevent new toxics from entering the environment. Better, more economical methods of testing need to be developed so the nation can do a more thorough job of determining the potential risks of new chemicals coming onto the market before they become widely distributed in the environment.

In addition, industries must be encouraged to adopt safer methods of handling and disposing of toxic substances. Methods already exist to reduce the output of contaminated waste. The 3-M Co. in St. Paul, Minn., for example, has reportedly eliminated 90 percent of that firm's hazardous waste through recycling or incineration. In doing so, the company has cut its disposal costs by 75 percent.

Ultimately, the responsibility for toxics must be returned to those industries and municipalities that generate and dispose of harmful materials so that they bear the burden of adequate treatment of wastes and any liability resulting from contamination. At present, the cost of contamination is too often transferred to innocent third parties in the form of lost recreational opportunities, threats to health or—in the worst cases—damage so severe it renders an area uninhabitable.

In the last century, miners took caged canaries with them to the shafts. If the birds died, the miners were warned of the presence of potentially deadly gas. In this case, the canaries were acting as "sentinels," guarding human health by providing an early warning of danger.

In a similar way, fish and wildlife in the Lakes may be providing us with an early indication of the potential threats that toxics hold for us—not only in the Great Lakes region, but elsewhere, as well. It has been said that the Great Lakes system is so large that if something is a problem there, it is likely to be a problem everywhere. The Great Lakes can be used to measure progress toward solving problems posed by toxic pollutants and other water quality threats. Properly observed, the Lakes can act as a monitor of the environmental health of this continent.

Mr. KASTEN. Finally, Mr. President, I ask unanimous consent that the text of the "Save the Lakes Act" 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. 2751

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Save the Lakes Act of 1984".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the Great Lakes are a valuable national resource, continuously serving the people of the United States and other nations as important sources of food, freshwater, recreation, beauty, and enjoyment;

(2) the Great Lakes, containing 95 percent of the surface freshwater of the United States and 20 percent of the world's freshwater, are among the greatest natural resources in the world;

(3) the Great Lakes are among the world's major waterways, each year carrying tons of waterborne shipping to and from all parts of the world;

(4) the ecosystems of the Great Lakes which provide sustenance and recreation to the people of the United States and other nations have been severely affected, and are continually threatened, by the introduction of foreign species into the lakes and by pollution of the Great Lakes waters;

(5) diversion of water from the Great Lakes to other areas of the Nation may result in adverse economic and ecological consequences which are not now well understood or predictable;

(6) careful management of the Great Lakes will permit the rehabilitation and protection of the lakes, their waters, and their ecosystems, while continuing and expanding their use for industry, food production, transportation, and recreation;

(7) management of the Great Lakes is currently divided among many Federal, State, and international organizations;

(8) effective management of the Great Lakes is best accomplished through a partnership of the States and the Federal Government;

(9) agencies with management and research responsibilities for the Great Lakes should coordinate activities among themselves more effectively in order to obtain maximum benefits;

(10) a greater awareness of the importance of preserving and protecting the ecosystem and environmental quality of the Great Lakes is in the national interest; and

(11) the United States should seek to attain the goals embodied in the Great Lakes Water Quality Agreement of 1978, with particular emphasis on goals relating to toxic pollutants.

(b) The purposes of this Act are—

(1) to provide for a rational and effective coordination of the management of the Great Lakes and of the federally supported research aimed at protecting, rehabilitating, and enhancing the environmental quality and natural resources of the Great Lakes;

(2) to identify issues of concern which are affecting or will affect the Great Lakes and their environment, and to develop and promote coordinated research, data synthesis, and management plans which address these issues;

(3) to provide for the development of the necessary data bases on information to support the rational, efficient, and equitable utilization, development, protection, and rehabilitation of the Great Lakes and their resources;

(4) to provide to the Department of State problems and issues to be referred to the International Joint Commission for study and action;

(5) to foster public understanding and appreciation, and to assure greater understanding at all levels of government, of the role of the Great Lakes as unique natural resources; and

(6) to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978 through improved organization and definition of mission on the part of the Federal Government.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "Administration" means the National Oceanic and Atmospheric Administration;

(2) the term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration;

(3) the term "Office" means the Great Lakes Research and Management Office as established by section 4 of this Act;

(4) the term "Director" means the Director of the Great Lakes Research and Management Office established by section 4 of this Act;

(5) the term "Great Lakes" means Lake Ontario, Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, and Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border); and

(6) the term "Great Lakes system" means all the streams, rivers, lakes, and other bodies of water within the drainage basin of the Great Lakes.

GREAT LAKES RESEARCH AND MANAGEMENT

SEC. 4. (a)(1) There is established within the Administration the Great Lakes Research and Management Office.

(2) The Office shall be headed by a Director who by reason of his management experience and technical expertise relating to the Great Lakes is highly qualified to direct the development of programs and plans on a variety of major Great Lakes issues.

(3) The Director may appoint such staff as the Director determines are necessary to carry out the duties and responsibilities of the Office and to fulfill the purposes of this Act. The staff appointed pursuant to this paragraph shall be appointed subject to the provisions of title 5, United States Code governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) The responsibilities of the Office are as follows:

(1) The Office shall identify Federal and State research programs, and, to the extent feasible, those of other nations, relating to the Great Lakes system, and shall annually update that inventory.

(2) The Office shall establish a Great Lakes research exchange for the purpose of facilitating the rapid identification, acquisition, retrieval, dissemination, and use of information concerning research projects which are ongoing or completed, and which affect the Great Lakes system.

(3) The Office shall identify the priority research needs for the protection and rehabilitation of the Great Lakes.

(4) The Office shall conduct, through the Great Lakes Environmental Research Laboratory, the National Sea Grant College Program, other Federal laboratories, and the private sector, appropriate research and monitoring activities which address priority issues and current needs relating to the Great Lakes.

(5) The Office shall establish a Great Lakes systemwide surveillance and monitoring network and reporting system to monitor the water quality of the Great Lakes, with specific emphasis on the monitoring of toxic pollutants. The Office shall utilize any relevant data available from the Environmental Protection Agency, other Federal agencies, State or local agencies, and international agencies.

(6) The Office shall develop, in cooperation with the appropriate State, Federal and international agencies, the long term, comprehensive environmental, resource, and economic data bases required for sound assessment of the impacts of proposed decisions of such agencies on the environmental health, productivity, and economic well-being of the Great Lakes. These shall include, but not be limited to, developing, and reporting to Congress, specific action plans to carry out the responsibilities of the United States under the Great Lakes Water Quality Agreement of 1978.

(7) The Office shall inventory all State, Federal, and international agencies with management responsibilities for the Great Lakes system, identify jurisdiction, overlap, and management plans and cooperative management activities in existence, and update the inventory annually.

(8) The Office shall identify priority management needs to protect and rehabilitate the Great Lakes and their resources. In connection with appropriate State, Federal, and international agencies, the Office shall develop management plans where needed for the entire Great Lakes system, for specific Lakes, or for specific issues.

(9) The Office shall prepare an annual report on the state of the Great Lakes, which shall be submitted to Congress and the President prior to December 31 of each year, and shall be made available to appropriate State and Federal agencies which manage or monitor the Great Lakes. The report shall contain an executive summary and appropriate scientific and technical data. The report shall include (but not be limited to)—

(A) an annual update to reflect changing priorities in Federal, State, and international management needs as well as the need for fundamental research;

(B) a plan for the establishment and maintenance of comprehensive, long-term environmental, resource, and economic data bases on the Great Lakes;

(C) identification of the priority management issues in the Great Lakes system, and, in cooperation with State, Federal, and international agencies, the development of management plans to address these issues; and

(D) identification of the priority needs for rehabilitation and restoration of the Great Lakes and their resources, and, in cooperation with State, Federal, and international agencies, the development of rehabilitation and restoration plans which address these needs.

(10) The Office shall actively promote, at the State, Federal, and international levels, the adoption and execution of the management and rehabilitation plans.

(11) The Office shall serve as the source of issues which the Federal Government refers to the International Joint Commission for study.

(12) The Office shall host a meeting (not less often than annually) for officials of State and Federal agencies involved with the Great Lakes.

(c) The Administrator shall, in the agency's annual budget submission to the Congress, include a funding request for the Office as a separate budget line item.

FINANCIAL ASSISTANCE

SEC. 5. (a) The Administrator may provide financial assistance in the form of grants or contracts for research, monitoring, and planning projects and activities necessary to address the priorities and needs established under section 4(b)(8) which are not being adequately addressed by Federal or State agencies. The Director shall make recommendations to the Administrator with respect to the awarding of grants and contracts under this section.

(b) Any person, including institutions of higher education and departments, agencies, and instrumentalities of the Federal Government or of any State or political subdivision thereof, may apply for financial assistance under this section for the conduct of projects and activities described in subsection (a) of this section, and, in addition, specific proposals may be invited. Each application for financial assistance shall be made in writing and in such form and manner, and containing such information, as the Administrator may require. The Administrator may enter into contracts under this section without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(c) The projects and activities supported by grants or contracts made or entered into under this section shall, to the maximum extent practicable, be administered through existing Federal programs (including, but not limited to, the National Sea Grant College Program) concerned with research, monitoring, and management.

(d) The Administrator shall act upon each application for a grant or contract under this section within six months after the date on which all required information is received by the Administrator from the applicant. Each grant made or contract entered into under this section shall be subject to such terms and conditions as the Administrator deems necessary in order to protect the interests of the United States. The total amount paid pursuant to any such grant or contract may, in the discretion of the Administrator, be up to 100 percent of the total cost of the project or activity involved.

(e) Each recipient of financial assistance under this section shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or activity in connection with which such assistance was given or used, the amount of the portion of the cost of the project or activity which was supplied by other sources, and such other records as will facilitate an effective audit. Such records shall be maintained for three years after the completion of such project or activity. The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of receipts which, in the opinion of the Administrator or of the Comptroller General, may be related or pertinent of such financial assistance.

INTERAGENCY COOPERATION

SEC. 6. (a) The head of each department, agency, or other instrumentality of the Federal Government which is engaged in, is concerned with, or has authority over programs relating to research, monitoring, and planning to maintain, enhance, preserve or rehabilitate the environmental quality and natural resources of the Great Lakes—

(1) shall cooperate with the Administrator and Director in carrying out the purposes of this Act;

(2) may, upon written request from the Administrator or Director, make available to the Administrator or Director such personnel (with their consent and without prejudice to their position and rating), services, or facilities as may be necessary to assist the Administrator or Director in achieving the purpose of this Act; and

(3) shall, upon written request from the Administrator or Director, furnish such data or other information as the Administrator or Director determines is necessary to fulfill the purposes of this Act.

(b) The Administrator of the Environmental Protection Agency, the Chief of Engineers of the Army, the Chief of the Soil Conservation Service, the Commandant of the Coast Guard, and the Director of the Fish and Wildlife Service shall each submit an annual report to the Administrator with respect to the efforts by that agency or office to comply with the Water Quality Agreement of 1978 and with recommendations made by the Office.

RELATIONSHIP OF ACT TO EXISTING FEDERAL AND STATE LAWS AND INTERNATIONAL TREATIES

SEC. 7. Nothing contained in this Act shall be construed to affect the jurisdiction, powers, or prerogatives of any existing department, agency, or officer of the Federal Government, or of any State government, nor any powers, jurisdiction, or prerogatives of international bodies created by treaty with authority relating to the Great Lakes.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated to the Administration for the purposes of this Act not to exceed $10,000,000 for each of the fiscal years 1985, 1986, 1987, 1988, and 1989.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

WHY WE NEED NUCLEAR ARMS CONTROL

Mr. PROXMIRE. Mr. President, like millions of other Americans I enjoy reading George Will. Who would not? He is learned. He is amusing. And he angers or bullies or challenges you into thinking. He does not mind taking on motherhood, brotherhood, or Little Red Riding Hood. He is also sometimes wrong. In his column in the latest Newsweek, George Will is very wrong. This time he kicks around arms control. Believe it or not he even

wades into President Reagan for being soft on arms control. Will tells Reagan to stop saying that "nothing is more important than development of a better working relationship with the Soviet Union." Such talk, says Will, builds pressure on our Government to make costly concessions to the Soviets just so that we can have an arms control agreement.

Mr. Will says arms control has not brought us a safer world, but a more dangerous one. It has stopped us from building missiles that would defend our country (the ABM treaty) and force us to produce hair trigger weapons like the MX. Arms control, according to Will, has also given the Soviets an immense advantage in nuclear capability. Will reasons that the Soviets will not negotiate away advantages, but oh—how they will exploit "the American thirst for agreements." For us arms control will continue to be a losing game. Why? Because the United States is an open society with a critical, inquisitive press poised to expose any departure on our part from our arms control commitment. In other words, we cannot cheat. And the Soviets? Well—the Soviet press prints precisely what the Kremlin leaders want them to print and not a word more. So, according to Will they can and do cheat to their hearts content. Will cites the yellow rain in Afghanistan as a prime example.

Does Will really mean this? Would Will abandon arms control in any form and let the nuclear arms race have its head taking us wherever it should lead? Does he really believe the world will be safer if we throw off all the arms control shackles? How about the test ban treaty that has kept both superpowers from exploding nuclear weapons in tests in the atmosphere, in outer space and underwater for the past 20 years? Would the world be safer today without the restraints of SALT I or SALT II or the Anti-Ballistic Missile Treaty or the Outer Space Treaty? Admittedly, whatever these treaties have accomplished, the world is not safer from nuclear war today than it was 25 years ago before any of the arms control agreements were signed. Yes, indeed, we do live in a more dangerous world. But is this the fault of the arms control treaties or is it the fault of the onrushing nuclear arms race which arms control is trying to restrain?

Will finds two virtues in the arms race: First, it sometimes moves the superpowers toward more stable, less vulnerable weapons systems. It moves both adversaries away from stationary, land-based, use 'em or lose 'em, MIRV'd missiles. The arms race pushes Russia and the United States toward mobile air- or sea-launched missiles. Second, and I think this was what George Will was really thinking of, with the generally superior U.S. technology, the unrestrained arms race gives the United States a better chance than arms control of staying ahead of the Soviet Union. And finally Will ends his essay on the harm of arms control with a change of pace, a kind of off-speed pitch. Consider his last sentence. He writes: "An immoderate and unempirical belief in arms control produces a policy of apologetic retreats." Think about that sentence for a minute. What Will protests is: "an immoderate and unempirical belief in arms control." Well, after all, who believes in immoderate and unempirical anything? How about a moderate and empirical use of arms control? Would Will find that also harmful? Suppose we follow an arms control strategy that seeks only those agreements that benefit both? I repeat, both—both the United States and the Soviet Union. Are there such agreements? Of course, there are. Both countries suffer heavy economic burdens from an unrestrained arms race. Both countries want to preserve their nuclear deterrents. Both countries only survive by avoiding nuclear war. Both countries will benefit immensely from stopping the proliferation of nuclear weapons. No negotiations will work between adversaries unless both benefit from them. The basis of mutual benefit for the two superpowers is obvious and very big, indeed.

Finally, will the Soviet Union with its closed society abide by any arms control agreements if it is to its interest to violate it? Certainly it will not abide by an arms control agreement or any other agreement which it can violate to its advantage provided it can get away with the violation. So what does that mean? That means we tie any arms control agreement to thorough, detailed, unambiguous verification procedures. It also means that we monitor that verification constantly. And we blow the whistle loud and clear when we find a violation. The Afghanistan yellow rain violation constitutes a Soviet breach of a treaty that has no verification or compliance features. None. Let me repeat that. The Afghanistan yellow rain violation constitutes a Soviet breach of a treaty that has no verification or compliance features. Several years ago I secured a unanimous Senate approval of a resolution calling on the President to amend that treaty or call for negotiating a new agreement based on effective verification and strict compliance terms. The administration ignored that resolution.

Mr. President, I am tempted to point out that where arms control is concerned, where there is Will, there is no way. So I will not. I agree with George Will that an immoderate and unempirical belief in arms control is wrong. But let us have arms control based on moderation and experience.

Mr. President, I ask unanimous consent that the column to which I have referred from the June 18, 1984, issue of Newsweek by George Will, headlined "Why Arms Control Is Harmful," be printed at this point in the RECORD.

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

WHY ARMS CONTROL IS HARMFUL

(By George F. Will)

Today's arms-control controversy is remarkable for the virtual absence of the most important argument. It is that the arms-control process is injurious to U.S. interests. That argument offends conventional wisdom and (what is much the same thing) wishful thinking. It has the redeeming merit of being true, as Seymour Weiss knows. In a paper presented at the Lehrman Institute, Weiss, retired ambassador and State Department director of political and military affairs from 1960–67, argues that enthusiasm for the arms-control process—a process barren of achievements—reflects misapprehensions about the usefulness of that process in slowing the arms race, saving money and taming the Soviet Union.

The idea of an arms "race"—often described as "spiraling"—is odd. the U.S. nuclear-weapons inventory has been sharply reduced. It contains 8,000 fewer warheads and 25 percent less megatonnage than in the 1960s. This is the result not of arms agreements but of modernization programs that produced safer, more effective weapons—modernizations of the sort that arms-control advocates try to block with agreements.

Safer World? During the era of détente and arms control the Soviet nuclear arsenal has grown quantitatively and qualitatively. A study commissioned during the Carter administration compared 41 categories of nuclear capabilities (warheads, megatonnage, delivery systems, etc.) in the period beginning with the Cuban missile crisis. It concluded that the United States had been well ahead in every category in 1962 and was behind in all but two by the late 1970s. Since SALT II was signed in 1979 the Soviet Union has added more than 3,400 warheads. Does anyone think the world is safer than it was when the SALT process began in 1969?

The achievement most celebrated by arms-control enthusiasts is the 1972 treaty effectively banning antiballistic missiles. True, we saved the cost of ABM's. But partly as a result of that decision we will spend many more billions on MX missiles, an unsatisfactory response to the fact that our undefended land-based ICBM's are vulnerable. Because MX is unsatisfactory, billions more may be spent on smaller, mobile "midgetman" missiles. Why is MX so unsatisfactory? Because of an arms agreement.

SALT I limited the number and size of launchers—basically, holes in the ground—rather than numbers or megatonnage of warheads. Limits on those would be hard to verify, given Soviet secrecy. So SALT I drove arms planning toward big missiles packing maximum megatonnage. SALT I did what arms agreements usually do: it did not restrain competition; it turned it in a new direction. It was a direction in which the Soviet Union with its huge SS-18s, had a lead. SALT I ratified a Soviet advantage and, by giving rise to the inherently vulnerable MX, reduced the stability of deterrence.

This republic overflows with laws, lawyers and faith that the world can be tamed by words on parchment. Americans see arms control as a way of freezing the status quo; the Soviets see it as one arena in a comprehensive, unending competition. Furthermore, Weiss says, persons who think arms control should be the "centerpiece" of U.S.-Soviet relations ignore the fundamental incompatibility of U.S. and Soviet objectives. The configuration of the Soviet buildup in the arms-control era is unambiguous. The arms are not designed for defense but for producing a world pliant to Soviet designs. Weiss says there is no reason to expect the Soviets to negotiate away advantages, and ample reason to expect the Soviets to exploit the American thirst for agreements.

In addition to selling discord among U.S. allies and paralyzing U.S. procurements, Soviet negotiators have, Weiss says, five aims. First, limit the wrong things (e.g., launchers). Second, make sure the limits on important things are ambiguous. (SALT I limited but did not define "heavy" missiles.) Third, accept specific limits only if they are unverifiable (e.g., the ban on biological weapons or the SALT II limits on cruise missile ranges). Fourth, evade even strict, verifiable limits by claiming they do not apply to this or that program. (The Soviets claim their ABM system is just a defense against bombers.) Fifth, get the treaty to legitimize violations of the treaty. (SALT II's flimsy verification terms forbid encryption of data from missile tests—except when encryption is not intended to evade arms-control limits. But given that it is encrypted, how are we to tell?)

Because ours is an open society, our government cannot cheat on agreements, and because our society invests such hope in arms control, even an administration as starchy as Reagan's is apt to forgive Soviet cheating or mute even required reports of it. When, complying with a Senate demand, the administration submitted a list of Soviet violations, The New York Times denounced the—you guessed it—administration for "initiating this damaging laundry list."

Weapons: The arms-control era has coincided with unparalleled Soviet aggression and threats, from Indochina through Afghanistan. Try to tell victims of "yellow rain" about the wonders of arms control. Biological weapons are controlled—on paper. What has violation of the controls produced? A U.S. clamor for yet more agreements. And arms-control enthusiasts, their enthusiasm impervious to evidence, continue to use slogans that were threadbare when Dean Acheson refuted them.

Acheson demolished the bromide that "as long as the Russians are talking they are not fighting." Acheson said that Americans are so wedded to the belief that negotiations are means of ending conflicts that they are blind to the fact that negotiations are equally suited to continuing conflicts. Of the slogan "There is no alternative to negotiations with the Russians," Acheson said: "This is, of course, silly. For if there is no alternative, and if the Russians will only negotiate, as is now the case, on their own terms, then there is no alternative to surrender."

For that reason someone should tell Ronald Reagan to quit saying that nothing is more important than "development of a better working relationship with the Soviet Union." Such talk worsens the asymmetry in U.S.-Soviet negotiations by building pressure on the U.S. government for concessions to produce "movement." An immoderate and unempirical belief in arms control produces a policy of apologetic retreats.

AMERICAN JEWRY DURING THE HOLOCAUST

Mr. PROXMIRE. Mr. President, after four decades, the horrors and atrocities of the Holocaust are vivid in the minds of many, and this monumental crime is far from being solved. Formed in 1981 at the initiative of a number of American Jews, 34 prominent American Jews were chosen to serve as the American Jewish Commission of the Holocaust. After 2½ years of historical investigation, the Commission has issued a report entitled "American Jewry During the Holocaust."

The main thrust of the report, as stated in a foreward by former Supreme Court Justice Arthur Goldberg, is to determine "what American leaders did, and indeed might have been able to do in all the circumstances, to mitigate the massive evils of the Holocaust."

The volume contains a 65-page report by Prof. Seymour Finger, data on American Jewish organizations during World War II, commentary by commission members, and over 300 pages of historical monographs by nine historians from the United States and Israel.

Goldberg believes that the underlying aim of the Finger report is to "enable later generations to learn from this experience whatever might help prevent a similar tragedy from ever befalling the Jews or any other people."

Predominantly the product of American initiative, the Genocide Convention, was adopted unanimously by the United Nations on December 9, 1948, as a response to the Nazi Holocaust. Nearly 40 years later, we, the United States Senate, have yet to meet the obligation we owe to our own citizens by ratification of the Genocide Convention.

There are many lessons to be learned from the Holocaust, and one of them is the need for the Senate to take immediate action and ratify the Genocide Treaty.

OUR EXPENSIVE FORMER PRESIDENTS

Mr. CHILES. Mr. President, approximately 5 years ago, I was a member of the Committee on Appropriations and on the subcommittee that considered the appropriations of the Secret Service. In connection with that, the Secret Service was having to come in and ask for supplemental appropriations. I wondered at the time if that was because of the Presidential campaigns and the additional expense from covering Presidential candidates. I found out that the occasion for the need for the additional Secret Service funds was the protection of former Presidents and the widows of former Presidents. That, Mr. President, got me interested in the subject of reviewing some of the legislation that had been set forth in Congress covering the different emoluments and benefits which go to the former Presidents and their wives and/or widows.

I found that we had really passed several pieces of legislation for what I think were at the time, very good purposes. I still think there is a valid purpose for that legislation. But, Mr. President, I think Congress has failed to look at that legislation over the past 25 years. It has certainly grown and it certainly needs to be looked at. Some controls need to be placed upon those programs.

One of the things an evaluation reveals is that, in 1955, we paid some $64,000 for expenses related to former Presidents and their widows. This year, it is going to be some $30 million. That figure is growing. It is more now than the current Office of the President. In other words, to take care of the former Presidents and their wives, we are paying more than we are paying for the Office of the President itself.

Now, if we look back into our history, I believe that the concept of the Founding Fathers—and I think it was a valid concept—was that we were to pick a civilian. We would honor him with the office of the Presidency. He would then return to his civilian status.

In fact, George Washington said in his Farewell Address that he looked forward to being able to return to the high office of being a private citizen of the United States. I think that is a high office, one of privilege in this country. I do not think that we were trying to set up royalty or a dynasty as such. Yet what I now refer to as the "imperial former Presidency" reigns.

There were some historic landmarks as to why we passed some of this legislation. As I say, I think it was for a valid purpose. One of those purposes was to see that a former President of the United States did not end up being left destitute. It was considered in our earlier days that it would be improper for a former President to enter into gainful commerce, to go back into the realm of commerce. About the only occupation that was felt to be proper for a former President was that of a gentleman farmer.

On the occasion of Thomas Jefferson's death, part of his household furnishings and part of his property were sold to pay for his debts. I think that Congress, in its wisdom, feeling that we did not want that to happen, felt we had to set up a sufficient pension for a former President.

I agree with that, Mr. President. Nothing in the legislation I have intro-

duced touches on pensions. In fact, the bill I have been introducing, S. 563, provides for an additional pension, increasing the amount of the pension for a widow of a former President and making it more in line with the times that we live in today. But now, over the years, other benefits and emoluments have been added to the pensions.

We found that former Presidents did not have any allowance to handle correspondence, to handle official requests that they receive. In fact, we found Harry Truman was typing his own letters in replying to people who had been writing to him after he was President. This is the same Harry Truman who drove his Dodge back to Missouri. This is the same Harry Truman who said he would not take any job or sit on any board of any corporation because he could never discern whether they were hiring Harry Truman the person; or the former President. So he would not take any job. And Congress decided we should make some office allowance.

Again, we have not looked at that office allowance budget recently. The bill I introduced would say that allowance would be $300,000 for the first few years. It gradually would scale down to $200,000, after 9 years, recognizing the first few years a former President is out of office, he is going to have a great deal of correspondence, a great deal of requests for appearances, and he is going to need more staff allowance. But, as the years go by and there are intervening former Presidents, the request will not be so great and the need for the allowance would be less.

Mr. President, we also looked at the library situation. We found that we had provided for a former President to be able to have a library to house his papers, and that library was to be provided for originally by supporters of the former President. Then the Federal Government was to take over, pay for all the costs and expenses from then on to operate and maintain that library.

Well, there was no limitation as to what the space of that library could be. And if we look back over some of the Presidencies, we see they were getting bigger and bigger, fancier and fancier. The Federal Government was having to pay more for the upkeep.

Along comes one former President who decides he is not just going to have a library, he is going to have a library and a museum. His university town would like to have one facility, his home town would like to have another, so he is going to have both. So, for the first time, we find a former President with a separate library and a separate museum.

We felt, Mr. President, it was time to try to put some reasonable space limitations on a library. Make it larger for a former President who has had two terms as opposed to one, but say there should only be one facility. Because, in fact, if one former President could have two, there is no limitation; you could have three or four.

Maybe if you had lived in several States, each one of those States could have some claim to the library. These are nice tourist attractions; hometowns like them, and so we would have more. We attempted to do something about that.

Secret Service protection is also something we attempted to do something about. I mentioned at the outset of my remarks that I found the Secret Service was having to ask for these supplementals because of the protection they provide former Presidents' families. I found Bess Truman and Mamie Eisenhower, widows of distinguished Presidents, were under 24-hour Secret Service protection even though both of them were bedridden, were unable to travel, unable to get out of their homes. I found the Secret Service had tremendous morale problems because they have the most highly skilled, highly trained agents who protect with their lives. They are trained to participate in all kinds of hand-to-hand protection or anything else. They found themselves staring across the way at a house in which the shades were drawn. These widows were totally incapacitated and yet received around-the-clock protection.

Mr. President, we recognize that where there is a diminished threat and the time has run, we should be able to do something about reducing protection. We should be able to make some curtailment of service. So we set up a procedure in the bill to allow coverage for a period of 5 years and then allow for a review to see whether or not that coverage is still necessary.

Mr. President, another thing we looked at was: Should a former President be able to use the Government's money in his staff allowance to help write his memoirs and then sell those memoirs at a tremendous profit, because books of former Presidents are now in great demand, and is that proper? We made a limitation. We said if the Government's money is used in preparing the memoirs, then the Government should sell and be responsible for the books.

Those are the types of changes we tried to make—doing something about the library situation, doing something about the protection, which involves tremendous sums of money, doing something about the staff allowance, and recognizing we need to do something to better compensate the widows. It is a bill that has been some 5 years in the making, Mr. President. We have 21 cosponsors now and for the first time the Committee on Governmental Affairs, whose distinguished chairman is now on the floor, reported out the bill. The distinguished chairman of the committee is a cosponsor of the bill. He has provided valuable insight.

Senator PRYOR has been working on this bill with me over the last 5 years, since we first started looking at this matter. We held a number of hearings. We have talked with former Presidents about this bill. We have solicited the comments from widows of former Presidents and from the existing Office of the President.

I will say, Mr. President, that we were not honored with the presence of someone from the White House to testify, although we made that request. But this bill has been reported out of the committee and is on the calendar. I was very hopeful that we were going to see that bill taken up during this session and routinely passed, as I think it would have been.

Mr. President, I did receive a call this last week—a courtesy call, I guess it is referred to in the Senate—in which one Senator gives another Senator the courtesy of telling him that he is placing a hold on his bill.

This call was made to me by the chairman of the Appropriations Committee, a very distinguished Senator and my friend, who told me that he had been requested by the White House to put a hold on this bill.

Mr. President, I will say that I was very surprised by that. I was very disappointed. As perhaps many know, there are two kinds of holds that happen in the Senate. Sometimes there is a hold because somebody has a little problem with a bill; they want to get somebody's attention or they want to work out that problem. Then the other kind is sort of the choke hold, and it means that they do not want that bill to come up. A hold coming at this time of this session in an election year, when we are going to be out for both conventions and out for the elections, if it is the latter kind of hold, Mr. President, the choke hold, it would mean this bill probably could not be considered in the normal routine of this session. If it is the first kind of hold, one because somebody has some little problem, then perhaps the problem can be remedied.

Mr. President, I am going to write the White House and ask them whether they have a choke hold on this bill or whether they have some problem which they have failed to let us know about, because we did write them and made a request to find out what concerns they might have about the bill. If it is the chokehold, then I guess in that instance you try to find out whether the hold can be lifted. I will be looking for other ways to try to see that the bill is considered because I think it covers an important matter and should be considered.

But I must say that I am disappointed to find an administration which talks at great length about the need to eliminate unnecessary spending, the need to make sure that we are getting the most for our dollar, the fact that everyone has to tighten their belt a little bit, to suck up and do their share, would place a hold on this bill. But maybe it is simply some problem in the bill which they want to call to our attention that can be worked out.

I hope that is the case because I feel the public wants to see reasonable constraints, to see that we do not create an office of imperial former Presidency, while we recognize the great work that Presidents do. I do not denigrate the respect they deserve. I guess everyone in this body would love to be a former President. That would be a very high honor to have, certainly one that this Senator would consider to be a high honor.

But I again am reminded of the remarks of the first former President, George Washington, when he said he was getting ready to take on the very high honor of returning to be a citizen of the United States. I think that is a high honor itself. I think it is what we were trying to set up; that we would have a citizen assume the Presidency of the United States and when he had served his country in his term of office, he would return to the high honor of being a citizen.

Mr. President, I have an outline of the bill itself which I ask unanimous consent to have printed in the RECORD at this time.

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

PURPOSE AND SUMMARY OF S. 563, THE "FORMER PRESIDENTS FACILITIES AND SERVICES REFORM ACT OF 1983"

PURPOSE

The purpose of this legislation is to establish a reasonable set of controls on federal spending associated with programs benefitting former Presidents. Through several laws, including the original Former Presidents Act of 1958, the Congress has affirmed a national policy which ensures each former President is able to lead a dignified retired life, free from a need to commercialize the prestige of the Office of Presidency, and free from danger resulting from its visibility.

But the cost of former President programs has gone from $64,000 in 1955 to $6.3 million in 1975 to some $27 million in 1983. This four fold increase exceeds the original program expectations considerably. S. 563 is intended to stop, and then reverse the increasing costs of services and protection currently provided former Presidents.

More importantly, tax dollars have been used to assist former Presidents become wealthy. This is a consequence not ever envisioned by the lawmakers who authorized the Former Presidents Act, the Former Presidents Library Act, secret service protection, or other benefits. It is a consequence that seriously detracts from citizen confidence and respect for the institution of the American Presidency. The "Former Presidents Facilities and Services Reform Act of 1983" is intended to restore the appropriate character and intent of programs benefitting former Presidents.

SUMMARY

Title I: Presidential Libraries

Establishes the Administrator of the General Services Administration as responsible for managing Presidential Libraries. He is to create architectural and design standards in consultation with the Archivist and the Commissioner of the Public Building Service. He may accept, as private gifts or pursuant to agreements with State or local governments, institutes, or foundations, land, buildings and equipment as are needed to operate and maintain a Presidential Library.

Requires all new libraries to be in a single building whose size, including museum space, may not exceed 60,000 square feet for a one term President, 70,000 square feet for a two term President. The Administrator must submit a new library prospectus to Congress for 60 day review period before he may act to accept responsibility to operate and maintain a library. The submission must include a cost estimate of annual cost to the government for maintenance. Modifications for existing libraries are subject to similar Congressional review requirements.

Requires the President, while holding office, to dispose of his or her Presidential records which have no administrative, historical informational, or evidentiary value unless the Archivist notifies the President he intends to request advice from Congress concerning the disposal of such papers.

Title II: Office, Staff, and Allowances

Establishes an original staff allowance of $300,000 a year, which will be reduced over a nine year period to a ceiling of $200,000.

Limits each former President to one office, not to exceed 4,000 square feet.

Prohibits absolutely the use of funds for either partisan political activities or income generating activities. Funds can be used for the preparation of memoirs provided receipts from the sale of such memoirs are paid into the treasury.

Insists that memoirs prepared by a former President who used his staff allowance funds to do so will be printed by the Government Printing Office and distributed and sold by the Superintendent of Documents.

Requires each former President submit a report by March 1 of each year detailing his activities and their expense.

Mandates a 10 year "sunset" provision for the authorization of staff allowances. The automatic termination forces Congress to redetermine what the proper funding should be at least every 10 years.

Places the pensions of widows of former Presidents to be at a rate which equals two-thirds of what the former President would receive if he were alive.

Title III: Presidential Protection

Specifies a former President may have automatic, around-the-clock secret service protection for five years instead of for life. A spouse and children are entitled to protection only if their safety is related to the former Presidents'.

Enables the Secretary of Treasury to extend Secret Service protection of a former President for one year and of a widow or child for six months after the original period of protection has ended upon a finding a threat warranting protection exists.

Authorizes the Secretary of Treasury to provide additional periods of protection after submitting request for a extension to Congress for a sixty day review period.

Authorizes the President to direct the Secret Service to protect a former President, spouse, widow or child upon determining a threat warrants emergency action. The President shall notify Congress and such authorization shall not extend beyond sixty days, or beyond the time needed for Congressional review once the Secretary of Treasury has submitted a request.

Limits protection of former Vice Presidents from their last day in office to the end of that fiscal year. Such protection is provided only if requested and the Secretary of Treasury finds a serious threat.

Mr. CHILES. Mr. President, I again thank the distinguished chairman of the Governmental Affairs Committee, who, as I said, has given such valuable input to this bill; he helped very much in getting the bill through the committee, and to the distinguished Senator from Arkansas, who has played such a valuable role in drafting this legislation.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas (Mr. PRYOR) is now recognized.

Mr. PRYOR. Mr. President, I would be glad, if the time of the distinguished Senator from Florida has expired, to yield some time from my 15 minutes to the Senator from Delaware.

Mr. CHILES. I would be delighted to yield any time that I have remaining.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. I thank both Senators.

Mr. President, I, too, am very disappointed that a hold has been placed on this particular piece of legislation. I think the action taken by the Committee on Governmental Affairs is a reasonable approach.

I congratulate and thank the distinguished Senator from Florida (Mr. CHILES) and the distinguished Senator from Arkansas (Mr. PRYOR) for their leadership in this matter. I think it was 5 years ago that they began the long, tortuous road of trying to develop some legislation that would be fair and equitable to former Presidents and to the taxpayer at large.

When I became chairman of the Governmental Affairs Committee 3 years ago, I agreed and worked with them in seeing that a bill was passed.

It is important to understand that we do not want to treat the former Presidents in any way that would undermine the dignity and grace entitled to a former President. As the distinguished Senator from Florida has pointed out, we try to provide reasonable allowances for the needs of a former President. We recognize that they continue to provide service as an adviser and consultant to the incumbent in the White House, as well as the Government at large.

However, at the same time, we think it is unfair and inequitable not to have caps or limitations on the benefits that are extended to former Presi-

dents. In these times, when we have to take a lot of tough measures in various social programs, I believe it is critically important that those in positions of leadership—and I count those positions of leadership to include former Presidents—be willing to have limitations on what the Federal Government should pay them.

In the matter of libraries or museums, we are not saying that former Presidents cannot have larger libraries or larger museums, but we are saying that it has to be done with private funds. I think the proposal in this area is very reasonable. The same is true with respect to the Secret Service.

I am not going to review all these, except to say that I think it is critically important that Congress act upon it. Congress may not necessarily agree with the report of the Governmental Affairs Committee, but I think it is important that the Senate have an opportunity to act upon it and work its will.

I assure the distinguished Senator from Florida and the distinguished Senator from Arkansas that I shall work with them to assure the opportunity to vote upon this important legislation.

I have to say that this particular piece of legislation has never been very popular at the other end of Pennsylvania Avenue. It has not been supported by this administration, and, in all candor, it was not supported by the prior administration. So the opposition has been fairly consistent on the part of Democratic and Republican administrations. Although we requested former Presidents to comment, I did not receive any advice or recommendation in response to my inquiries.

Mr. President, I think it is fair that we look at this problem as we look at all Govenment spending programs. I believe we have come up with a reasonable approach, and it is important that Congress act upon this important piece of legislation.

Mr. President, I thank the distinguished Senator from Arkansas for yielding.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I rise today to express the concern and frustration I share with the distinguished Senator from Florida (Mr. CHILES) and the distinguished Senator from Delaware (Mr. ROTH), the chairman of the Governmental Affairs Committee, regarding the obstacles we face today in getting Senate consideration of S. 563, the Former Presidents' Facilities and Services Reform Act.

Because this administration continually states its desire to reduce unwarranted Federal expenditures, I am very disturbed and disappointed by the position of the White House on this matter. I hope—and I think a lot of our colleagues and a lot of taxpayers in this country hope—that the White House will change its position on this matter and allow, and even encourage, S. 563 to be brought before the Senate for debate and possible amendment, but at least allow consideration by this body.

Taxpayers spent $27 million in fiscal year 1983 taking care of former Presidents and maintaining the libraries which are constructed in their honor. The legislation which we have introduced tightens constraints for such expenditures. From the mail my office has been receiving, I would say the bill—or, more specifically, this concept—has the support of the people of my home State of Arkansas and across the Nation.

I have worked on this issue since I came to the Senate in 1979. Bills have been introduced during each Congress since then, and concern has increased as the public has become more aware of the problem which we seek to correct. Numerous articles in national magazines and newspapers have focused attention on the expanding costs to taxpayers associated with former Presidents. These articles, as well as congressional hearings, have indicated that at least three types of expenditures for former Presidents need immediate reform.

First, and most expensive, is the Presidential Library Program. Under current law, these libraries are built with private funds. Problems occur, however, because there are no statutory size limits for these libraries. The practical effect of this can be to give the Federal Government a structure, which because of its excessive size, is unreasonably costly to maintain. Since upkeep and maintenance of these facilities is the responsibility of the Federal Government, we have incorporated language into the bill which would limit the size of all new Presidential libraries to 60,000 square feet, with a 70,000 square feet limit for a two-term President.

We believe this restriction will allow ample space for excellent libraries and at the same time will reduce Government expenditures by millions of dollars for future years.

Secret Service protection for former Presidents and their families cost more than $12 million during fiscal year 1983. Under current law, this protection is extended to a former Chief Executive for life, regardless of whether a threat exists to his or her safety. Our legislation replaces lifetime protection with automatic 5-year protection, and provides for emergency and extended protection in excess of 5 years if such protection is deemed necessary.

Finally, it implements a staff allowance of $300,000 a year, to be reduced to $200,000 over the course of 9 years. It also makes clear the restrictions on the use of Federal funds. This provision adds much-needed certainty into the budget of a former President and will help reduce costs in the future.

Mr. President, this bill has broad bipartisan support, with 21 cosponsors.

Senator ROTH, the chairman of the Committee on Governmental Affairs, stated this morning his support for this legislation. Senator CHILES, who I have worked with very closely and who has truly been a leader in this effort to bring back at least some reason into the area of support for former Presidents, has eloquently stated this morning his support for this legislation.

I urge my colleagues to express their support for Senate consideration of this important measure. Taxpayers are demanding that we take action on this matter; I hope that my colleagues and the White House will listen.

Finally, Mr. President, let me quote from a 1957 Senate report which was filed on Former Presidents Act legislation. This is 25 years ago.

> In short, the Government should provide adequate compensation and other facilities for former Presidents, to enable them without financial hardship to maintain the dignity of the great office they have held, to meet public demands upon them, and to make themselves available for further public service whenever they are called upon in appropriate cases.

Mr. President, this is exactly what this legislation, S. 563, is attempting to achieve. It should not be interpreted as penalizing any former President or his or her family. It is simply to strike a balance and to define what we can and should provide to former Presidents.

This legislation, S. 563, has been 5 years in the making. It has been carefully crafted. We have listened to the testimony of as many interested parties as possible in order to achieve equity in this bill.

Mr. President, in closing, I say once again I am very hopeful that the White House will remove its objection to this legislation so that it might be properly considered and fully debated in this Chamber.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. PRYOR. I am proud to yield to my friend.

Mr. CHILES. I again wish to compliment the Senator and thank him for his help, and just to re-echo what he said, I hope this will be a temporary hold and we will be able to take this up in its normal procedure. If we are not able to do that, I look forward to working with the Senator from Arkansas in finding some other way to release this bill from the choke hold that has been placed on it, if it is that kind of a hold.

I thank him again for his help.

Mr. PRYOR. I am very appreciative for the leadership the Senator from Florida has demonstrated. Every time

there was a hearing held or an article written or a statement made, on this subject. I've became even more compelled to follow the leadership of Senator CHILES and Senator ROTH in this issue so that we might achieve reason and balance. That is exactly what S. 563 attempts to do, and hopefully the White House will recant and rethink its position and allow this measure to be brought up. Otherwise, I can only assume that we are going to have to start all over in this process.

Mr. CHILES. Either that or we might have to find some other appropriate vehicle to see that we can bring this bill out and allow Senators to have an opportunity to express themselves on this legislation.

Mr. PRYOR. I appreciate the leadership of the Senator from Florida on this.

Mr. CHILES. I thank the Senator.

Mr. President, are there further special orders?

The PRESIDING OFFICER. There is one further special order.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

S. 2752—MEDICARE INCENTIVES REFORM ACT [MIRA]

Mr. HEINZ. Mr. President, today I would like to discuss one of the single greatest social issues facing our Nation today; namely, the imminent financial crisis in the Medicare program. I am also here to urge my colleagues in the Senate to join with me to begin to solve this problem before we get ourselves back into the same predicament we were in 2 years ago with the Social Security System.

Now I know there are many unmet needs and many issues worthy of our collective concern, but unless we have the political courage to stop out-of-control increases in health costs, neither older Americans nor the Federal Government will have the resources to address any other problem. And unless we bring Medicare costs back into line with economic reality, Americans over 65 are not going to share in any rise in our national standard of living. Indeed, the looming insolvency of Medicare would be a catastrophe for millions of America's senior citizens.

Mr. President, to address these concerns and to hopefully get the debate started, I am today introducing legislation which represents at least an initial step along the road to reform of Medicare. I believe that this bill could form the basis for a thorough reform of the Medicare system.

My bill, entitled the Medicare Incentives Reform Act—MIRA for short—has four major goals. First, it restores solvency to the Medicare HI Trust Fund. Second, it holds down health cost increases for all Americans, not just Medicare beneficiaries. Third, it checks runaway part B costs by encouraging primary care and discouraging unnecessary and expensive hospital care. And fourth, it strengthens current insurance protections by providing catastrophic coverage for beneficiaries.

I believe the specific components of the bill represent by far the fairest solution to the Medicare financing problem. Traditionally, there have been three ways of solving the financing problems of Government programs. One is to increase the taxes on working Americans. But payroll taxes are already high enough. Another is to cut benefits. But coverage is already inadequate and the third option is to reform or restructure the entire program.

Where health care is concerned many of us have been looking at the option of major reform. To date only two very different strategies have been considered. On the one hand, comprehensive regulation. On the other, what is termed the competitive or market-based model. I submit that to rely on either is to invite serious problems. Let me explain my reasoning.

I have for many years supported the so-called competitive model of health care reform, because I believe that it promotes flexibility, innovation, and individual choice—and that it promotes a more sensible and affordable alternative to traditional fee-for-service health care arrangements.

But I also have to admit that this strategy for health care reform has been moving slowly. A clear consensus on specifics is still lacking. And most distressing of all, even if we could agree on what changes to make today, competitive strategies simply are not going to relieve the burden of rising health costs any time soon enough, or produce health cost savings anywhere large enough to rescue Medicare.

If competition won't work, what about regulation? States with mandatory hospital rate setting for all insurance payors report that they can slow down hospital cost increases without the cost shifting we are likely to see if Medicare DRG rates are ratcheted down further. Given the urgent need for savings, Congress may find irresistible the allure of a Federal all-payor rate regulation system.

In my judgment, however, the risks and long-term costs of a Federal regulatory approach are very great. A total system of controls imposed virtually all at once from Washington on hospitals and doctors will become increasingly restrictive, bureaucratic, and inflexible as rates are reduced. Such an approach will inevitably ignore the fundamental regional and other differences in the structure and traditions of health care. Such a system will inhibit change. It will, I fear, also freeze into place all the shortcomings and misplaced priorities of the current system.

So, if competition will not work fast enough, and if top down Federal regulation would make a bad situation worse, then perhaps it is time for a new approach and what I propose is an incentive approach.

This third option would combine the best of both regulation and the health care market to get the results we want while avoiding the pitfalls of both models. The bill I am introducing today, MIRA, is based on the notion of creating such a system of incentives, not only for States but also for hospitals, physicians, insurers, and patients in order to control health costs.

If we're going to attempt to restructure the present health financing system—and attempt we must—it is imperative that we remain consistent with American values of individual choice, creativity, and innovation. An incentive-based approach is the only way to incorporate these values into a new system that will withstand the force of today's conflicting pressures.

How have I structured MIRA to address this ambitious result? First, MIRA will grant financial rewards to States with cost-containment programs that limit hospital expenditures for all insurance payors. States can use competitive, regulatory and voluntary approaches to control health costs, in the combination that best suits each State's local market conditions and preferences. States that take this initiative will receive a higher Medicare payment for hospitals and an increase in the Federal match for Medicaid. If a State chooses not to develop an individual plan, MIRA requires strict adherence to the present DRG system but under tighter payment limits. But—this is an important "but"—a State's failure to act, unlike some approaches that have been advocated, does not trigger a backup, federally controlled all-payor, regulatory system.

Second, for States that do not develop their own cost-containment programs, MIRA retains the incentives contained in the new DRG prospective pricing system and, in addition to holding the increase in DRG rates to the hospital market basket only, MIRA adds new incentives to the DRG system for hospitals to limit the volume of their admissions by limiting payment to marginal costs for both overall admission levels and highly discretionary admissions where inpatient care may not be necessary.

MIRA also tackles the Medicare deficit by doubling the Federal excise tax on cigarettes from the current 16 cents to 32 cents a pack. This increase will capture an estimated $56 billion over 10 years—dollars that will be applied directly to the Medicare deficit. As an added benefit, this increase is a direct incentive for smokers to reduce or quit smoking.

And, I might add, under this provision, smokers who continue to smoke will finally begin to make a small but necessary contribution to offset the high cost of smoking-related illness, which is estimated today to be approximately $3 per pack.

Another problem—out-of-control cost increases in part B of Medicare—has been neglected up to now, perhaps because Congress has been reluctant to take on the medical profession. But we can no longer afford to avoid the issue. When we started part B in 1965, it cost us $1.8 billion. Ten years later, in 1975, the cost of part B to the Federal Government had grown to $2.8 billion. In 1985, just 20 years after the start of Medicare, the cost to the Federal Government of part B will be $25 billion less premiums paid by the beneficiary. We can no longer afford to avoid this issue. We must recognize that it is the doctors who control the health care cost equation, and if we leave them out of the equation, it is not going to add up.

We will not be effective in our efforts to save Medicare unless we provide new incentives for physicians to be not just quality conscious but cost conscious as well.

But to be effective in our attempt to control physician costs we cannot discard traditional relationships between doctors and patients. And while it is important to bring the rate of increase in part B expenditures under control, it is equally important to provide incentives to physicians that restore an appropriate balance to the health care system—reemphasizing primary and preventive care and deemphasizing hospitalization and high technology care. This will both improve the medical care received by elderly persons and help to bring down part A costs.

To achieve these objectives, MIRA makes Medicare a prudent purchaser of physician care by setting fair prices for medical services through a fee schedule. These fees will be based on a relative value scale—one that will ultimately encourage primary care and use of cost-effective settings. Physicians will be free to decide whether or not they wish to provide services at these prices, so, under MIRA, the market will at last operate, rather than allowing physicians billing needs to tell us what to pay.

Now the real bottom line here is what MIRA will do for the millions of older Americans who depend on Medicare for their health care, not only does MIRA ensure the solvency of Medicare, and effectively controls overall health costs, it actually strengthens the beneficiaries' protection against unpredictable and unforeseen costs.

MIRA significantly enhances Medicare insurance protection by providing catastrophic coverage for a significantly less costly, but actuarily determined premium. This will provide far better coverage, for the beneficiary, and cost on average one-third less—over $100 per year less—than the standard Medi-Gap policy.

MIRA also simplifies Medicare by eliminating the complicated, and unpredictable copayment provisions that often penalize the sickest and poorest elderly patients. In addition, MIRA limits the cost sharing to two simple deductibles—a maximum of $200 for part A and $200 for part B—and limits total out-of-pocket costs to $400 per year a significant decrease in what beneficiaries now pay out-of-pocket. This consolidation of benefits puts control of Medicare back where it belongs—in the hands of the consumer not the private insurers.

This bill is by no means a perfect piece of legislation. Certainly no one legislator is capable of solving the problem alone. But I do believe that this approach is a fair proposal, that it is an effective way to address our problems, and that it is consistent with the values most Americans share.

I mentioned earlier in my remarks that I believe it is time to abandon the notion that either competition or regulation is the key to our health care financing dilemma. If we look back upon the ebb and flow of health policy over the past decade, it is clear that neither approach alone can be successful. Regulation, by itself, crushes the creativity and energy of the marketplace. Competition—an approach we may all find appealing—I know I do—cannot produce the savings we need in time to rescue Medicare. And we cannot afford to wait and let the present system run us into bankruptcy. The Medicare Incentives Reform Act, I submit, transcends this choice and offers new, more realistic options for the coming debate.

I don't know when the Congress will earnestly take on the job of a significant, wide ranging reform of either health care or Medicare, but I think that it's time we put forward our best ideas. For unless we put these ideas forward, we may find that our efforts to save Medicare, no matter who well intentioned, may fall far short. We must start this important debate now, for the sake of the Federal deficit, for the sake of Medicare, and for the sake of future generations of older Americans.

Mr. President, I ask unanimous consent that the bill and a section-by-section summary of it be printed in the RECORD following these remarks.

There being no objection, the bill and the section-by-section summary were ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION SUMMARY OF MEDICARE INCENTIVES REFORM ACT [MIRA]

Section 2. The Social Security Act is amended by adding a new title:

"TITLE XXI—STATE HEALTH CARE EFFICIENCY PROGRAMS; STATE HEALTH CARE EFFICIENCY PLANS

"Section 2101. *Application.* The Governor of a State may apply to the Secretary of HHS for approval of a three year State Health Care Efficiency Plan. The Secretary must approve the plan if it meets the requirements set forth in Section 2102. The Secretary must approve or disapprove the plan within 60 days and, if disapproving of the plan, must give the reasons for disapproval and provide opportunity for a hearing on the disapproval.

"Section 2102. *Plan Requirements.* The general requirements which the state plan must meet are:

(a) it must limit the rate of increase in total revenues for all inpatient hospital services for all hospitals in the State;

(b) it must limit the amount paid under Part A of Title XVIII for hospital inpatient services to the amount that would have been paid by the Medicare program in the absence of an approved plan;

(c) it must provide a method of reimbursing hospitals for inpatient care provided to the uninsured and underinsured, with all payors contributing to the cost of unreimbursed care in the same proportion in which they make payments for reimbursed hospital care;

(d) it must provide a plan for allocating among hospitals the capital-related payments under Part A of Title XVIII.

The plan may meet these requirements through a ratesetting system, a voluntary system, by competition mechanisms or by a combination of these. If the plan uses a method other than ratesetting to achieve its cost control targets, Medicare payments for inpatient services will continue to be made by the DRG methodology.

A State Health Care Efficiency Plan may at the states option include a program for limiting total expenditures in the State for physicians' services.

"Section 2103. *Incentives, Re-Approvals, Compliance and Technical Assistance.*

Financial Incentives. For states with a Health Care Efficiency Plan for controlling hospital cost, the annual increase in the State's Medicare total hospital rate increase will be an additional one-half percent—from market basket only to market basket plus one-half percent—and the Federal Medicaid match is increased by 2 percentage points. When the State plan also controls the rate of increase in total physician expenditures, the State's Medicaid match is increased by 3 percentage points.

Compliance. Each plan is reviewed annually for compliance. If the Secretary determines that a plan is not in compliance during its first or second year, the Secretary may continue approval of the plan only if the State presents a credible plan for assuring that it will be in compliance with requirements for the entire thirty-six month period of the State plan. If the State is not in compliance with its plan requirements during the third year or any subsequent

year, the Secretary may specify the conditions upon which re-approval is contingent.

Technical Assistance. The National Center for Health Services Research will conduct a program to educate State officials, business groups and other payors on alternative approaches to health cost control. The Secretary will provide technical assistance to States in the preparation of state health care efficiency plans.

"Section 2104. *Definitions.*

MEDICARE PAYMENT PROVISIONS—SECTION 3

Annual Increase in DRG rates. The annual increase in the DRG rates will be limited to the increase in the hospital market basket, adjusted for population change.

Reduced Reimbursement for Excess Discharges. Reimbursement for excess discharges will be made at 50 percent of the full DRG rates. This will recognize the hospital's marginal costs, but will eliminate current financial incentives to hospitalize patients unnecessarily. The base number of discharges for a hospital will be equal to the number of Medicare discharges in 1983, adjusted for change in the number and size of the beneficiary population. Admissions above the base number, with exceptions made by the Secretary, will be reimbursed at marginal cost.

Reduced Reimbursement for Excess Discretionary Discharges. Reimbursement for excess discretionary discharges will be made at 50 percent of the full DRG rates. Over a five year-period the number of fully reimbursed highly discretionary discharges in each state will be reduced by a number equal to 5 percent of the 1985 total number of Medicare discharges in the State.

The DRG categories targeted for discharge reduction—to be identified on a state-by-state basis—are high volume DRG categories in which high variability in Medicare per capita discharge rates across the State's hospital service areas indicates that hospitalization for these diagnoses is often at the discretion of the physician rather than based on consensus in the medical profession. The small area analysis and the resulting identification of targeted DRGs will be made public in 1986 to give physicians the opportunity to reduce the number of these discretionary discharges through a physician-initiated, voluntary process. The reduction in the allowable number of fully reimbursed discharges in targeted DRGs will begin in 1987.

All PROs will be assigned reduction targets. If the targets are met, no reduction in reimbursement will be made. If the PROs do not meet their targets, reimbursements for the discharges above the year's target will be made at 50 percent of the normal rate. After 1991, reimbursements for discharges above the final targets will be at 50 percent of the normal reimbursement rate.

Reimbursement for Capital. Capital reimbursement is paid by a flat percentage add-on to the DRG rates. The percentage of the add-on is Medicare's payment for hospital capital-related costs (reduced by the amounts now being paid for return on equity and re-evaluation of assets and adjusted to compensate for the lesser capital intensity of Medicare's case mix) as a proportion of Medicare's payment for hospital operating costs. The transition to the capital allowance payment method will be accomplished through a blended rate over a five-year period.

PHYSICIAN REIMBURSEMENT—SECTION 4

Assignment. For physicians providing inpatient services to Medicare beneficiaries, the Medicare rate will be payment in full. Hospitals will obtain physician agreement to accept assignment on Medicare claims for inpatient services for all such services delivered in their hospitals. Beginning July 1, 1988, physician acceptance of assignment on Medicare claims is a condition of Medicare reimbursement for physician services. Prior to the providing services to Medicare Part B enrollees, physicians are required to inform these patients whether the claim will be assigned.

Fee Freeze. Prevailing rates are frozen for one year, beginning July, 1985. Current indexing is resumed for the two year period to July 1988.

Physician Billing Information. Information on physicians' patterns in accepting assignment for outpatient services will be published annually, by local geographic area; and lists will be available in district Social Security offices or from the carrier.

Medicare Plus Program. A special program is created for physicians who sign an agreement with the Secretary to take assignment on all Medicare claims for a one-year period. All Medicare beneficiaries will be provided with the list of all physicians in their local area who have signed the Medicare Plus agreement, and each carrier will maintain a toll-free telephone number to provide information on which physicians are Medicare Plus participants.

HHS will develop a nationwide multimedia educational campaign to improve general understanding about the "assignment of claims for physician services."

THE RELATIVE VALUATION OF PHYSICIANS' SERVICES—SECTION 5

Fee Schedule. HHS shall contract with the Institute of Medicine or another appropriate non-profit agency to develop a relative value scale for physicians' services by July, 1987. The Institute or other agency shall appoint a committee with membership drawn from medicine, non-profit and commercial health insurers, the Office of Technology Assessment, the Medicare Prospective Payment Assessment Commission, the Health Care Financing Administration, health maintenance organizations, business, labor, biomedical and health services research, health economics and persons knowledgeable about consumer preferences and needs. One-half of the committee's members are to be physicians.

In developing the relative value scale of services, physician time is to be regarded as the basic element, to be modified by considerations of training, intensity of effort and degree of skill, efficacy of services and benefit to patients, and other costs, including personnel and equipment. Also, consideration should be given to redefinition of payment units from narrow procedures to more comprehensive bundles of services. Health objectives to be considered in the valuation of physician services include (1) encourage physicians to provide more primary and preventive care and (2) encourage physicians to provide needed services in the least costly way and setting. The report shall also include recommendations on the manner and frequency of updating the relative value scale and on the advisability of a national fee schedule for physicians' services.

Beginning in July, 1988, Medicare will adopt a relative value scale as the determinant of the weighting factor for the various physician services. This relative value scale will serve as the basis for regional fee schedules, to be phased in over a three year period through a blend with "reasonable charges." Regions are carrier service areas, except as indicated below in the "Regional Contract" description. The rural-urban differential in regional fee schedules will be limited solely to the difference between urban and rural medical office overhead and labor costs in a region.

Regional Expenditure Limits. Concurrent with the introduction of the fee schedule as the basis of payment, the rate of growth in Medicare physician expenditures will be limited to the increase in the services component of the Consumer Price Index. Limitation of regional rate of growth in expenditures will be achieved by one of two methods:

(1) *Regional Physician Contract Option.* A physician organization representing 55 percent or more of the physicians in a region (which may be a State or a tertiary medical service area) may contract with HHS to provide all needed Medicare physician services in that region for the amount of the regional expenditure limit. Payment to individual physicians in the region will continue to be on a fee-for-service basis.

(2) *Prudent Purchase of Physician Services.* HHS will hold total physician expenditures in a region to the amount of the regional expenditure limit by a combination of reducing the level of the regional fee schedule and by acting as a prudent purchaser of some physician services.

BENEFICIARY PROVISIONS—SECTIONS 6 THROUGH 8

Limitation on Out-Of-Pocket Costs. Beneficiary costs for Medicare covered services are limited to $400 per year—a $200 deductible for Part A and a $200 deductible for Part B. All copayments are eliminated.

Catastrophic Coverage. Part A coverage is extended to cover an unlimited number of acute care hospital days, and the initial deductible for each hospitalization in each spell of illness is replaced by the single annual deductible described above.

Premiums for Catastrophic Coverage. The improvement of Medicare hospital and supplementary medical insurance of the costs of covered services in excess of the new deductible amounts is financed by establishing an actuarily determined surcharge for all Medicare beneficiaries (estimated at $60 for Part A and $133 for Part B in 1985).

GENERAL PROVISIONS—SECTIONS 9 THROUGH 11

Tax on Tobacco Products. Effective October 1, 1985, the excise tax on tobacco products is doubled and the revenues from this additional tax are dedicated to the Hospital Insurance Trust Fund.

Mortgage Insurance for Hospitals. Authority over the hospital mortgage insurance program—Section 242 of the National Housing Act—is transferred to the Secretary of HHS. Mortgage insurance will be targeted to hospitals with limited access to capital markets and hospitals providing a substantial amount of unreimbursed care.

Reports and Demonstration Projects. (a) By January, 1986, HHS shall report to the Congress on the effectiveness of the hospital utilization review programs of Medicare and of private third-party payers, and make recommendations for legislation to improve hospital utilization control under Title XVIII. (b) By July 1, 1988, HHS shall conduct the following area-wide demonstration projects in carrier service areas or tertiary medical service areas—Packaging physician services for reimbursement purposes by:

(A) making a single payment for all physician services provided during a single hospitalization, and

(B) making a single payment for all physician services closely related to a particular diagnostic or surgical procedure; with the single payment to be made to the principal physician or to the hospital or other facility in which the services were provided.

The Medicare payment rate is payment in full for physicians who elect to participate in the demonstration projects.

S. 2752

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Medicare Incentives Reform Act".

STATE HEALTH CARE EFFICIENCY PROGRAMS

SEC. 2. The Social Security Act is amended by adding at the end thereof the following new title:

"TITLE XXI—STATE HEALTH CARE EFFICIENCY PROGRAMS

"APPLICATION FOR APPROVAL OF STATE HEALTH CARE EFFICIENCY PLANS

"SEC. 2101. (a) The chief executive officer of any State may apply to the Secretary for the approval of a health care efficiency plan for that State.

"(b)(1) The Secretary may approve a State plan for an initial period of up to thirty-six months.

"(2) The Secretary shall approve an application for a plan under paragraph (1) if the Secretary determines that the plan meets the requirements applicable to such plan under section 2102. The Secretary shall approve or disapprove the application within sixty days after the date the application is submitted.

"(3) If the Secretary does not approve a plan, the Secretary shall provide the State with a notice of the reasons why the plan may not be approved and an opportunity for a hearing on such disapproval.

"REQUIREMENTS OF STATE HEALTH CARE EFFICIENCY PLANS

"SEC. 2102. (a) In order to be approved under this title, a State health care efficiency plan must meet the general requirements set forth in subsections (b) and (c) for all such plans and, if applicable, the requirements of subsections (d) and (e). In meeting the requirements of subsections (b) and (c), a plan may be designed in a manner that meets such requirements through a ratesetting system, a voluntary system, or through the use of competitive mechanisms described in subsection (f). A plan may be designed to meet the requirements through different systems or mechanisms for different areas or hospitals within a State.

"(b)(1) A State health care efficiency plan must be designed to limit the rate of increase in the total revenues for inpatient hospital services for all hospitals in the State for each twelve-month period in which the plan is in effect.

"(2)(A) For purposes of this section—

"(i) except as provided in clause (ii), in determining the revenues for inpatient hospital services of a hospital there shall be included all revenues (whether received by or through the hospital or any other entity) paid respecting inpatient hospital services provided to any individual by the hospital;

"(ii) there shall be excluded from revenues for inpatient hospital services amounts paid in philanthropy or under research grants and contracts; and

"(iii) except as provided in subparagraph (B), there shall be excluded from revenues for inpatient hospital services provided in a hospital amounts paid for such services by eligible organizations;

"(iv) in establishing the base from which revenues are computed under a State plan established pursuant to this title for the first twelve-month period in which such plan is in effect, there shall be taken into account any reductions which would have otherwise been effected under subparagraphs (E) and (F) of section 1886(d)(5) for portions of hospital accounting periods occurring during that period.

"(B) In the case of a State at least 50 per centum of the population of which is enrolled with an eligible organization, clause (iii) of subparagraph (A) shall not apply and there shall be included (in computing revenues under State health care plans) the revenues paid by eligible organizations for inpatient hospital services.".

"(C) The plan may, with the approval of the Secretary, exempt revenues of hospitals from limits under the plan if—

"(i) the exemption is necessary to facilitate an experiment or demonstration entered into under section 1115 of title XI or section 402 of the Social Security Amendments of 1967; and

"(ii) the experiment or demonstration is not inconsistent with the purposes of this title.

"(3)(A) A plan established by a State under this title must be designed to provide, to the satisfaction of the Secretary, that, for any twelve-month period for which the plan is in effect—

"(i) the total amount paid under part A of title XVIII for inpatient hospital services provided under such plan to individuals entitled to benefits under such part may not exceed the total amount paid to all hospitals in such State for such services under section 1886 during the twelve-month period immediately preceding the first twelve-month period for which the plan is in effect; increased by the sum of (I) the compounded sum of the percentage limits computed under subsection (b)(3)(B) of such section (without regard to subsections (d) and (e) of such section) for that twelve-month period and all preceding twelve-month periods for which the plan was in effect, (II) one-half percent for that period and all preceding twelve-month periods for which the plan was in effect, and (III) the estimated percentage increase during such preceding twelve-month periods in the number of individuals residing in such State who are entitled to benefits under such part; adjusted to reflect the reductions which would have otherwise been effected under subparagraphs (E) and (F) of section 1886(d)(5) with respect to hospitals in such State during that twelve-month period and all preceding twelve-month periods for which the plan was in effect; and further adjusted (in accordance with regulations prescribed by the Secretary) to take into account the effect upon the utilization of such services in such State of any changes during such preceding twelve-month periods in the age distribution of individuals residing in such State who are entitled to benefits under such part; and

"(ii) the total amount paid under part A of title XVIII for capital-related costs of inpatient hospital services provided in such State for a twelve-month period may not exceed the amount which would be payable to all hospitals in such State under section 1886(g) for such costs for such period if such plan were not in effect.

"(B) A plan (other than a plan providing for the establishment of rates of hospital reimbursement for hospital inpatient services) may provide that payment under title XVIII for inpatient hospital services shall continue to be made in the amounts and in the manner otherwise provided under such title.

"(c)(1) The plan must have a mechanism for providing fair hearings for hospitals and any other entities aggrieved by determinations made under the plan.

"(2) The plan must assure that hospitals continue to meet Federal and State certification standards for quality of care.

"(3) The plan must provide for a method of assuring that hospitals do not engage in an admissions practice that results in—

"(A) a refusal to admit a patient because the patient is unable to pay for inpatient hospital services provided by the hospital or with respect to whom payment is (or is likely to be) less than the anticipated charges for or costs of services provided to the patient; or

"(B) the refusal to provide emergency services to any person who is in need of emergency services if the hospital provides such services.

"(4) The plan must provide for a method of allocating among the hospitals in the State the amount payable under part A of title XVIII with respect to the capital-related costs of inpatient hospital services.

"(5) The plan must provide for a program of hospital utilization control with respect to all inpatient hospital services for which payment is made under such part (including any services for which payment is made in accordance with paragraph (6)).

"(6)(A) A plan shall provide that unreimbursed costs incurred by hospitals in providing inpatient hospital services to patients (other than patients who are entitled to benefits under part A of title XVIII or to medical assistance under a State plan approved under title XIX) who are of low income and are uninsured or underinsured (as defined by the Secretary) shall be paid through distribution of funds pooled at the statewide level or through another method approved by the Secretary. Payment of amounts to hospitals in a State under the previous sentence must be allocated among payors for inpatient hospital services (including eligible organizations) in a manner that reflects the relative proportion of the payments for such services that are made by that payor (or class of payor), and shall be allocated among hospitals in proportion to the share of unreimbursed inpatient hospital services provided by the hospital.

"(B) The amount provided to cover such unreimbursed costs (after reasonable efforts to collect debts) must, in the aggregate, be the same proportion of total revenues for inpatient hospital services (including revenues from philanthropic payments and other sources of revenues other than revenues relating to research grants and contracts) as such unreimbursed costs are of total costs of inpatient hospital services.

"(7) The plan must provide for such reports to the Secretary as the Secretary may require in order properly to review assurances provided under this section and the operation of the plan.

"(8) The plan must permit eligible organizations in the State to negotiate directly with hospitals with respect to the rate of payment for inpatient hospital services provided by such organizations.

"(d) To the extent that the plan provides for meeting the requirements of subsections (b) and (c) through a system which provides for the establishment of rates for hospital

reimbursement for inpatient hospital services by an entity other than the hospital, the plan must meet the following additional requirements:

"(1) Except as provided in paragraph (2), the plan must be designed and administered in a manner that provides equitable treatment under the plan of all entities that pay for inpatient hospital services under the plan, of employees of hospitals, and of patients receiving such services.

"(2)(A) If the plan is established under State law, the plan must take into account (whether on a per diem, per discharge, or other basis) the proportion of costs associated with, and services covered by, the different payors, including payments under titles XVIII and XIX of this Act, and may not permit undue shifting of proportions of costs among the different payors. Where there are large disparities among private payors in the amounts paid, the plan may provide for elimination of the differences in payment amounts among such payors over a period of time.

"(B) The plan may not make available any discount in price to any purchaser unless—

"(i) the discount is in an amount which accurately reflects identifiable and measurable economic benefits to that hospital resulting from a service or reimbursement arrangement with that purchaser, and

"(ii) the discount is made available to all other purchasers who can satisfy such service or reimbursement arrangement.

"(3) The plan must provide a procedure whereby, upon the request of a hospital, an adjustment can be considered to the rate limitation applicable under the plan to that hospital to reflect—

"(A) a significant change in the capacity or character of the inpatient hospital services available in the hospital or a major renovation or replacement of physical plant which has been approved by the State health planning and development agency or the State planning agency designated for purposes of section 1122(b), if either such agency exists;

"(B) funds necessary to provide for the efficient operation of the hospital if the hospital (i) is a sole community hospital or provides a disproportionate percentage of its services, in comparison with facilities of similar size and urban or rural location, to low-income patients, (ii) would otherwise be insolvent, and (iii) should be maintained in the judgment of the State health planning and development agency (or other appropriate State agency); and

"(C) higher expenses associated with the special needs and circumstances (including greater intensity of care) of the hospital because it is a regional tertiary care institution, teaching hospital, public hospital, or children's hospital,

but only if any change due to which the adjustment is sought is not inconsistent with any applicable State health plan approved by the State health planning and development agency.

"(e)(1) A health care efficiency plan approved under section 2101 for any twelve-month period beginning after June 30, 1988, may include a program for limiting the amounts payable by all payors for physician's services provided in such State during such period. Such program may employ a relative value scale and a fee schedule for such services or an alternative method for constraining the costs of physicians' services approved by the Secretary.

"(2) A plan imposing limits on the amounts payable with respect to physicians' services must be designed to provide, to the satisfaction of the Secretary, that, for any twelve-month period for which the plan is in effect, the total amount paid under part B of title XVIII for physicians' services provided under such plan to individuals enrolled under such part may not exceed the total amount paid to all physicians in such State for such services under such part during the twelve-month period immediately preceding the first twelve-month period for which the plan is in effect, increased or decreased by the sum of (i) the compounded sum of the percentage increases and decreases computed under section 1845(b)(3)(A)(i) for that period and all preceding twelve-month periods for which the plan was in effect, and (ii) the estimated percentage increase or decrease during such preceding twelve-month periods in the number of individuals residing in such State who are enrolled under such part, and further adjusted (in accordance with regulations prescribed by the Secretary) to take into account the effect upon the utilization of such services in such State of any changes during such preceding twelve-month periods in the age distribution of individuals residing in such State who are enrolled under such part.

"(3) If a State proposes to limit the amounts payable for physicians' services for a twelve-month period in accordance with this subsection, and such limitations are to become effective with respect to a twelve-month period other than the first twelve-month period for which the plan of such State for controlling the cost of inpatient hospital services becomes effective, the Secretary shall treat the program of such State for limiting the amounts payable for physicians' services as a separate plan for purposes of applying the provisions of section 2103.

"(f) If the plan provides for control of the cost of inpatient hospital services in whole or in part through a competitive mechanism, the Secretary shall, in reviewing the plan, take into account the degree to which the plan provides for the following or other measures to improve price competition among providers:

"(1) The plan provides for the establishment of one or more open enrollment periods permitting eligible individuals to elect to enroll, disenroll, or change the type of enrollment with private or public health benefits plans (whether providing prepaid care or otherwise).

"(2) The plan provides for the dissemination of such information concerning different health benefits plans (including benefit structure and premiums) to individuals eligible to enroll with the health benefits plans as may encourage informed decisionmaking and competition in price among the plans.

"(3) The plan encourages innovation and public incentives to new forms of health care delivery and financing.

"(4) There are negotiated prices and risk-sharing between insurers and health care providers.

"(5) The laws of the State do not impose legal barriers to competition in negotiated and other arrangements among insurers and health care providers.

"REAPPROVAL OF STATE PLANS, COMPLIANCE, INCENTIVES, AND TECHNICAL ASSISTANCE

"SEC. 2103. (a)(1) The Secretary shall annually review the compliance of each plan approved under this title with the applicable requirements of section 2102.

"(2) If the Secretary determines that a State has not complied with such requirements for the first or second twelve-month period in an initial period (as described in section 2101(b)(1)), the Secretary may continue approval of the plan for the following twelve-month period only if the chief executive officer of the State presents a credible plan for assuring that the State will be in compliance with such requirements for the thirty-six-month period beginning with the first date on which the plan is in effect.

"(3) If the Secretary determines that a State has not complied with such requirements for such thirty-six month period, or any twelve-month period beginning after such period, the Secretary may (taking into account the degree of noncompliance and other relevant factors)—

"(A) approve the plan of such State for an additional period or periods,

"(B) condition such approval upon the fulfillment by such State of such conditions as the Secretary determines to be necessary to bring such plan into compliance with such requirements, or

"(C) disapprove such plan.

"(b)(1) In the case of any State with a plan approved under section 2101 for any twelve-month period—

"(A) the provisions of section 1886 shall not apply to hospitals in such State for accounting periods (or portions thereof) to which such plan applies;

"(B) the Secretary shall waive limitations (other than those relating to beneficiary cost sharing and those imposed under section 1866(a)(4)) imposed under part A of title XVIII upon the amount, and manner, of payment to such hospitals under such part for inpatient hospital services furnished in such State during the twelve-month period; and

"(C) for purposes of making payments to such State under section 1903 (and notwithstanding any other provision of title XIX), the Federal medical assistance percentage for such State, for each calendar quarter ending in any twelve-month period in which the plan is in effect, shall be 102 per centum of the amount of the Federal medical assistance percentage otherwise determined under section 1905(b).

"(2) If such plan imposes limitations on the amounts payable with respect to physicians' services for such twelve-month period in accordance with section 2102 (e)—

"(A) the provisions of section 1845 shall not apply to physicians' services provided in such State during such period;

"(B) the Secretary shall waive limitations (other than those relating to beneficiary cost sharing and those requiring payment for physicians' services to be made only on the basis of an assignment described in section 1842(b)(3)(B)(ii) or an arrangement described in section 1870(f)(1)) imposed under such part upon the amount, and manner, of payment to physicians under such part for physicians' services furnished in such State during such twelve-month period; and

"(C) notwithstanding subparagraph (C) of paragraph (1), for purposes of making payments to such a State under section 1903 (and notwithstanding any other provision of title XIX), the Federal medical assistance percentage for such State, for each calendar quarter ending in any twelve-month period in which the plan is in effect, shall be 103 per centum of the amount of the Federal medical assistance percentage otherwise determined under section 1905(b).

"(c)(1) The Secretary, upon request of the chief executive officer of a State, may provide technical assistance to the State in the

preparation of a plan for approval under this title.

"(2) The National Center for Health Services Research of the Department of Health and Human Services shall develop and implement a program for educating and advising State officials, business groups, and other payors with respect to the alternative approaches available to States desiring to establish a health care efficiency plan in accordance with this title.

"DEFINITIONS

"SEC. 2104. For purposes of this title:

"(1) The term 'hospital' means, with respect to any period, an institution that satisfied paragraphs (1) and (7) of section 1861(e) of this Act during all of the period, but does not include any such institution if it—

"(A) does not impose charges or accept payments for services provided to patients,

"(B) is a Federal institution during any part of the period,

"(C) is a psychiatric hospital (as described in section 1861(f)(1) of this Act), a rehabilitation hospital (as defined for purposes of section 1886(d)(1)(B)(ii) of this Act), a hospital whose inpatients are predominantly individuals under 18 years of age, or a hospital which has an average inpatient length of stay (as determined by the Secretary) of greater than 25 days, or

"(D) derives 75 per centum or more of its inpatient revenues from one or more eligible organizations during the preceding twelve months.

"(2) The term 'inpatient hospital services' has the meaning given such term in section 1861(b) of this Act.

"(3) The term 'State health planning and development agency' means, for a hospital, the agency designated under section 1521 of the Public Health Service Act for the State in which the hospital is located.

"(4) The term 'eligible organization' has the meaning given such term in section 1876(b).".

MEDICARE PAYMENT PROVISIONS

SEC. 3. (a)(1) Section 1886(b)(3)(B) of the Social Security Act is amended—

(A) by striking out "1 percentage point plus"; and

(B) by inserting "(plus 1 percentage point in the case of cost reporting periods beginning before October 1, 1985)" after "fiscal year" the third place it appears.

(2) Section 1886(d)(3)(A) of such Act is amended—

(A) by inserting "and each fiscal year thereafter" after "fiscal year 1985"; and

(B) by striking out "and adjusted for subsequent fiscal years in accordance with the final determination of the Secretary under subsection (e)(4),".

(3) Paragraphs (4) and (5) of section 1886(e) of such Act are repealed.

(b)(1) Section 1886(d)(5) of such Act is amended by adding at the end thereof the following new subparagraph:

"(E)(i) If the total number of discharges of individuals entitled to benefits under part A for all hospitals in a medical service area (as defined by the Secretary) during a twelve-month period exceeds the sum of the adjusted base number of discharges for all such hospitals in such area for such period, the Secretary shall make such adjustment in the payments to a hospital under paragraph (1) as may be necessary to provide that, to the extent that the number of individuals discharged from a hospital during a twelve-month period who are, on the date of discharge, entitled to benefits under part A of this title exceeds the adjusted base number of discharges for such hospital for such period determined under clause (ii), the payments per discharge to such hospital shall be equal to 50 per centum of the payments per discharge otherwise provided under this subsection (other than under this subparagraph).

"(ii) For purposes of clause (i), the adjusted base number of discharges for a hospital for a twelve-month period is equal to the number of individuals discharged from such hospital during the accounting period of such hospital ending in calendar year 1983 (or, if higher, the average of the total number discharges of such hospital for such accounting period and the total number of discharges of such hospital for each of the two preceding accounting periods) who were, on the date of discharge, entitled to benefits under part A of this title, increased by a percentage equal to the estimated percentage increase, during the period between the last day of the accounting period of such hospital ending in calendar year 1983 and the first day of the twelve-month period for which adjustment is to be made under clause (i), in the number of individuals residing in the medical service area in which the hospital is located who are entitled to benefits under such part, and further adjusted (in accordance with regulations prescribed by the Secretary) to take into account the effect upon the utilization of inpatient hospital services in such area of any changes during such period in the age distribution of individuals residing in such area who are entitled to benefits under such part.

"(iii) The Secretary may by regulation provide for a higher percentage than the percentage specified in clause (i) in those cases where the Secretary determines that the increase in the number of discharges from a hospital is extraordinary and is due to circumstances beyond the hospital's control, or is required to improve access to care.".

(2) Section 1886(e)(1) of such Act is amended—

(A) by inserting "and shall not take into account any adjustment made under subsection (d)(5)(E)" before the period at the end of subparagraph (A), and

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon and the following:

"except that the adjustment made under this subparagraph shall not take into account any adjustment made under subsection (d)(5)(E).".

(3)(A) The amendments made by this subsection shall become effective on the date which is 90 days after the date of the enactment of this Act and shall apply to discharges occurring on or after such date.

(B) In the case of a hospital cost reporting period which begins before the effective date of this subsection, and ends after such date, the Secretary of Health and Human Services shall provide that the amendments made by this subsection shall apply to such a period in such a prorated manner as to be consistent with subparagraph (A).

(c)(1) Section 1886(d)(5) of such Act, as amended by subsection (b) of this section, is further amended by adding at the end thereof the following new subparagraph:

"(F)(i) On or before January 1, 1986, the Secretary shall—

"(I) determine the diagnosis-related groups (or aggregations of such groups) within which the greatest number of hospital discharges for which payment may be made under this section are classified in the United States during the twelve-month period ending September 30, 1985;

"(II) rank the diagnosis-related groups and aggregations of such groups described in subclause (I) according to the degree of variation among hospital service areas in such State in the percentage of individuals entitled to benefits under part A who are discharged from a hospital during such period and classified within such group; and

"(III) disseminate information with respect to the determinations and rankings made pursuant to subclauses (I) and (II) to physicians and the general public.

"(ii) On or before January 1, 1987, the Secretary shall determine the maximum number of discharges in a State for diagnosis-related groups and aggregations of such groups ranked pursuant to clause (i)(II) (beginning with those groups and aggregations with the highest variability in per capita discharge rates) for the twelve-month period beginning January 1, 1987, and each twelve-month period thereafter, for which full payment may be made under this section.

"(iii)(I) The maximum number of discharges for a State for such a diagnosis-related group or aggregation of such groups for the twelve-month period beginning January 1, 1987, shall be equal to the number obtained by subtracting from the total number of discharges in such diagnosis-related group or aggregation of such groups in such State in the twelve-month specified in clause (i) a number of discharges, which when added to the total number of all other discharges subtracted pursuant to this subclause for diagnosis-related groups and aggregations of such groups for such State for the twelve-month period beginning January 1, 1987, equals one percent of the total number of discharges for which payment was made under this section for the twelve-month period specified in clause (i).

"(II) The maximum number of discharges for a State for such a diagnosis-related group or aggregation of such groups for a State for the twelve-month period beginning January 1, 1988, shall be equal to the number obtained by subtracting from the total number of discharges in such diagnosis-related group or aggregation of such groups in such State in the twelve-month period specified in clause (i) a number of discharges, which when added to the total number of all other discharges subtracted pursuant to this subclause for diagnosis-related groups and aggregations of such groups for such State for the twelve-month period beginning January 1, 1988, equals two percent of the total number of discharges for which payment was made under this section for the twelve-month period specified in clause (i).

"(III) The maximum number of discharges for a State for such a diagnosis-related group or aggregation of such groups for the twelve-month period beginning January 1, 1989, shall be equal to the number obtained by subtracting from the total number of discharges in such diagnosis-related group or aggregations of such groups in such State in the twelve-month specified in clause (i) a number of discharges, which when added to the total number of all other discharges subtracted pursuant to this subclause for diagnosis-related groups and aggregations of such groups for such State for the twelve-month period beginning January 1, 1989, equals three percent of the total number of discharges for which payment

was made under this section for the twelve-month period specified in clause (i).

"(IV) The maximum number of discharges for a State for such a diagnosis-related group or aggregation of such groups for the twelve-month period beginning January 1, 1990, shall be equal to the number obtained by subtracting from the total number of discharges in such diagnosis-related group or aggregations of such groups in such State in the twelve-month specified in clause (i) a number of discharges, which when added to the total number of all other discharges subtracted pursuant to this subclause for diagnosis-related groups and aggregations of such groups for such State for the twelve-month period beginning January 1, 1990, equals four percent of the total number of discharges for which payment was made under this section for the twelve-month period specified in clause (i).

"(V) The maximum number of discharges for a State for such a diagnosis-related group or aggregation of such groups for the twelve-month period beginning January 1, 1991, and each twelve-month period thereafter, shall be equal to the number obtained by subtracting from the total number of discharges in such diagnosis-related group or aggregations of such groups in such State in the twelve-month specified in clause (i) a number of discharges, which when added to the total number of all other discharges subtracted pursuant to this subclause for diagnosis-related groups and aggregations of such groups for such State for the twelve-month period for which the determination is made, equals five percent of the total number of discharges for which payment was made under this section for the twelve-month period specified in clause (i).

"(iv) The Secretary may provide for an increase in the maximum number of discharges determined under clause (iii) for a State for a diagnosis-related group or aggregation of such groups for any twelve-month period if the Secretary determines that the health status of the individuals in such State who are entitled to benefits under part A warrants such increase.

"(v)(I) On or before January 1 of each year beginning after December 31, 1986, the utilization and quality control peer review organization (or organizations) in a State shall, in accordance with procedures prescribed by the Secretary, allocate among hospitals in the State the number of discharges computed with respect to a diagnosis-related group or aggregation of such groups in such State for the twelve-month period beginning on January 1 of such year.

"(II) The amount payable for hospital discharges classified within a diagnosis-related group or aggregation of such groups for a twelve-month period which are in excess of the number of discharges within such group or aggregation that are allocated to a hospital for such period pursuant to subclause (I) of this clause shall be equal to 50 percent of the amount that would be payable with respect to such discharge under this section but for this subparagraph."

(d)(1) Section 1886(g) of such Act is amended to read as follows:

"(g)(1) Notwithstanding section 1814(b), and except as provided in paragraphs (2) and (3), there shall be paid with respect to inpatient hospital services of a subsection (d) hospital (as defined in subsection (d)(1)(B)) for inpatient hospital discharges in a cost reporting period beginning on or after January 1, 1986, an additional amount equal to the product of the amount payable under such subsection with respect to such discharge and the capital-related cost percentage determined under subparagraph (B) of paragraph (4) of this subsection.

"(2) Notwithstanding paragraph (1), the additional amount payable to a subsection (d) hospital under this subsection for inpatient hospital services for cost reporting periods beginnng after December 31, 1985, and before January 1, 1990, shall equal—

"(A) for services provided during cost reporting periods beginning after December 31, 1985, and before January 1, 1987, an amount equal to the sum of (i) an amount equal to 80 percent of the amount that would have been payable with respect to the capital-related costs of such service under section 1814(b) (as such section was in effect on the day before the date of the enactment of this Act) and (ii) an amount equal to 20 percent of the amount that would be payable with respect to such service under paragraph (1) of this subsection but for this paragraph;

"(B) for services provided during cost reporting periods beginning after December 31, 1986, and before January 1, 1988, an amount equal to the sum of (i) an amount equal to 60 percent of the amount that would have been payable with respect to the capital-related costs of such service under section 1814(b) (as such section was in effect on the day before the date of the enactment of this Act) and (ii) an amount equal to 40 percent of the amount that would be payable with respect to such service under paragraph (1) of this subsection but for this paragraph;

"(C) for services provided during cost reporting periods beginning after December 31, 1987, and before January 1, 1989, an amount equal to the sum of (i) an amount equal to 40 percent of the amount that would have been payable with respect to the capital-related costs of such service under section 1814(b) (as such section was in effect on the day before the date of the enactment of this Act) and (ii) an amount equal to 60 percent of the amount that would be payable with respect to such service under paragraph (1) of this subsection but for this paragraph; and

"(D) for services provided during cost reporting periods beginning after December 31, 1988, and before January 1, 1990, an amount equal to the sum of (i) an amount equal to 20 percent of the amount that would have been payable with respect to the capital-related costs of such service under section 1814(b) (as such section was in effect on the day before the date of the enactment of this Act) and (ii) an amount equal to 80 percent of the amount that would be payable with respect to such service under paragraph (1) of this subsection but for this paragraph.

"(3)(A) If a subsection (d) hospital can demonstrate to the Secretary that the capital-related cost percentage determined under paragraph (4)(B) would have to be increased by at least two full percentage points for a cost-reporting period to permit such hospital to pay interest, principal, and lease obligations for such period with respect to a capital project for which a certificate of need has been approved, the Secretary shall provide for an additional payment for such period in an amount which, when added to the amount which would have been paid to such hospital if such percentage had been increased by two percentage points, would equal the total cash needs of such hospital with respect to interest, principal, and lease obligations for such project for such period. Additional payments shall be made to a hospital pursuant to the preceding sentence only if the hospital agrees to corresponding reductions in future payments to such hospital under this subsection. In determining the cash needs of a hospital with respect to a capital expenditure, the Secretary shall take into account the utilization and occupancy level with respect to the facility constructed or improved with the capital expenditure.

"(B) The Secretary may require, as a condition for the making of additional payments or adjustments in the payment schedule under subparagraph (A) that a hospital must refinance loans related to capital expenditures, if such financing is reasonably available.

"(4) For purposes of this subsection—

"(A) the term 'capital-related costs of inpatient hospital services' shall have the meaning given to such term by the Secretary for purposes of subsection (a)(4); and

"(B) the term 'capital-related cost percentage' means the ratio (expressed as a percentage) of—

"(i) the average of—

"(I) the total of the amounts paid to all subsection (d) hospitals in the United States under part A with respect to the capital-related costs of inpatient hospital services, in the most recently completed twelve-month period ending prior to the date of the enactment of the Medicare Incentives Reform Act for which adequate information is available, excluding amounts paid with respect to return on equity, and amounts paid with respect to capital-related costs resulting from the valuation of hospital assets in amounts exceeding the book value (acquisition cost minus depreciation) of such assets to the prior owner, and adjusted to reflect the capital-related costs of providing inpatient hospital services to individuals entitled to benefits under part A relative to the capital-related costs of providing such services to all other individuals;

"(II) the total of such amounts for the first twelve-month period preceding the twelve-month period described in subclause (I) (determined in accordance with the methodology specified in such subclause); and

"(III) the total of such amounts for the second twelve-month period preceding the twelve-month period described in subclause (I) (determined in accordance with the methodology specified in such subclause); to

"(ii) the average of—

"(I) the total of the amounts paid to all such hospitals in the United States under such part for inpatient hospital services and such costs for the twelve-month period described in subclause (I) of clause (i);

"(II) the total of the amounts paid to all such hospitals under such part for inpatient hospital services and such costs for the first twelve-month period preceding the twelve-month period described in such subclause; and

"(III) the total of the amounts paid to all such hospitals under such part for inpatient hospital services and such costs for the second twelve-month period preceding the twelve-month period described in such subclause.".

(2)(A) Section 1886(a)(4) of such Act is amended by striking out ", with respect to costs incurred in cost reporting periods beginning prior to October 1, 1986,".

(B) Section 1886(b)(3)(B) of such Act is amended by striking out "but excluding nonoperating costs" and inserting in lieu thereof "and including appropriately weighted capital costs".

(C) Section 1886(d)(3)(B) of such Act is amended—

(i) by inserting "and certain additional capital payments" after "outlier payments",

(ii) by inserting before the period at the end the following: "and shall further reduce the amounts by a proportional amount necessary to offset the amount of the additional payments described in subsection (g)(3)".

PHYSICIAN REIMBURSEMENT

SEC. 4. (a)(1) Section 1866(a)(1) of the Social Security Act is amended by striking out "Any provider" and inserting in lieu thereof "Subject to paragraph (4), any provider".

(2) Section 1866(a) of such Act is further amended by adding at the end thereof the following new paragraph:

"(4)(A) A hospital shall be qualified to participate under this title and shall be eligible for payments under this title only if it provides (in the agreement filed with the Secretary under paragraph (1)) that any physician who—

"(i) is on the medical staff of the hospital (courtesy or otherwise), and

"(ii) furnishes services for which payment may be made under part B to inpatients of the hospital,

must enter into an agreement described in subparagraph (B) in a manner established by the Secretary.

"(B) A physician's agreement referred to in subparagraph (A) is an agreement by the physician not to impose any charge or receive payment for any physicians' services which are provided to any inpatient in the hospital for which payment may be made under part B except on the basis of an assignment described in section 1842(b)(3)(B)(ii) or an arrangement described in section 1870(f)(1).".

(3) Section 1866(b)(2) of such Act is amended by inserting before the period at the end thereof the following:

", or (H) that such provider (in the case of a hospital) is not complying with the provisions of the agreement specified in subsection (a)(4)".

(b) Section 1842(b) of such Act is amended by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4)(A) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services for the twelve-month period beginning July 1, 1985, the Secretary shall not set any level higher than the same level as was set for the period beginning July 1, 1984.

"(B) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services for periods beginning after June 30, 1986, the Secretary shall treat the level set under subparagraph (A) as having fully provided for the economic changes that would have been taken into account but for the limitation contained in such paragraph.".

(c) Section 1842 of such Act is further amended by adding at the end thereof the following new subsections:

"(i)(1) The Secretary shall compile annually a list of physicians serving individuals enrolled under this part, indicating with respect to each such physician—

"(A) the specialty practice (if any) of such physician;

"(B) the total number of bills paid under this part for physicians' services (other than services provided to hospital inpatients) provided to such individuals by such physician in the preceding year; and

"(C) the share (by percentile intervals not to exceed deciles) of such bills for which such physician has agreed to accept payment on the basis of an assignment described in subsection (b)(3)(B)(ii)) or an arrangement described in section 1870(f)(1).

"(2) No more than six months after the end of each year, the Secretary shall make available in each district office of the Social Security Administration and, upon request, by mail from each carrier, the information compiled under paragraph (1) for the local geographic area or areas served by the office or the carrier. Such information shall be organized by specialty practice to the extent practicable. The Secretary shall, when such information becomes available, annually notify each individual enrolled under this part of the availability of such information.

"(j)(1) On or before June 30 of each year the Secretary shall publish a list of all physicians who have agreed in accordance with this subsection to accept payment under this part on the basis of an assignment described in subsection (b)(3)(B)(ii) or an arrangement described in section 1870(f)(1) for all physicians' services (other than services provided to hospital inpatients) furnished under this part during the twelve-month period beginning on July 1 of such year to individuals enrolled under this part.

"(2) To permit the publication of the list provided under paragraph (1), the Secretary shall, before the beginning of each such twelve-month period, offer physicians a reasonable opportunity to sign an agreement that they will accept payment under this part on the basis of an assignment described in subsection (b)(3)(B)(ii) or an arrangement described in section 1870(f)(1) for all physicians' services furnished under this part (other than services provided to hospital inpatients) during that twelve-month period to individuals enrolled under this part.

"(3) The Secretary shall make available to individuals enrolled under this part in each local geographic area during a twelve-month period described in paragraph (1) a list of physicians in that area who have signed an agreement under this subsection for such twelve-month period.

"(k) The Secretary shall develop and conduct a nationwide multimedia program to inform individuals enrolled under this part and members of the general public of the nature of the assignment described in subsection (b)(3)(B)(ii) and the arrangement described in section 1870(f)(1) and the manner of implementing such assignments and arrangements.

"(l) Each carrier having an agreement with the Secretary under subsection (a) shall maintain a toll-free telephone number or numbers at which individuals enrolled under this part may obtain the names, addresses, and (if available) the telephone numbers of physicians who have signed an agreement with the Secretary under subsection (j).

"(m) In any case in which a carrier having an agreement with the Secretary under subsection (a) is able to develop a system for the direct transmission to such carrier of bills for physicians' services, such carrier shall (with the approval of the Secretary and subject to such conditions as the Secretary may by regulation prescribe) make such system available during a twelve-month period only to physicians who have signed an agreement with the Secretary under subsection (j) for such period.".

(d) Section 1861(q) of such Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) The term 'physicians' services' does not include professional services performed by a physician who fails to take reasonable steps to notify individuals enrolled under part B, prior to the provision of such services, of whether the physician will accept payment for physicians' services (other than services provided to hospital inpatients) on the basis of an assignment described in section 1842(b)(3)(B)(ii) or an arrangement described in section 1870(f)(1).".

(e) Effective July 1, 1988—

(1) section 1833 of such Act is amended by adding at the end thereof the following new subsection:

"(k) No payment may be made under this part for physicians' services provided during any twelve-month period by a physician who has not entered into an agreement under section 1866 (a)(4) with respect to services for which payment may be made under this part provided by such physician to hospital inpatients during such period and an agreement under section 1842(b)(3)(G), with respect to any other physicians' services for which payment may be made under this part provided by such physician during such period."; and

(2) section 1842(b) of such Act is amended—

(A) in paragraph (3)—

(i) by inserting "and" after the semicolon at the end of subparagraph (F); and

(ii) by inserting after subparagraph (F) the following new subparagraph:

"(G) will take such action as may be necessary to assure that, where payment under this part for a physicians' service (other than a service subject to an agreement under section 1866(a)(4)) is on a fee basis, no payment will be made under this part for such service unless the physician providing such service has signed an agreement with the carrier not to impose any charge or receive payment for any such service except on the basis of an assignment described in clause (ii) of subparagraph (B) or an arrangement described in section 1870(f)(1);"; and

(B) by striking out paragraph (4) (as added by subsection (b) of this section) and redesignating paragraphs (5) through (7) (as redesignated by subsection (b) of this section) as paragraphs (4) through (6), respectively; and

(3) section 1842 of such Act is further amended by striking out subsections (i), (j), (k), (l), and (m).

RELATIVE VALUATION OF PHYSICIANS' SERVICES

SEC. 5. (a) On or before July 1, 1987, the Institute of Medicine of the National Academy of Sciences (hereafter in this section referred to as the "Institute"), or another appropriate nonprofit private entity selected by the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") in accordance with subsection (e), shall develop a relative value scale for physicians' services and shall submit a report to the Secretary and the Congress with respect to such relative value scale.

(b) In developing the relative value scale described in subsection (a), the Institute or such other entity shall appoint, and take into account the recommendations of, a committee comprising physicians and representatives of the Health Care Financing Administration, the Prospective Payment As-

sessment Commission, the Office of Technology Assessment, nonprofit and commercial health-care insurance organizations, health maintenance organizations, business, labor, biomedical and health services research organizations, persons with knowledge of health-care finance, health-care economics, or health-care reimbursement, and persons with knowledge of consumer preferences and needs. One-half of the members of the Committee shall be physicians.

(c)(1)(A) In developing the relative value scale described in subsection (a), primary consideration shall be given to the relative time necessary to provide a service. Investment in professional training, the intensity of effort and degree of skill necessary to provide the service, the efficacy of the service, and overhead and personnel expenses associated with providing the service shall also be taken into account in the development of such scale.

(B) Consideration shall also be given to the redefinition of payment units from narrow procedures to more comprehensive aggregations of physicians' services.

(C) Consideration shall also be given to the following health-care objectives:

(i) encouraging physicians to provide more primary and preventive care; and

(ii) encouraging physicians to provide physicians' services in the least costly manner and setting.

(2) If the Institute or such other entity determines that it is impracticable to evaluate and assign relative values to all physicians' services on or before July 1, 1987, the Institute or such entity shall evaluate and assign values to those services for which payment is most frequently made under part B of title XVIII of the Social Security Act and those services for which the Institute or such entity determines that the amounts currently paid under such part greatly exceed or fall below the relative value of such service, and shall assign provisional values to other services.

(d) The report required by subsection (a) shall also include recommendations with respect to—

(1) the manner and frequency of updating the relative value scale developed in accordance with such subsection, and

(2) the advisability of a national fee schedule for physicians' services.

(e) The Secretary shall enter into a contract with the Institute to develop the relative value scale described in subsection (a) and to submit the report required by such subsection. If the Institute is unwilling to enter into such a contract, the Secretary shall enter into a contract with another nonprofit private entity which the Secretary determines is qualified to carry out the terms of such contract (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provision of law requiring competitive bidding).

(f) For purposes of this section—

(1) the term "physicians' services" means physicians' services (as defined in section 1861(q) of the Social Security Act) for which payment may be made under section 1833(a)(1) of such Act; and

(2) the term "physician" shall have the meaning given to such term in section 1861(r) of such Act.

FEE SCHEDULES FOR PHYSICIANS' SERVICES

SEC. 6. (a) Part B of title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"FEE SCHEDULES FOR PHYSICIANS' SERVICES

"SEC. 1845. (a)(1) Taking into account the factors set forth in section 5 of the Medicare Incentives Reform Act, and the recommendations contained in the report submitted pursuant to such section, the Secretary shall establish a relative value scale for physicians' services on or before July 1, 1988, assigning to each such service a weighting factor that reflects the value of such service compared with the value of all other physicians' services.

"(2) The Secretary shall adjust the relative value scale established and the weighting factors assigned under paragraph (1), from time to time, to reflect changes in treatment patterns, technology, and other factors that may change the relative value of physicians' services.

"(b)(1) The Secretary shall establish for each carrier service area for each twelve-month period beginning after June 30, 1988—

"(A) a fee schedule for physicians' services for which payment may be made under this part that are provided during such period in urban areas located within such carrier service area; and

"(B) a fee schedule for physicians' services for which payment may be made under this part that are provided during such period in rural areas located with such carrier service area.

"(2) In establishing fee schedules for a carrier service area for a twelve-month period under paragraph (1), the Secretary shall take into account the estimated volume of each such service to be provided in such carrier service area during such period, the weighting factor assigned to such service for such period, and differences in the costs of medical office overhead for urban and rural areas of such carrier service area, and shall adjust the amount of the fee established for each such service to assure that the total amount payable under this part for physicians' services provided in such carrier service area during such period will not exceed the cap amount for such carrier service area for such period.

"(3) For purposes of this subsection—

"(A) the term 'cap amount' means, with respect to any carrier service area for any twelve-month period beginning after June 30, 1988, an amount equal to the total amount paid under this part for physicians' services provided in such carrier service area during the twelve-month period immediately preceding such twelve-month period, increased or decreased by (i) the estimated percentage increase or decrease in the Consumer Price Index (all services—United States city average) in such preceding twelve-month period as compared to the second-preceding twelve-month period (as determined by the Secretary after consultation with the Commissioner of Labor Statistics), and (ii) the percentage increase or decrease in the number of individuals in such carrier service area who are entitled to benefits under this part in such preceding twelve-month period as compared to such second preceding twelve-month period, and further adjusted (in accordance with regulations prescribed by the Secretary) to take into account the effect upon the utilization of such services in such carrier service area of any changes during such preceding twelve-month period in the age distribution of individuals residing in such carrier service area who are entitled to benefits under this part;

"(B) the term 'urban area' means the area within a Standard Metropolitan Statistical Area (as defined by the Office of Management and Budget) or within such similar area as the Secretary has recognized under section 1886(a);

"(C) the term 'rural area' means any area other than an urban area; and

"(D) the term 'costs of medical office overhead' means expenses incurred by a physician (other than expenses incurred for professional services and fees) associated with the provision of physicians' services.

"(c)(1)(A) Notwithstanding subsections (a) and (b), the Secretary shall establish a separate fee schedule (or schedules) for physicians' services provided during any twelve-month period beginning after June 30, 1988, in a State or tertiary medical service area for which a physicians' services agreement under this subsection is in effect.

"(B)(i) Except as provided in clause (ii), the Secretary shall employ the methodology described in paragraph (2) of subsection (b) in establishing a fee schedule (or schedules) for a State or tertiary medical service area for a twelve-month period pursuant to subparagraph (A).

"(ii) In establishing a fee schedule for a State or tertiary medical service area for a twelve-month period pursuant to subparagraph (A), the Secretary shall—

"(I) apply the relative value scale, weighting factors, and urban-rural medical office overhead differential specified for such period in the physicians' services agreement in effect for such State or tertiary medical service area for such period; and

"(II) in determining the cap amount for such State or tertiary medical service area, substitute 'State or tertiary service area' for 'carrier service area' each place it appears in subsection (b)(3)(A).

"(2)(A) For purposes of paragraph (1), the term 'physicians' services agreement' means, with respect to any State or tertiary medical service area, an agreement entered into by the Secretary and a qualified physicians' services organization for such State or tertiary medical service area which provides that—

"(i) the Secretary will make no payment under this part for physicians' services provided in such State or tertiary medical service area during any twelve-month period for which such agreement is in effect by a physician who is not a member of such organization for such period;

"(ii) the total payments made under this part for physicians' services provided in such State or tertiary medical service area for a twelve-month period for which such agreement is in effect (other than amounts paid with respect to deductibles pursuant to section 1833(l)) will not exceed an amount, specified for such period in such agreement, which is equal to or less than the cap amount determined for such State or tertiary medical service area for such period in accordance with subsection (b)(3)(A) and paragraph(1)(B)(ii)(II) of this subsection;

"(iii) the Secretary will pay to any physician providing physicians' services for which payment may be made under this part pursuant to such agreement an amount equal to 100 percent of the fee established for any such service and collect any deductible applicable to such service in accordance with section 1833(l);

"(iv) the fee schedules for such State or tertiary medical service area for a twelve-month period for which such agreement is in effect shall be established in accordance with a relative value scale, weighting factors, and urban rural medical office overhead differential specified for such period in such agreement;

"(v) the Secretary will adjust, in a manner specified in such agreement, the amounts paid for physicians' services provided pursu-

ant to such agreement during any twelve-month period with respect to which the Secretary estimates that total payments under this part pursuant to such agreement will, unless such adjustments are made, exceed the amount specified for such period in such agreement pursuant to clause (ii); and

"(vi) in the case of the first agreement entered into by the Secretary and a qualified physicians' services organization for a State or tertiary medical service area, such agreement will be effective for such State or tertiary medical service area for a period of not less than thirty-six months.

"(B) For purposes of subparagraph (A), the term 'qualified physicians' services organization' means, with respect to any State or tertiary medical service area, an organization that—

"(i) represents not less than 55 percent of the total number of physicians practicing in such State or tertiary medical service area;

"(ii) is authorized by its members to enter into a physicians' services agreement with the Secretary pursuant to this subsection;

"(iii) has received from each member a written statement that such member will abide by the terms of such agreement;

"(iv) has a membership capable of providing all physicians' services for which payment may be made under this part in a timely manner to individuals enrolled under this part in such State or tertiary medical service area;

"(v) accepts new members at any time;

"(vi) provides that termination of membership in such organization by a member shall become effective 180 days after such member has requested such termination (or on such later date as the Secretary may find to be necessary to assure timely access to physicians' services in such State or tertiary medical service area); and

"(vii) provides that, as a condition of membership, a physician must sign an agreement under section 1866(a)(4) and an agreement under section 1833(l) for any twelve-month period (or portion thereof) for which such physician is a member of such organization.

"(3) A physicians' services agreement entered into pursuant to this subsection may be terminated on a date other than the date specified in the agreement—

"(A) by the qualified physicians' services organization that is a party to such agreement, at such time and upon such notice to the Secretary and the public as the Secretary may by regulation prescribe; and

"(B) by the Secretary, at such time and upon such notice to such organization and the public as the Secretary may by regulation prescribe, but only if the Secretary finds, after notice and opportunity for a hearing, that such organization has failed substantially to carry out the agreement.

"(d) Notwithstanding subsections (a), (b), and (c), the fee established with respect to any physicians' service provided in an urban or rural area of a carrier service area, State, or tertiary medical service area during a twelve-month period beginning after June 30, 1988, and before July 1, 1991, shall equal—

"(1) for services provided during the twelve-month period beginning July 1, 1988, an amount equal to the sum of (A) an amount equal to 66⅔ percent of the reasonable charge that would have been established for such service in such carrier service area, State, or tertiary medical service area, for such period under section 1842(b) (as such section was in effect on June 30, 1988) and (B) an amount equal to 33⅓ percent of the fee established with respect to such service in such carrier service area, State, or tertiary medical service area for such period;

"(2) for services provided during the twelve-month period beginning July 1, 1989, an amount equal to the sum of (A) an amount equal to 50 percent of the reasonable charge that would have been established for such service in such carrier service area, State, or tertiary medical service area for such period under section 1842(b) (as such section was in effect on June 30, 1988) and (B) an amount equal to 50 percent of the fee established with respect to such service in such carrier service area, State, or tertiary medical service area for such period; and

"(3) for services provided during the twelve-month period beginning July 1, 1990, an amount equal to the sum of (A) an amount equal to 33⅓ percent of the reasonable charge that would have been established for such service in such carrier service area, State, or tertiary medical service area for such period under section 1842(b) (as such section was in effect on June 30, 1988) and (B) an amount equal to 66⅔ percent of the fee established with respect to such service in such carrier service area, State, or tertiary medical service area for such period.

"(e)(1) Notwithstanding subsections (a), (b), and (d), the Secretary may enter into an agreement with any organization of physicians providing physicians' services in a carrier service area for any twelve-month period beginning after June 30, 1988, under which the members of such organization will provide physicians' services during such period to individuals enrolled under this part for fees that are less than the fees established with respect to such services for such period under this section.

"(2) Notwithstanding section 1839, the Secretary shall adjust any premium and surcharge which would otherwise be applicable under such section during a twelve-month period to an individual enrolled under this part who agrees to receive physicians' services during such period only from an organization which has entered into an agreement with the Secretary under paragraph (1) for such period. The total of the adjustments made pursuant to the preceding sentence for a twelve-month period shall equal one half of the total reduction in the amounts paid with respect to physicians' services for such period on account of agreements made pursuant to paragraph (1).

"(f) Notwithstanding any other provision of law, the Secretary may limit the amounts paid under this part for physicians' services—

"(1) by altering the definition of physicians' services units in order to pay global fees for an expanded number of diagnosis-related groups;

"(2) by including payment for some physicians' services costs in amounts payable under section 1886; and

"(3) by expanding utlization controls for physicians' services, including the use of physician practice profiles and hospital preadmission screening.

"(g) For purposes of this section—

"(1) the term 'physicians' services' means physicians' services (as defined in section 1861(q) of this Act) for which payment may be made under section 1833(a)(1) of this Act;

"(2) the term 'tertiary medical service area' shall have such meaning as the Secretary may by regulation prescribe; and

"(3) the term 'carrier service area' means the region or other geographic area specified in the contract entered into by a carrier and the Secretary under section 1842(a) for which such carrier administers benefits under this part (excluding from such area any States and tertiary medical service areas located in such area for which a physicians' services agreement (as defined in subsection (c)(2)(A) of this section)) is in effect.".

(b) Effective July 1, 1988—

(1) section 1833(a) of the Social Security Act, as amended by section 7(b) of this Act, is amended—

(A) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively, and inserting after the matter preceding paragraph (2), as redesignated, the following new paragraph:

"(1) in the case of physicians' services (other than physicians' services for which payment may be made under paragraph (3))—100 percent of the fee established for such service under section 1845; except that (A) with respect to expenses incurred for those physicians' services for which payment may be made under this part that are described in section 1862(a)(4), the amounts paid shall be subject to such limitations as may be prescribed by regulations, (B) with respect to expenses incurred for physicians' services (furnished by a physician who has an agreement in effect with the Secretary by which the physician agrees to accept an assignment described in section 1842(b)(3)(B)(ii) with respect to payment for all physicians' services which are preadmission diagnostic services furnished by the physician to individuals enrolled under this part) which are preadmission diagnostic services for which payment may be made under this part and which are furnished (i) in the outpatient department of a hospital within seven days of such individual's admission to the same hospital as an inpatient or, to the extent practicable as determined by regulations prescribed by the Secretary, to another hospital, or (ii) to the extent practicable as determined by regulations prescribed by the Secretary, in a physician's office within seven days of such individual's admission to a hospital as an inpatient, the amounts paid shall be equal to the fees established for such services under section 1845, and (C) with respect to expenses incurred for services described in subsection (i)(3) under the conditions specified in such subsection, the amounts paid shall be the fees established for such services under section 1845";

(B) in paragraph (2), as redesignated, by inserting "(other than physicians' services described in paragraph (1))" after "section 1832(a)(1)";

(C) by striking out subparagraphs (B), (E), and (F) of such paragraph and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(D) by inserting "and" before the subparagraph designation for subparagraph (B), as redesignated, of such paragraph; and

(E) in paragraph (3), as redesignated, by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (6)";

(2) section 1833(b)(1)(C) of such Act, as redesignated by section 7(b) of this Act, is amended by striking out "subsection (a)(1)(G)" and inserting in lieu thereof "subsection (a)(1)(C)";

(3) section 1833(i)(3) of such Act is amended by striking out "subsection (a)(1)(G)" and inserting in lieu thereof "subsection (a)(1)(C)";

(4) section 1833 of such Act, as amended by section 4(e)(1) of this Act, is further

amended by adding at the end thereof the following new subsection:

"(l) Notwithstanding subsections (a) and (b), in the case of a State or tertiary medical service area (as defined by the Secretary pursuant to section 1845(e)(2)) for which a physicians' services agreement (as defined in section 1845(c)(2)(A)) is in effect for a twelve-month period, the Secretary shall pay 100 percent of the fee otherwise payable under this part with respect to a physicians' service provided in such State or tertiary medical service area during such period, and the Secretary shall collect the amount of any deductible that would be payable (but for this subsection) to a physician by the individual to whom such service is provided from such individual in the manner specified in section 1870 for overpayments under this title.";

(5) section 1835(b)(1) of such Act is amended by striking out "section 1833(a)(2)" and inserting in lieu thereof "section 1833(a)(3)";

(6) section 1835(c) of such Act is amended—

(A) by striking out "section 1833(a)(1)" and inserting in lieu thereof "section 1833(a)(2)"; and

(B) by striking out "section 1833(a)(2)" and inserting in lieu thereof "section 1833(a)(3)";

(7) section 1839 of such Act is amended—

(A) in subsection (a)(1) by striking out "such enrollees." and inserting in lieu thereof "such enrollees (determined without regard to section 1845(e)).";

(B) in subsection (a)(2) by striking out "and (e)," and inserting in lieu thereof "and (e), and section 1845(e),";

(C) in subsection (f)(1), as added by section 9(a)(1)(C) of this Act, by striking out "such enrollees." and inserting in lieu thereof "such enrollees (determined without regard to section 1845(e)).."; and

(D) in subsection (f)(2), as so added, by striking out "The amount" and inserting in lieu thereof "Except as provided in section 1845(e), the amount";

(8) section 1842(a) of such Act is amended—

(A) by striking out "reasonable charge" in the matter preceding paragraph (1) and inserting in lieu thereof "fee"; and

(B) by striking out "or reasonable charge" in paragraph (1) and inserting in lieu thereof ", reasonable charge, or fee";

(9) section 1842(b) of such Act, as amended by section 4(e)(2) of this Act, is further amended—

(A) in paragraph (3) by striking out all beginning with "In the case of physician services" through "economic changes." in the matter following subparagraph (F);

(B) by striking out all beginning with "Notwithstanding the provisions of the third and fourth sentences" through "June 30, 1975." in such matter;

(C) in paragraph (6) by striking out "subparagraph (C)" in the matter preceding clause (i) of subparagraph (A) and inserting in lieu thereof "subparagraph (B)";

(D) by striking out clause (ii) of such subparagraph and inserting in lieu thereof the following:

"(ii) to the extent that the amount of the payment exceeds the fees established for services under section 1845."; and

(E) by striking out subparagraph (B) of such paragraph and redesignating subparagraphs (C) and (D) of such paragraph as subparagraphs (B) and (C), respectively;

(10) section 1861(q)(2) of such Act, as added by section 4(d) of this Act, is amended to read as follows:

"(2) In the case of a State or tertiary medical service area (as defined by the Secretary pursuant to section 1845(e)(2)) for which a physicians' services agreement (as defined in section 1845(c)(2)(A)) is in effect for a twelve-month period, the term 'physicians' services' shall not include any professional services provided in such State or tertiary medical service area during such period by a physician who is not a member of a qualified physicians' services organization (as defined in section 1845(c)(2)(B)) for such State or tertiary medical service area other than physicians' services for which payment may be made under section 1833(a)(3).";

(11) section 1884(c)(4) of such Act is amended by striking out "1833(a)(2)" and inserting in lieu thereof "1833(a)(3)"; and

(12) section 1902(a)(13)(B) of such Act is amended by striking out "section 1833(a)(3)" and inserting in lieu thereof "section 1833(a)(4)".

LIMITATION ON PATIENT COSTS

SEC. 7. (a)(1)(A) Section 1813(a) of the Social Security Act is amended—

(i) by striking out "The amount payable for inpatient hospital services furnished an individual during any spell of illness" in paragraph (1) and inserting in lieu thereof "Except as provided in paragraph (3), the amount payable for inpatient hospital services furnished an individual during any calendar year";

(ii) by striking out the second sentence of paragraph (1); and

(iii) by amending paragraph (3) to read as follows:

"(3) The total inpatient hospital deductible applicable to inpatient hospital services provided during a spell of illness shall not exceed the amount of the inpatient hospital deductible for the calendar year in which such spell of illness begins.".

(B) Section 1861(y) is amended by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3).

(2) Section 1813(b) is amended to read as follows:

"(b)(1) The inpatient hospital deductible which shall be applicable for purposes of subsection (a) shall be $200 for calendar year 1985.

"(2)(A) For 1986, and each succeeding calendar year the inpatient hospital deductible shall be an amount equal to the inpatient hospital deductible for the preceding calendar year, increased or decreased by the percentage increase or decrease in the Consumer Price Index (all items—United States city average) during such preceding calendar year as compared to the second preceding calendar year. Any amount determined under the preceding sentence which is not a multiple of $5 shall be rounded to the nearest multiple of $5 (or if it is midway between two multiples of $5, to the next lower multiple of $5).

"(B) The Secretary shall, between July 1 and October 1, 1985, and each year thereafter, determine and promulgate the inpatient hospital deductible which shall be applicable under subsection (a) for the following calendar year.".

(3) Section 1814(d)(3) of such Act is amended—

(A) by striking out "60 percent of"; and

(B) by striking out "80 percent of".

(b)(1) Section 1833(a)(1) of such Act is amended—

(A) by striking out "80 percent" each place it appears and inserting in lieu thereof "100 percent";

(B) by striking out "20 percent of the reasonable cost plus any" and inserting in lieu thereof "the";

(C) by striking out subparagraph (B) and redesignating subparagraphs (C), (D), (E), (F), and (G) as subparagraphs (B), (C), (D), (E), and (F), respectively; and

(D) by striking out ", and and" and inserting in lieu thereof ", and".

(2) Section 1833(a)(2) of such Act is amended—

(A) in subparagraph (B)(i) by striking out all beginning with "less the amount a provider" through "80 percent of such reasonable cost,";

(B) in subparagraph (B)(ii) by striking out "80 percent of"; and

(C) in subparagraph (C) by striking out "80 percent of".

(3) Section 1833(a)(3) of such Act is amended by striking out all beginning with ", less the amount a provider" through "80 percent of such costs".

(4) Section 1833(b) of such Act is amended—

(A) by inserting "(1)" after the subsection designation;

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(C) by striking out "$75" and inserting in lieu thereof "$200 for calendar year 1985"; and

(D) by adding at the end thereof the following new paragraph:

"(2)(A) For 1986, and each succeeding calendar year, the deductible applicable under paragraph (1) shall be an amount equal to the inpatient hospital deductible for the preceding calendar year, increased or decreased by the percentage increase or decrease in the Consumer Price Index (all items-United States city average) during such preceding calendar year as compared to the second preceding calendar year. Any amount determined under the preceding sentence which is not a multiple of $5 shall be rounded to the nearest multiple of $5 (or if it is midway between two multiples of $5, to the next lower multiple of $5).

"(B) The Secretary shall, between July 1 and October 1 of 1985, and each succeeding year thereafter, determine and promulgate the deductible applicable under paragraph (1) for the following calendar year.".

(5) Section 1833(f) of such Act is amended by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(c) Section 1866(a)(2)(A) of such Act is amended—

(1) by striking out ", or (a)(3)";

(2) by striking out "section 1833(b), or section 1861(y)(3)" and inserting in lieu thereof "or section 1833(b)";

(3) by striking out all beginning with "and (ii) an amount equal to" through "for 20 percent the proportion" and inserting in lieu thereof "and (ii) in the case of items and services described in section 1833(c), the proportion"; and

(4) by striking out the last sentence thereof.

CATASTROPHIC COVERAGE FOR INPATIENT HOSPITAL SERVICES

SEC. 8. (a) Section 1812(a) of the Social Security Act is amended by amending paragraph (1) to read as follows:

"(1) inpatient hospital services;".

(b) Section 1812(b) of such Act is amended—

(1) by striking out "(subject to subsection (c))" in the matter preceding paragraph (1); and

(2) by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) Section 1812 of such Act is further amended—

(1) by striking out subsection (c);

(2) by redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively; and

(3) in subsection (d), as so redesignated, by striking out "For purposes of subsections (b) and (c), inpatient hospital services" and inserting in lieu thereof "For purposes of subsection (b)".

(d) Section 1861(a) of such Act is amended—

(1) by striking out "inpatient hospital services or" in paragraph (1); and

(2) by striking out "neither an inpatient of a hospital nor" and inserting in lieu thereof "not".

PREMIUMS FOR IMPROVED COVERAGE

SEC. 9. (a)(1) Section 1839 of the Social Security Act is amended—

(A) in paragraph (1) of subsection (a) by inserting "(other than amounts payable by reason of section 1888)" after "Federal Supplementary Medical Insurance Trust Fund";

(B) in paragraph (4) of such subsection by inserting "(other than amounts payable by reason of section 1888)" after "Federal Supplementary Medical Insurance Trust Fund"; and

(C) by adding at the end thereof the following new subsection:

"(f)(1) The Secretary shall, during September of 1984 and of each year thereafter, determine the monthly actuarial surcharge amount for enrollees which shall be applicable for the succeeding calendar year. Such amount shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to all enrollees will equal the total benefits and administrative costs which the Secretary estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund by reason of section 1888 for services performed and related administrative costs incurred in such calendar year with respect to such enrollees. In calculating such rate, the Secretary shall include an appropriate amount for a contingency margin.

"(2)(A) The Secretary shall, during September of 1984 and of each year thereafter, determine and promulgate the monthly surcharge applicable to individuals enrolled under this part, for the succeeding calendar year. The amount of such surcharge shall be the surcharge amount determined under paragraph (1).

"(B) Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly surcharge for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of the adequate actuarial surcharge amount under paragraph (1) and the derivation of the dollar amount specified in this paragraph.

"(C) If any monthly surcharge determined under this subsection is not a multiple of 10 cents, such surcharge shall be rounded to the nearest multiple of 10 cents.

"(3) In the case of an individual subject to subsection (b), the monthly surcharge determined under this subsection with respect to such individual shall be increased in the same manner as the monthly premium of such individual is increased under subsection (b).".

(2) Section 1840 of such Act is amended—

(A) by striking out "premiums" each place it appears and inserting in lieu thereof "premiums and surcharges";

(B) by striking out "amount thereof" each place it appears and inserting in lieu thereof "total amount thereof"; and

(C) by striking out "premium" in subsection (h) and inserting in lieu thereof "premium and surcharge".

(b) Part A of title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"PART A PREMIUM

"SEC. 1819. (a)(1) The Secretary shall, during September of 1984 and of each year thereafter, determine the monthly actuarial rate for individuals entitled to benefits under this part who are age 65 and over, which shall be applicable for the succeeding calendar year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to those enrollees age 65 and older will equal the total of the benefits and administrative costs which the Secretary estimates will be payable from the Federal Hospital Insurance Trust Fund by reason of section 1888 and the amendments made by section 8 of the Medicare Incentives Reform Act for services performed and related administrative costs incurred in such calendar year with respect to such individuals. In calculating the monthly actuarial rate, the Secretary shall include an appropriate amount for a contingency margin.

"(2) The Secretary shall also, during September of 1984 and of each year thereafter, determine the monthly actuarial rate for disabled individuals under age 65 who are entitled to benefits under this part, which shall be applicable for the succeeding calendar year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to such disabled individuals will equal the total of the benefits and administrative costs which the Secretary estimates will be payable from the Federal Hospital Insurance Trust Fund by reason of section 1888 and the amendments made by section 8 of the Medicare Incentives Reform Act for services performed and related administrative costs incurred in such calendar year with respect to such enrollees. In calculating the monthly actuarial rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin.

"(3)(A) The Secretary shall, during September of 1984 and of each year thereafter, determine and promulgate the monthly premium applicable to individuals age 65 and over who are entitled to benefits under this part and the monthly premium of disabled individuals under age 65 who are entitled to benefits under this part. The amount of such premium shall be the monthly actuarial rate determined under paragraph (1) or (2), as the case may be.

"(B) Whenever the Secretary promulgates the dollar amounts which shall be applicable as the monthly premiums for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate under paragraph (1) and the amount of an adequate actuarial rate under paragraph 2 and the derivation of the dollar amounts specified in this paragraph.

"(C) If any monthly premium determined under the foregoing provisions of this section is not a multiple of 10 cents, such premium shall be rounded to the nearest multiple of 10 cents.

"(b)(1) Except as provided in paragraph (2), premiums payable under this section shall be payable in the same manner as premiums payable under section 1840.

"(2) Amounts paid to the Secretary as premiums under this section shall be credited to the Federal Hospital Insurance Trust Fund.".

TAX ON TOBACCO PRODUCTS

SEC. 10. (a)(1) Effective October 1, 1985, paragraphs (1) and (2) of subsection (a) of section 5701 of the Internal Revenue Code 1954 are amended to read as follows:

"(1) SMALL CIGARS.—On cigars, weighing not more than 3 pounds per thousand, $1.50 per thousand;

"(2) LARGE CIGARS.—On cigars, weighing more than 3 pounds per thousand, a tax equal to 17 percent of the wholesale price, but not more than $40 per thousand.".

(2) Effective October 1, 1985, paragraphs (1) and (2) of subsection (b) of section 5701 of such Code are amended to read as follows:

"(1) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $16 per thousand;

"(2) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, $33.60 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.".

(b)(1) On cigars and cigarettes manufactured in or imported into the United States which are removed before October 1, 1985, and held on such date for sale by any person, there shall be imposed the following taxes:

(A) On cigarettes, weighing not more than 3 pounds per thousand, $8 per thousand;

(B) On cigarettes, weighing more than 3 pounds per thousand, $16.80 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(2)(A) A person holding cigarettes on October 1, 1985, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1954 and shall be due and payable on October 18, 1985, in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on October 1, 1985.

(3) For purposes of this subsection—

(A) the term "cigar" shall have the meaning given to such term by subsection (a) of section 5702 of such Code; and

(B) the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of such Code.

(4) The taxes imposed by paragraph (1) shall not apply to cigars and cigarettes in retail stocks held on October 1, 1985, at the place where intended to be sold at retail.

(c) Effective October 1, 1985, section 1817(a) of the Social Security Act is amended—

(1) by striking out "100 per centum of" in the matter preceding paragraph (1);

(2) by striking out "(1) the taxes" in paragraph (1) and inserting in lieu thereof "(1) 100 per centum of the taxes";

(3) by striking out "and" at the end of paragraph (1);

(4) by striking out "(2) the taxes" in paragraph (2) and inserting in lieu thereof "(2) 100 per centum of the taxes";

(5) by striking out the period at the end of paragraph (2); and

(6) by adding at the end thereof the following new paragraphs:

"(3) 100 per centum of the taxes imposed by section 10(b) of the Medicare Incentives Reform Act; and

"(4) 50 per centum of the taxes imposed by subsections (a) and (b) of section 5701 of the Internal Revenue Code of 1954.".

MORTGAGE INSURANCE FOR HOSPITALS

SEC. 11. (a)(1) Section 242(a) of the National Housing Act (12 U.S.C 1715z-7 (a)) is amended by inserting ", giving preference to hospitals with limited access to capital markets and hospitals providing a substantial amount of unreimbursed care." before the period at the end thereof.

(2) Section 242(b) of such Act is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) the term 'Secretary' means the Secretary of Health and Human Services.".

(3) Section 242(d)(5) of such Act is amended by striking out "the Secretary of Housing and Urban Development and by" in the matter of the following subparagraph (B).

(4) Section 242 of such Act is further amended by adding at the end thereof the following new subsection:

"(i) There is created a Hospital Mortgage Insurance Fund, which shall be used by the Secretary as a revolving fund for carrying out the provisions of this section.".

(b)(1) The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall enter into an agreement to effect a transfer of all of the assets and liabilities of the Mutual Mortgage Insurance Fund established under section 202 of the National Housing Act which are attributable to the program of mortgage insurance for hospitals established under section 242 of such Act to the Hospital Insurance Mortgage Fund established by section 242(i) of such Act.

(2) In the event that the Secretary of Housing and Urban Development and the Secretary of Health and Human Services are unable to agree to the terms of the agreement required under paragraph (1), the Director of the Office of Management and Budget shall determine the terms of such agreement and take such action as may be necessary to effect the transfer required by such paragraph.

(c)(1) Except as otherwise provided in this section, the personnel employed in connection with, and property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Secretary of Health and Human Services. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(2)(A) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by this section, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this section.

(B) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such times as the Director of the Office of Management and Budget may provide, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with the functions transferred by this section.

(3)(A) Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this section.

(B) Any person who, on the day preceding the effective date of this section, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department of Health and Human Services to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(4)(A) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges that—

(i) have been issued, made, granted, or allowed to become effective by the President, the Department of Housing and Urban Development or any official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by this section; and

(ii) are in effect when this section takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Health and Human Services, a court of competent jurisdiction, or by operation of law.

(B)(i) The provisions of this section shall not affect any proceedings, including notices of proposed rule making, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this section before the Department of Housing and Urban Development or any office thereof with respect to functions transferred by this section; but such proceedings or applications, to the extent that they relate to functions transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made under such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary of Health and Human Services, by a court of competent jurisdiction, or by operation of law. Nothing in this subparagraph prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(ii) The Secretary of Health and Human Services and the Secretary of Housing and Urban Development are authorized to issue regulations providing for the orderly transfer of proceedings continued under clause (i).

(C) Except as provided in subparagraph (E)—

(i) the provisions of this section do not affect actions commenced prior to the effective date of this section, and

(ii) in all such actions, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this section had not been enacted.

(D) No action or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Housing and Urban Development with respect to functions transferred by this section shall abate by reason of the enactment of this section. No cause of action by or against the Department of Housing and Urban Development with respect to functions transferred by this section, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this section. Causes of action and actions with respect to a function transferred by this section, or other proceedings may be asserted by or against the United States or the Secretary of Health and Human Services, as may be appropriate, and, in an action pending when this part takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subparagraph.

(E) If, before the date on which this section takes effect, the Department of Housing and Urban Development or any officer thereof in his official capacity, is a party to an action, and under this section any function of the Department of Housing and Urban Development is transferred to the Secretary of Health and Human Services, then such action shall be continued with the Secretary of Health and Human Services substituted or added as a party.

(F) Orders and actions of the Secretary of Health and Human Services in the exercise of functions transferred by this section shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Secretary of Housing and Urban Development. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this section shall apply to the exercise of such function by the Secretary of Health and Human Services.

(5) With respect to any functions transferred by this section and exercised after the effective date of this section, reference in any other Federal law to the Department of Housing and Urban Development or the Secretary of Housing and Urban Develop-

ment, shall be considered to refer to the Department of Health and Human Services or the Secretary of Health and Human Services, as the case may be.

(d) The amendments made by this section shall be effective with respect to fiscal years beginning more than 180 days after the date of the enactment of this Act.

REPORTS AND DEMONSTRATION PROJECTS

SEC. 12. (a) On or before January 1, 1986, the Secretary of Health and Human Services shall submit to the Congress a report that—

(1) analyzes the effectiveness of the program of hospital utilization review established under part B of title XI of the Social Security Act;

(2) examines hospital utilization control programs established by private payors; and

(3) makes recommendations for legislation to improve hospital utilization control under title XVIII of the Social Security Act.

(b) During the period beginning on the date of the enactment of this Act and ending June 30, 1988, the Secretary of Health and Human Services shall conduct demonstration projects for carrier service areas or tertiary medical service areas with respect to—

(1) making one payment under part B of title XVIII of the Social Security Act for all physicians' services provided to an individual enrolled under such part that are—

(A) closely related to a particular diagnostic or surgical procedure; or

(B) provided during a single period of hospitalization;

(2) making payments under paragraph (1) to—

(A) the provider in which such services were provided; or

(B) the principal physician; and

(3) negotiating area-wide caps on the total amount payable under such part for physicians' services provided during a specified period of time.

No payment shall be made under part B of the Social Security Act for any physicians' service provided under any demonstration project conducted under this subsection except on the basis of an assignment described in section 1842(b)(3)(b)(ii) of the Social Security Act or an arrangement described in section 1870(f)(1) of such Act.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business.

RETIREMENT OF SENATOR EAGLETON

Mr. ROTH. I, along with the other Members of the U.S. Senate learned with some surprise and much regret that our distinguished colleague, Senator TOM EAGLETON of Missouri, has announced that he will retire from the Senate at the end of his current term.

I have served in the Senate since 1971, and I have not met a Senator who has brought a greater sense of humanity and decency to his job than TOM EAGLETON. TOM and I have not necessarily agreed on every issue, but he has put forth his views effectively and with great respect for opposing thought. In a business where decency is, unfortunately, forgotten sometimes, TOM EAGLETON has effectively fought for what he has believed in while at the same time maintaining the highest standard of respect for his colleagues. His goal has always been to develop the best possible legislation. He has not sought undue credit for his accomplishments; in fact, I would argue that Senator EAGLETON would probably be the last person to suggest that he has made a substantial contribution to this body. But that enormous contribution is on the record.

I can speak highly and with experience of his work in the Governmental Affairs Committee. He presently serves as ranking minority member of the committee, and I can tell you that legislation such as the creation of the inspectors general system, the Ethics in Government Act, and the Financial Integrity Act would not now be law if it were not for Senator EAGLETON. He has been an outstanding colleague with which to work on Governmental Affairs Committee, and I am very happy that that association will continue through 1986.

It is always sad for me to see an individual of TOM EAGLETON's quality leave the Senate, but I wish him well in whatever future path he chooses.

THE MANY CONTRIBUTIONS OF WOMEN VETERANS

Mr. CRANSTON. Mr. President, as my colleagues know, I have a very strong and deep interest in matters relating to our Nation's veterans. In recent years, long-overdue attention has finally begun to be paid to one group of veterans who had largely been ignored—women veterans. As was noted in a 1982 report from the General Accounting Office, "Although women have served in the military since at least World War I, they have not always received recognition as veterans and VA benefits equal to those given to male veterans."

Last year, a book—"Women Veterans, America's Forgotten Heroines," by June Willenz, the executive director of the American Veterans Committee—was published dealing with these veterans. The book chronicles the history of their participation in our Armed Forces, the neglect that they faced after their service, and their present legitimate needs based on their service and status as veterans. Recently, a review of this book was published in the Stars and Stripes. So that my colleagues and the public might be made more aware of this book and of issues generally relating to women veterans, I ask unanimous consent that that review be printed in the RECORD.

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

WOMEN VETERANS, AMERICA'S FORGOTTEN HEROINES

(By June A. Willenz)

Shadows are longest at dawn. For women veterans who have lived for six generations as the shadows of their male counterparts, opportunities for a career in the military are truly the dawn of a new era.

Given the history of patronizing, malicious, and racist treatment of women in uniform documented by Willenz, this new day of equality for females who serve in the military will not rapidly be replacing the military's ingrained habits of discrimination.

The ever-growing population of women now serving in the military totals at 73,000 in the Army, 45,000 for the Navy, the Air Force has 63,000 women, Marines have 8,600 women in uniform, and the Coast Guard almost 2,000.

Today in the United States 1,218,000 women have veterans status. This number is regularly swelled with those women who are leaving uniformed service.

Those realities regularly bump up against the images of what women in uniform should symbolize, what they actually perform as their duty, and what realistic future the military can offer to the woman professional.

Willenz has not written a polemic about the abuse which women in the services have traditionally withstood. It is a mark of their credo of service with which women have entered military life that few others have written such well-deserved diatribes.

Rather she lets the history of women veterans unfold through a series of cameo shots. Those portraits show a population of women whose strength made a major difference in the American conduct of war and whose work since leaving the military has made an equally powerful mark on society.

For until recently, women veterans were an invisible population. The Veterans Administration, for example, has no knowledge of the number of women who took advantage of the GI Bill educational rights. Such data were not deemed useful.

Likewise, health care and other veterans entitlements were benefits of which few women veterans were aware or which they considered open to them as well as their male colleagues.

This absence of a data base, permits Ms. Willenz to sketch a profile of female veterans and then allows these women to speak for themselves. They speak with a loud voice.

We meet the Army and Navy nurses who served, and were injured in the rear, middle and front lines of World War I. The curtain is removed from the courageous exploits of WAACs, WASPs, and WAVES of the next global war in which over 11 million women served. And we follow the continuing struggle of these servicewomen to receive the full benefits long ago awarded to their male veterans.

It is a straight forward biographical narrative of discrimination whose matter of factness belies any efforts to sugar coat the continuing military tradition of placing women in second class service.

These women served proudly and well. But their memories are bittersweet. For the most part, their experiences with veterans organizations since their service are simply bitter.

There is a long line of veterans posts which still will not allow women veterans to march in their Veterans Day and Memorial

Day parades, to receive the full burial honors given, without question, to male veterans, and which prefer to have women veterans serving with the "wives" in the post auxiliary.

While the Integration Act of 1948 brought women more fully into the military services, local veterans groups have, clearly, yet to make the same judgement. One wishes that the author could have explored more fully the work of women veterans in vet organizations. If there was more to be said.

Traditionally the military has used slanderous gossip as a form of social control whenever women enter a new area of the services. In civilian life, these female veterans find that the VA has difficulty talking about them at all.

Willenz's book is a milestone of military history. It leaves many unanswered questions and provokes new possibilities for research and documentation. Hopefully the well financed military history branches of the services will now also address themselves to their singular saga of women in uniform.

The military uniform is a symbol of power. Those women who did their duty by that symbol were trailblazers for a vast population of women who reached out in later generations for a full peace-time equality.

Contemporary films on women in the military usually focused on Vietnam service and have consistently missed the mark. Willenz's work should challenge Hollywood to produce a genuine documentary of women who have served. The material is there and the contribution would be great.

TELEVISION IN THE SENATE

Mr. BAKER. Mr. President, I know that my colleagues will indulge me the opportunity to resurrect again a subject around which this body has waltzed on any number of occasions and with which it is bound to dance again before this year ends. That subject is, of course, televised coverage of Senate proceedings. I remind Members of this topic in the course of recommending for their consumption a front page article from today's Wall Street Journal entitled, "The Eyes Have It: U.S. House Sessions Are a TV Addiction." As the title suggests, the article focuses almost entirely on the reaction of viewers to C-Span's broadcasts of congressional proceedings with brief mention of the recent events in the House concerning the ground rules for televising those proceedings.

But there are also two other items of interest to Senators in the article. One paragraph testifies to the potential of televised proceedings to restore the participatory element to the American democratic process, and I suggest that Members ponder well that idea. I should also wish to call to Senators' attention the paragraph dealing with the prospects for Senate consideration of a measure to begin televised coverage of Senate proceedings, and for the benefit of Members I quote briefly from the article on that point:

The House squabble (concerning camera angles), meantime, has made some members of the Senate . . . nervous about bringing the cameras to their chamber. That reluctance doesn't sit well with C-SPAN junkies. Those senators for the most part are really old fuddy-duddies for not wanting TV cameras, says Paul Griffiths, 75, of Black Mountain, N.C.

As Walter Cronkite said on more than one occasion, I don't make the news, I just report it.

I ask unanimous consent that the article be printed in the RECORD in its entirety.

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

[From the Wall Street Journal, June 13, 1984]

THE EYES HAVE IT: U.S. HOUSE SESSIONS ARE A TV ADDICTION: C-SPAN COVERAGE IS CREATING STARS AMONG LAWMAKERS; WATCHDOGS OF SIOUX CITY

(By Jeanne Saddler)

WASHINGTON.—Television has taught Ruth Woods of Lubbock, Texas, a great deal about the U.S. House of Representatives.

"Oh, I knew there were two houses of Congress," she says. But since she started watching House sessions on cable TV, she says, "even a congressman's picture in the newspaper will jump out at me. Now I know I've seen that fool making an ass of himself in the well of the House."

That isn't exactly the kind of public recognition a politician covets. But it is an example of the strong viewer reaction to the televising of House floor sessions and other political programs over the past five years on C-Span, the Cable-Satellite Public Affairs Network. Even before the recent flap over House TV cameras, C-Span junkies found the House floor show more diverting than "Dynasty."

"I don't believe I could do without it," says Winnie Gill, 61 years old, of Baton Rouge, La., who has taken a new interest in government affairs. "When I watch the House of Representatives," she says, "I know many of them by name now. I want to know everything that's going on."

And if some viewers think that watching Congress legislate is about as interesting as watching Julia Child chop onions, others discern wide significance.

PARTICIPATORY DEMOCRACY

"In 20th-century America, democracy has become a spectator event," says Richard Roderick, a 34-year-old University of Texas philosophy lecturer, who assigns his class to watch C-Span. "Instead of elections, it seems like we have plebiscites on politicians as media figures. If (the C-Span network) succeeds, it could eventually re-create real participatory democracy."

Many viewers of House sessions are often interested in less lofty matters, and they can be tough critics. "Some of those guys on there are still wearing those suits with six-inch lapels and jackets that would try your eyeballs," says Mrs. Woods, 63. "Now I know how much those guys make, and their haircuts are real cheap, so they could do better than that. My God, there have to be standards."

The *cinema verite* of the House had lent a certain star quality to some congressmen, however. One current media star is Rep. Newt Gingrich, an articulate, 40-year-old, gray-haired Republican from Georgia, who has led the House GOP in making political use of TV. "I think Newt Gingrich has watched a lot of Phil Donahue tapes," says Mr. Roderick, the Texas lecturer.

In Mr. Roderick's view, though, "one of the best speakers and a guy who makes the best appearance is Ron Dellums of California. He's a more urbane and intellectual version of Jesse Jackson, plus you never see the role of an intellectual black man on television, with the possible exception of Sidney Poitier." Mr. Poitier, of course, isn't a polician but a real actor.

DISPUTE RAISES RATINGS

In recent weeks, the House's TV ratings have climbed because the show has turned into something like the C-Span version of "Family Feud." A small band of Republicans has taken to holding "special order" sessions after the House concludes its main business for the day and most lawmakers have left. They use the time for partisan orations before the TV cameras.

Though C-Span is controlled by a private nonprofit corporation, the cameras are controlled by the House—and until recently were fixed only on speaker's faces lest a roving lens catch a sleeping lawmaker. But the House is controlled by the Democrats, and an angry Speaker Thomas "Tip" O'Neill—the "Mr. T" of the House—ordered the cameras to pan the empty chambers during the special-order time.

The action has sparked furious debates on the House floor, before the TV cameras. Viewer response is split down the middle. "I think that panning should be the rule," says Michael Cochrane, 77, of Richland, Wash. "With those special orders, they make their constituents think they're heroes and it's not true."

But Mrs. Gill of Baton Rouge calls Speaker O'Neill order "very partisan. Anyone who watches C-Span for five minutes knows that there probably aren't more than two dozen congressmen on the floor of the House even during the most important debates." (One reason is that these days the members watch House proceedings on TV sets in their offices and then go to the floor to vote.)

The House squabble, meantime, has made some members of the Senate, which is considering televised sessions, nervous about bringing the cameras to their chambers. That reluctance doesn't sit well with C-Span junkies. "Those senators for the most part are really old fuddy-duddies for not wanting TV cameras," says Paul Griffiths 75, of Black Mountain, N.C.

Such viewer involvement warms the heart of C-Span President Brian Lamb, who began the network in 1979 after persuading a consortium of cable-TV-system owners to fund it as a public service, Mr. Lamb had worked in the Defense Department's public-affairs office at the height of the Vietnam War.

"I saw that there was too much power in television and that the executive branch had too much power because it was dominated by one person," he says. "The whole system was set up so that a congressman had to say something controversial or out of the ordinary to get coverage."

On C-Span, a House member needs only to speak on the House floor to get coverage. The network televises all floor sessions live, gavel to gavel—for a total of 852 hours last year—and even shows reruns. The 24-hour coverage also includes call-in talk shows three times daily, important Washington-based meetings and events related to the presidential election. The network's hallmark is its dedication to letting events unfold at their own pace without comment from reporters.

Though Mr. Lamb himself says that Washington can be "excruciatingly boring," his network attracts a daily audience of some 200,000 people. About 17 million U.S. households, or half of all homes that have cable TV, currently receive C-Span.

Surveys show that most C-Span watchers are men aged 24 to 54. Some viewers, such as a senior-citizens group in Sioux City, Iowa, called "the Watchdogs," watch the telecasts together. "Some people tell us they only tune in once a week to get their Washington fix," Mr. Lamb says.

While the shows may not be the stuff that "The A-Team" is made of, Buck Scott, 54, the Democratic county chairman for Montgomery County, Pa., says he was fascinated by a recently televised seminar on federal-state relations. "It was dull, dry and terrible. The mikes didn't work and the front seats weren't filled," he says. "But I liked it: I was interested in the subject, and it showed the whole thing wasn't staged."

Some viewers contend that C-Span coverage is becoming partisan. Everett Walton of Phoenix, Ariz., accuses the network of "forcing the Democratic Party's presidential ideas on the American people." Others complain that C-Span is letting Republicans, with their special-order sessions, take unfair advantage of its House coverage.

C-Span officials say its natural focus on the Democratic primaries accounts for the complaints about imbalanced political coverage and that they try to seek out Republican caucuses and events to cover. As for the special orders, they are part of official House sessions.

At least one viewer, Stephen Liesen of Wyandotte, Mich., isn't concerned about politics. "I tune you in out of curiosity and/or boredom," he wrote C-Span. "I've found that the House has the same effect on me as a baseball or a football game. If I have any trouble getting to sleep, I can tune them in."

ADDITIONAL STATEMENTS

THE AMERICAN STEEL INDUSTRY: MYTH VS. REALITY: III

● Mr. HEINZ. Mr. President, today I present the third in a series of brief statements which will appear periodically in an effort to elevate the level of debate on the crisis in the American steel industry.

I would like to discuss the findings of the Marshall Bartlett study as submitted by Dr. Paul W. Marshall on behalf of the American Iron & Steel Institute to the Subcommittee of International Trade of the Committee on Finance of the U.S. Senate at its hearing on June 8. Dr. Marshall, a noted managerial and economics consultant, is concerned with the critical state of the American steel industry caused primarily by excess capacity abroad. As a solution, he believes the U.S. Government must begin to cope effectively with unfair trading practices and market distortions by addressing the problem of steel imports.

The debate over steel import quotas is quickly becoming a major topic of discussion in the Congress and the executive branch and will grow in intensity as a result of the International Trade Commission's determination finding injury caused by import for some 70 percent of the industry. In order to provide more background for the discussion, I am offering some further myths about imports and the domestic steel industry.

Myth: The share imported steel holds in the U.S. market is primarily determined by U.S. domestic demand.

Reality: Steel imports, as a portion of the U.S. market, are primarily determined by the amount of excess capacity which exists outside the United States at any given time. Foreign producers attempt to absorb unused capacity in order to maintain employment, cover high fixed costs, and generate foreign exchange to help repay large foreign debts. As Dr. Marshall testified:

> When there is excess capacity, a foreign producer will reduce the export price for its product until a sufficient export demand is generated to bring production up to an acceptable level.

This "volume target" for foreign producers is reached at the expense of U.S. domestic producers because the total consumption of steel is relatively insensitive to price changes in the short run. As foreign capacity utilization rates decrease, greater amounts of supply become available for export to the United States at ever lower prices.

Myth: Imports have little effect on the cyclical swings within the U.S. domestic steel industry.

Reality: Steel imports' share of our market is counter-cyclical, increasing normal cyclical swings for domestic producers. Beginning with the assumption that the United States and the other economies in the world are linked in their cyclical behavior, it can be demonstrated that as domestic demand increases, imports provide a smaller share of the U.S. market. Thus, any increase in economic activity magnifies the upswing for domestic producers. However, as economic activity worldwide declines, subsidized imports enter the U.S. market and claim an expanded share for themselves. Therefore, declines in demand are also magnified for domestic producers.

In sum, Marshall's testimony found that the "counter-cyclical behavior on the part of imports increases the magnitude of the swings in demand faced by domestic producers." The uncertainty associated with such potentially dramatic swings has made domestic producers unwilling to substantially expand their capability to produce steel, even in times of economic upturns.

Myth: Price changes in the steel industry primarily reflect changing demand levels rather than unfair trade practices.

Reality: Marshall's testimony supports the opposite contention that "price changes occur not because of changing demand levels, but because of a desire by foreign producers to change their share of the U.S. market." After the trigger price mechanism [TPM] was terminated in early 1982, prices quickly dropped as foreign producers attempted to gain a greater share of the U.S. market. Their actions were based primarily on short-term opportunism and did not reflect the economic reality of the need to be profitable. Domestic producers could only vainly attempt to slash prices to try to preserve their share of the market.

Injury to the domestic steel industry due to price suppression, as calculated by Marshall's study, indicates that price suppression increased from $38 per ton during the TPM period in early 1982 to $104 per ton by the end of 1983. "During the seven quarters following the termination of the TPM, price suppression due to imports resulted in a pretax profit loss of over $8.1 billion to the domestic steel industry." This injury caused by price suppression has as yet shown little sign of slowing.

Myth: In lieu of any changes in current U.S. public policy concerning imports, the U.S. market share for steel from abroad should remain relatively stable.

Reality: Assuming that the U.S. Government refuses to take any comprehensive action to reduce steel imports and allows the United States to remain an open market for world steel trade, Marshall expects import levels to significantly increase by the end of the 1980's. Continued excess world capacity and the maintenance of artificially high production levels could result in import levels exceeding 25 percent. Marshall based his estimates on trend forecasts, warning that "any cyclical movements around the trend could create even greater import penetration."

These trends include a continuing excess of steel capacity in the world for the next 5 to 10 years, more Government interference with market forces keeping the least efficient producers in business, unrealistically priced imports being sent to the United States and inability of domestic industry to cut costs to stay even with import price levels, and the failure of the U.S. Government to formulate and implement a policy to compete with unfair trade practices. As an end result, U.S. steel producers are reducing steelmaking capacity and diversifying into other areas. Without Government involvement, the United States will be increasingly dependent on foreign sources for its steel and faced with large numbers of unemployed workers. A rational, stable policy for the steel industry is a necessity for its survival into the future.

Mr. President, I ask that the summary of the testimony of Dr. Marshall be printed at this point in the RECORD.

The summary follows:

TESTIMONY OF DR. PAUL W. MARSHALL

INTRODUCTION

My name is Paul W. Marshall. I am President of Marshall Bartlett, Incorporated, a Management and Economic consulting firm located in Lexington, Massachusetts. Before becoming a full-time consultant I was on the faculty of the Harvard Graduate School of Business Administration where my primary teaching and research interests were in the area of Production and Operations Management with particular emphasis on the Steel Industry. I have worked on many projects for American and Foreign Steel producers and for various agencies of the United States Government. In 1975 I was a consultant to the Council on Wage and Price Stability and prepared a report on the conditions of the U.S. Steel Industry. In 1977 and 1978 I, along with others, prepared two reports for the American Iron and Steel Institute on the economic implications of Foreign Steel Trade for the American economy. In 1977 I worked for the Ecumenical Coalition of Youngstown and assisted in their efforts to reopen the Campbell Steel Works. I was invited to the White House Meeting in October 1977 to discuss the crisis facing the American Steel Industry. In February 1980 I was a panel member at the OECD Symposium on the Future of the World Steel Industry. I have prepared major studies for the U.S. Environmental Protection Agency and the Department of Energy analyzing the impact of regulation on the American Steel Industry.

I have testified before the International Trade Commission on matters relating to competition in the Western United States Steel market and matters relating to the Specialty Steel Industry. I have also testified before the House Ways and Means Committee's subcommittee on Trade and the House Committee on Energy and Commerce subcommittee on Oversight and Investigation on matters relating to the American Steel Industry.

Much of my testimony today is based on a study my firm prepared and submitted to the International Trade Commission in their current Investigation relating to Carbon and Certain Alloy Steel products. I presented testimony based on this study before the Commission on May 9, 1984 on behalf of Bethlehem Steel Corporation and the United Steel Workers of America.

Our study treated the steel industry as a single industry and relied on data representing an aggregation of individual steel products. The major reason is that up to the semi-finished stage, steel is in fact a single product. It is generally true that most of the investment is required and most of the expenses are incurred for this portion of processing. In addition, we demonstrated that foreign producers' steel exports to the U.S. can best be explained by analyzing their production in aggregate. Their desire to maintain operating rates at the raw steel level causes foreign producers to shift final production into different products at different times. However, the basic force behind these decisions is the amount of raw steel capacity to be utilized. Such behavior requires that any careful analysis view the industry as a single entity.

In this introduction I would like to briefly summarize our conclusions and provide several general statements concerning the current steel crisis. In later sections of my statement more details from this study will be presented.

Let me briefly summarize the major points of our study.

1. Steel imports as a share of the U.S. market are primarily driven by the amount of excess capacity outside the U.S. at any point in time. This is consistent with the desires of foreign producers to stabilize their operating rates.

2. Market forces in the U.S. are not the primary influence on the flow of imports. This is because the economies of the world are linked in their cyclical behavior.

3. The net result of these supply and demand factors is that steel imports' share of our market is countercyclical and increases the cyclical swing faced by domestic producers. Such behavior is injurious not only to steel producers, but in the long run to the entire economy.

4. Imports have taken 21.9 m. tons of shipments from domestic producers from 1977-1983. This measure assumes that an appropriate level of imports would be 15% share of the domestic market. This reference share for measuring loss is based on the approximate share of the U.S. market taken by imports during the 1970s which was about 15%.

5. These excess imports have cost the industry $2.6 billion in lost profits and have conservatively cost employees $2.4 billion in lost wages as jobs have been eliminated.

6. Severe price suppression by imports in 1982-83 cost the industry over $8.0 billion in lost profits.

7. A model of import behavior we developed suggests that continued excess capacity in the world will drive import share to higher levels in the 1980's, exceeding 25%.

The American Steel market is currently in a serious state of disequilibrium. This has resulted because many foreign producers have capacity far in excess of their home market needs. It is natural for them to want to increase their volume by exporting. If the entire world steel market were open and available to them we would not need to be here today. Under free market conditions this excess capacity would be used to supply steel at a world price and the most inefficient producers in the world would be driven out of business. A lower capacity level would result and the remaining steel producers could operate profitably.

Unfortunately there is not a free open world steel market. Two major categories of distortions are currently present in the market. First, many countries limit their home steel markets to imports from other countries and secondly, many governments are willing to subsidize the losses of their domestic producers when they export steel at levels below their production costs. The result is that import prices to the U.S. are well below any equilibrium level that would exist in a free market and many producers more inefficient than U.S. companies are kept in business and continue to supply steel.

During the last decade, the U.S. government has not effectively dealt with these unfair trading practices and market distortions. It has hoped they would go away. What has been done by our government has been only in response to numerous unfair trade cases filed by American companies. Given the nature of our laws such cases can address only specific countries and specific products. Such a piece meal response is not only costly but it is ineffective.

In summary I would make the following observations:

(1) There is an excess of steel capacity in the world that will continue for the next five to ten years.

(2) Because of government interferences with market forces, particularly in Europe, the least efficient producers have not gone out of business.

(3) Steel imports, priced at unrealistically low prices, have been sent to the United States by these less efficient producers as well as by other more efficient foreign producers causing serious injury to American production.

(4) The American steel industry has been unable to reduce its costs to compete successfully with these imports. This is true even with concessions made in wages and benefits by American steel workers.

(5) The U.S. government has been ineffective in developing and implementing a policy to counteract the unfair trading practices of foreign steel products in the U.S.

(6) American steel producers are reducing their steel-making capacity and diversifying into other businesses.

I believe these trends will continue without a new governmental policy. Thus, we will continue to see a shrinking of the American steel industry. Many analysts argue this is the natural consequence of market forces and that the American steel producers should not complain, but rather get on with their business. I do not agree that this situation has evolved from market forces. However, I do agree that individual steel companies will get on with their business—namely reducing their commitment to steel and moving their investments into other areas if there is no change in government policy.

Unfortunately, there still remains a problem. Specifically, the United States will become increasingly dependent on foreign sources for steel and there will be significant regional unemployment in areas where much of the marginal American steel capacity now exists.

These are problems for the U.S. government! During the past five years many government agencies and Congressional committees have studied the steel industry as though the problem was that of the industry. I submit the individual companies who produce steel are solving "their problem." They are reducing capacity and moving into other businesses. It is now time for the government to look at "its problem:" namely, whether or not we can develop a rational, stable policy for the steel industry. I believe the enactment of the quota bill, now before the Congress would be a good first step in helping establish such a policy.●

COSPONSORING S. 2644

● Mr. D'AMATO. Mr. President, I rise today as a cosponsor of S. 2644, the bill of the distinguished junior Senator from Iowa to amend title II of the Social Security Act to protect the benefit levels of individuals becoming eligible for benefits in or after 1979 by eliminating the disparity—the "notch"—between those levels and the benefit levels of persons who became eligible for benefits before 1979.

This is the first measure introduced in the Senate to remove the so-called notch in Social Security benefit levels caused by the 1972 and 1977 amendments to the Social Security Act. I

support ending the current discrimination against those who just happen to have been born in the period 1917-21.

Last year, I cosponsored Senate Concurrent Resolution 62, introduced by the distinguished junior Senator from Georgia, which would have directed the Commissioner of Social Security and the Secretary of Health and Human Services to develop and present to Congress a plan to correct the benefit disparity caused by the 1977 changes in the Social Security retirement benefit formula. It was referred to the Committee on Finance, Mr. President, where, for all practical purposes, it has died. There have not even been any hearings. An observer might easily conclude that this body does not take this issue seriously.

I can tell my colleagues, however, that the citizens of New York take this issue very seriously indeed. They expect us to make progress and solve the notch problem. The time has come for this body to appreciate the hardship the notch has caused our aged citizens and make a serious commitment of time and effort to restore fairness to the Social Security benefit formula.

No one should have to suffer a financial penalty for no other reason than their year of birth. I did not choose the year in which I was born and I know no other person who has had the power to make such a choice. It is cruelly unfair to say to our citizens now approaching the end of their working careers that they will not receive the benefits to which they are entitled, and upon which they relied when they planned for retirement, simply on the basis of the calendar year in which they were born.

Worse, the notch is the product of a mistake we made when we passed the 1972 amendments to the Social Security Act. In that measure, we included a provision which increases Social Security benefits by the same percentage the Consumer Price Index—the "cost of living"—increases on an annual basis. However, somehow we overlooked the fact that we had indexed the wage base, upon which benefits are calculated, in a previous measure.

The result was a seriously flawed system for figuring Social Security benefits, since people then received double compensation for inflation. It worked like compound interest and would have bankrupted the Social Security system if Congress had not identified the problem and taken corrective action.

In 1977, Congress established a new formula for determining benefits, which now affects all people born after 1916. The formula provides for lower benefits. To ease the transition from the old formula to the new formula, special provisions were enacted for people who were about to retire, that is, those born in 1917-21. These benefits would be determined by a special formula if, and only if, the formula would provide higher benefits than under the new system.

However, the unanticipated high inflation rates of the late 1970's made the difference in benefit levels for individuals whose benefits were computed under the old rules higher than anticipated when the benefit formula changes were enacted. As a result, people whose benefits were computed under the old rules have had a great advantage over those who have to use the transitional or the new rules.

We have an obligation to solve the problem we created through our error. We cannot simply turn our backs on our aged citizens and tell them we have done all we can. We haven's even made a serious attempt to study the problem.

This measure represents one approach to solving the notch problem. It is not perfect, but it is the best vehicle now available to the Senate. I urge my colleagues to give their support to this bill. The time has come for us to send a message that we are going to tackle this problem and we are going to solve it.

Thank you, Mr. President.●

DR. DELLA KEATS

● Mr. MURKOWSKI. Mr. President, I should like to take a moment to commend Dr. Della Keats from Noatuk, AK, who retired from the Maniilaq Association's Traditional Medicine Program this spring.

The Traditional Medicine Program was established in 1975 and is the only program of its kind funded by the Indian Health Service. This unique program was built around the special knowledge of Della Keats, who has been healing and helping people in Alaska for over 60 years. Her knowledge has been vital in bridging the gap between modern medicine and traditional methods of healing.

The Maniilaq Board of Directors has mandated that all of its programs be guided by the Ilitqusiat which embodies the philosophy of the Inupiat Eskimo. The Ilitqusiat values include sharing, hard work, respect for nature, spirituality, and responsibility to tribe. Della Keats is the personification of these values.

I know she will be greatly missed by her colleagues. However, her guidance and example shall continue through the Della Keats Summer Enrichment Program. This program gives Alaska Natives the opportunity to learn about healing and health careers. Della visits the program each year. This visit is the highlight of the summer and her presence inspires young people to continue her work.

I extend my thanks and the gratitude of all Alaskans to Della Keats for her contributions to our great State.●

OFFICE AUTOMATION FOR SENATORS

● Mr. MATHIAS. Mr. President, the Committee on Rules and Administration took action on June 12 to provide office automation for Senators' offices. The committee authorized leasing contracts with three vendors, Honeywell, Data General, and Prime, to supply services and equipment to the Senate. Senators desiring to have this equipment will be able to choose from among these vendors.

This is a change for the Senate and will require a serious decision by each Senator, but based on tests conducted by the committee we are convinced that the technology is available and that Senators are prepared to use it. In the very near future the Rules Committee will inform each Senator how to go about making a selection and arranging for training and installation.●

THE FAIRNESS OF THE REAGAN TAX CUTS

● Mr. SYMMS. Mr. President, over the past several years we have been continually barraged by reports in the media and elsewhere stating that the Reagan tax cuts were a giveaway to the rich.

Well, the numbers have come in at the Department of the Treasury and they indicate that all of those people opposed to the President's program are wrong. Recently released Treasury Department statistics indicate that cuts in the top marginal tax rate collected 42 percent more revenue from taxpayers making $1 million or more. It seems that President Reagan was right. A cut in the tax rate actually provided a stimulus for more economic activity, and as a result of that activity, individuals made more money and paid more taxes.

This morning, the Joint Economic Committee held hearings on the fairness of the Reagan tax program. The testimony presented at the hearing was very interesting and would, I believe, be a benefit to my colleagues. Consequently, I would like to have printed in the RECORD the testimony that was presented, as well as an article that was printed on the editorial page of the Wall Street Journal several weeks ago.

The material follows:

[From the Wall Street Journal]

THE PANIC OF 1984

Conventional wisdomers always said tax cuts would cause an economic panic, and they finally may be right. Recently released Treasury Department statistics indicate that cuts in the top marginal tax rate collected a gush of revenues from the rich in 1982—indeed, a 42 percent increase from people who made $1 million or more. Whatever the impact on the economy or the stock market, these numbers have produced

a frenzy among those who predicted just the opposite, a giveaway to the rich.

One refutation, for example, runs as follows: All that happened in 1982 was that rich people declared more income once tax rates were cut, thus increasing total revenues from the rich. There is a name for this observed relationship between tax rates and the tax base: the Laffer Curve.

But of course, the whole object of the frenzy is to avoid admitting that Arthur Laffer was right that cutting high marginal tax rates can induce more tax revenues. If that is true there is no justification for a punitively progressive tax structure. So other explanations have to be found.

One notion is that collections went up because rich people's incomes surged chiefly in the capital gains area. The short answer to this argument is, So what? The long answer is: (1) OK, if the capital gains tax has been so lucrative after being cut to a 20 percent maximum, let's cut other maximums too. And (2) people have to have gains to claim capital gains. Is the problem with supply-side income-tax cuts that they cause stock market and housing industry booms?

Even more paradoxical is a theory posed by John Berry of the Washington Post, who argues that the "rich" are now paying an increased percentage of total tax revenues because the incomes of the poor have fallen. Mr. Berry cites statistics on the adjusted gross income of people earning under $25,000. In 1981, he notes, taxpayers falling into this category made a total of $750 billion; in 1982, $726 billion.

If the number of people falling into this category were constant, these numbers would indeed show that the income of the typical individual making less than $25,000 went down. Ah, but the numbers were not constant. In 1981, 70.5 million taxpayers claimed income of $25,000 or less, while in 1982, only 68 million did. Did 2.5 million taxpayers disappear, or even die, perhaps victims of the Reagan Budget Cuts? Nope. they simply moved—into a higher tax bracket.

Whereas in 1981 only 20.6 million taxpayers claimed incomes between $25,000 and $50,000, in 1982 22 million did. This left fewer people around to report incomes of less than $25,000. And so on up the ladder: in 1981, 5,300 taxpayers claimed incomes of $1 million or more; in 1982, 8,300 did.

Imagine if all 15 million people earning less than $5,000 suddenly inherited $1 million. Mr. Berry would note with alarm that "the incomes of people earning less than $5,000 plummeted to nothing" while "the incomes of millionaires were skyrocketing."

The debate seems to boil down to this: Is it more fair to tax the rich at a very high rate but collect paltry revenues, or to tax them at a lower rate but get more money? Is it better, say, to collect 70 percent of a pie that is $10 billion big, for a total of $7 billion; or to get 50 percent of a pie that is $20 billion big, for a total of $10 billion?

We would prefer the latter case, giving us an extra $3 billion to spend on social programs and the national defense. Of course, this means giving up the thrill of confiscating an impressive-sounding percentage of visible income from the wealthy. But as compassionate pragmatists, we place greater value on helping the poor.

WAS THE 1981 TAX CUT FAIR?

(By Professor Richard Vedder and Lavell Gallaway)

Thank you, Senator Jepsen, for inviting us to testify on this issue of vital national interest. This is something of a homecoming for both of us, as we both have had an enjoyable past association with the JEC as professional staff members.

There has been a growing public concern about whether the Reagan economic program, and in particular the 1981 tax bill, was "fair." We wish to make three major points with respect to this question.

First, the recent primary campaigns make it abundantly clear that some political officials and some parts of the public believe that increased taxation of the rich relative to the poor means a fairer tax system. The empirical evidence is crystal clear that persons holding that view should consider the Economic Recovery Tax Act of 1981 as a major milestone in a half century of public policy moves in providing income equality. That statement is based not only on data showing that the wealthy paid a larger proportion of the total income tax burden in 1982 than in 1981, but also on six decades of history that show a systematic tendency for the tax burden of the rich to rise relative to that of the poor when marginal tax rates are reduced for upper income groups.

Second, the evidence suggests that the American people are more concerned with horizontal equity, and strongly believe that persons with similar incomes should pay similar amounts of income tax. The public appears to be particularly galled at the thought that some rich persons escape taxation altogether. The 1981 tax bill was a step in the direction of alleviating that concern, as is such a legislative proposal as the Kemp-Kasten tax simplification bill.

Third, "fairness" is an elusive concept to define and impossible to objectively measure with any precision. Nonetheless, the best available evidence is that fairness cannot be increased by increasing tax rate progressively. A "soak the rich" philosophy of taxation is not considered to be fair by the American people. The reduction in tax rates for all groups in the 1981 tax bill was viewed by the American public as an important first step in improving tax equity or fairness, contrary to the utterances of Jesse Hartdale and other politicians.

MARGINAL TAX REDUCTIONS AND THE TAX BURDEN: HISTORICAL EVIDENCE

Let me elaborate briefly on each of these points. First, other witnesses and other observers such as the distinguished syndicated columnist Warren Brookes have demonstrated that the 1982 tax reduction lowered tax payments by the relatively low income groups but increased payments by the rich, a move in the direction of increased fairness if the view is correct that the federal income tax previously imposed too low of a tax burden on the rich relative to the poor.

Some have criticized this evidence on the grounds that 1982 was an unusual year, with a stock market boom, a major recession, and so on. Examination of the historical evidence suggests, however, that the 1982 experience was very typical. When marginal tax rates are reduced significantly for the rich, tax payments from the rich almost invariably rise relative to tax payments from the poor.

Consider the interwar period from 1920 to 1941. In those years, the maximum marginal tax rate was lowered and raised drastically on several occasions, ranging from 24 percent in 1929 to 80 percent in 1940 and 1941. The era included high war-related rates, a period of supply side tax rate reductions promoted by Secretary of the Treasury Mellon, and the Hoover-Roosevelt "soak the rich" tax increases of the Thirties.

TABLE 1.—TAX RATES AND SHARE OF TOTAL TAX BURDEN BORNE BY SUPER RICH, 1920–41 [1]

Period	Median effective tax rate [2]	Median marginal tax rate [2]	Percent of total taxes paid by the super rich [1]
5 lowest tax years [3]	16.19	25	11.18
12 middle burden tax years [3]	39.33	63	6.30
5 highest tax years [3]	69.71	78	4.58

[1] "Super Rich" includes those reporting incomes of more than $1,000,000 a year.
[2] Rate applying to those with incomes in excess of $1,000,000 a year.
[3] As measured by the effective tax rate, which is total tax payments divided by total reported income.

Table 1 shows that in years in which the tax burden on the rich was the lowest, the proportion of total income taxes paid was the largest—more than twice as great as in the highest tax years. The evidence in Table 1 is confirmed by use of a highly accepted statistical technique known as regression analysis. About 72 percent of the variation in relative tax effort by super rich Americans is explained by variations in the marginal and average tax rates, with a strong and statistically significant negative relationship observed between the marginal tax rate and the proportion of tax paid.

The evidence suggests that high marginal tax rates of high income Americans might satisfy the demagogic instincts of some politicians, but those rates end up placing an increasing tax burden on poorer Americans.

The experience of the interwar years is duplicated in the last quarter of a century. Take the Kennedy tax cut of 1964 and 1965. In 1963, those with $1,000,000 or more income paid $326 million in taxes, while in 1965 they paid $603 million, and their share of the total tax burden rose significantly. Yet those high income Americans got a generous tax cut, almost equal in percentage terms to those in lower income groups. More details on this tax cut are provided in an excellent 1982 staff study prepared for your committee, and I recommend you look at it.

The Laffer cure lives! Why? The answer is almost trivially simple. Citizens face two options: they can pay taxes or not pay taxes. The latter option can be pursued along two lines, namely tax avoidance (which is legal) or tax evasion (which is illegal.) Lowering marginal tax rates lowers the cost of paying taxes, reducing incentives to engage in either tax avoidance or tax evasion strategies. Income comes out of shelters and out of the underground economy and is taxed. If you attempt to tax the Golden Goose too much, it will run away.

FLUSHING THE MILLIONAIRES INTO THE TAX ECONOMY: THE 1981 TAX CUT

To our second point. Survey data show that taxpayers are enraged by the fact that some rich persons do not pay taxes. In the jargon of public finance, people are concerned with horizontal equity, or the issues of whether people in similar economic circumstances pay similar amounts of taxes. It is considered unfair for some millionaires to pay hundreds of thousands of dollars in taxes while others pay nothing.

In the last few years two significant changes in the tax code have greatly improved horizontal equity by flushing out

many heretofore hidden millionaires. The first is legislation effective in 1979 sharply reducing tax rates on capital gains, the second is legislation approved at the request of President Reagan in 1981 lowering taxes for virtually all American.

Using regression analysis again, we developed a model based on changing personal income levels and time trends that can explain almost 94 percent of the variation in the number of income tax returns filed by persons with more than $1,000,000 in income for the period 1970 to 1978. In 1978, for example, there were 2,039 returns filed by those making $1,000,000 or more annually in income, while our model predicted 2,035 returns, only four less. Yet in 1979 our model says there should have been 2,474 returns—but in fact there were 3,594, 45 percent more. Why the big error? A sharp reduction in marginal tax rates of capital gains (from 49 to 28 percent) flushed well over a thousand millionaires into the taxable economy.

Using a similar model for the period 1970 to 1981 based on levels of personal incomes, time trends, and a "dummy" variable measuring the impact of the aforementioned capital gains tax changes, we can predict over 99 percent of the variation in the number of tax returns over time, and the model is otherwise extremely robust statistically. In 1981, our model predicted 5,198 returns would be filed by those with over $1,000,000 in income, while in fact 5,495 were filed, only 82 more. However, in 1982, the same model predicts 5,495 returns, while the actual number of returns filed was 49 percent larger, 8,185. The reason is simple: the reduction in the top marginal rate from 70 to 50 percent. Some 2,690 very rich persons joined the taxpaying army, paying hundeds of millions of dollars in taxes and reducing the problem of horizontal equity.

FAIRNESS AND THE 1981 TAX CUT: SOME EVIDENCE FROM THE PEOPLE

Fairness is something that cannot be precisely measured, and indeed different people, with different value systems, have diverging views on what is fair or unfair. Professional economists or organizations like the Congressional Budget Office cannot in any objective, scientific way, "prove" or disprove that any tax is fair or unfair. The values of the so-called experts, including myself, should count no more in evaluating fairness than the values of millions of ordinary taxpayers with no claims of expert status. The public at large is probably the best judge as to the "fairness" of a tax.

In this regard, the nonpartisan Advisory Commission on Intergovernmental Relations (ACIR) has been conducting polls on tax fairness for many years. For many years, the polls were done by Opinion Research Corporation, although the latest poll was conducted by the Gallup Organization.

One question consistently asked is: "Which do you think is the worst tax—that is, the least fair?" Chart One looks at changes in the porportion of the respondents thinking the federal income tax was the most unfair over time. During the Seventies, the proportion of the population thinking the federal income tax was the most unfair tax grew nearly two percent each year, so that by 1981 the income tax was considered far more unfair than local property taxes, perennially the most disliked tax. Yet feelings as to the unfairness of the tax have declined slightly since the 1981 tax cut was approved, reversing a decade long trend of increasing disenchantment. At least from the public's perspective, the 1981 tax bill seemed to be a move towards more equity, not less.

CHART 1.—*Change in percent viewing Federal income tax as most unfair tax, 1972–83*

	Percent
More unfair:	
March 1972 to May 1977	+9
May 1977 to September 1981	+8
Less Unfair:	
September 1981 to May 1983	−1

It is interesting to note that the rise in public perceptions of unfairness with respect to the federal income tax did not occur in a period when the tax system was becoming more regressive. Indeed, as Table 2 suggests, the proportion of the population viewing the income tax as the most unfair tax almost doubled in a period when the share of the tax burden paid by high income groups actually rose relative to the share of the tax burden borne by the poor. The problem with the tax system, that would suggest, is not the rich pay too small a share of taxes. Rather, the problems lie elsewhere, such as the horizontal equity issues mentioned earlier.

TABLE 2.—FAIRNESS AND TAX BURDENS, 1972 AND 1981

	1972	1981
Percent viewing Federal income tax as most unfair tax	19	36
Percent of income taxes paid by top 10 percent of income recipients	43.68	44.06
Percent of income taxes paid by bottom 20 percent of income recipients	2.67	1.99
Progressivity index: ratio, tax payments of top 10 percent to tax payments of bottom 20 percent	16.7	22.1

Sources: Internal Revenue Service, Advisory Commission on Intergovernmental Relations.

CONCLUSIONS

The claim that the 1981 tax cut was unfair is without foundation. The 1981 legislation increased the tax burden on the rich relative to the poor, reducing vertical inequities. Horizontal inequities were reduced by increased participation in the tax system by wealthy Americans. The American public itself views the 1981 tax cut as a move toward greater equity. The fairness issue, at least as it relates to the 1981 tax cut, is no issue at all.

STATEMENT TO CONGRESS

(Submitted to the Joint Economic Committee, June 12, 1984)

Since the modern income tax was first levied in 1913, the Economic Recovery Tax Act of 1981 (ERTA) was only the third instance in which the basic rate schedules were substantially reduced. (The other two were the so-called "Kennedy" tax cuts of 1964 and the "Mellon" cuts 40 years before that.) Over the years, there have been numerous other tax cuts, but they usually involved enlargement of exeptions to the basic rates. One observer (Michael K. Evans) has estimated that the percentage of any increase in personal income that was paid in taxes (including state, local and Federal income taxes and Social Security taxes) was about 10 percentage points higher in the late 1970's than it was in 1965 after the Kennedy tax cut. This increase in the marginal tax rate was accompanied by an increase of only 4 percentage points in the average tax rate, or total personal taxes as a proportion of total income. This divergence between the changes in the average rate and the marginal rate reflected "bracket creep," caused by the interaction of inflated incomes and progressive rate schedules, and the use of "targeted tax cuts" during the years 1965–1980. In 1980, the Consumer Price Index (CPI) increased 13.5 percent. Those whose incomes kept up but who had no real gain in pre-tax income paid higher real taxes. The extent of this unlegislated tax increase for a family of four at various income levels is shown in Table 1.

The 13.5 percent increase in the CPI for 1980 followed increases of 11.3 percent in 1979, 7.7 percent in 1978 and 6.5 percent in 1977. Individual income taxes (national income accounts basis) increased from 10.5 percent of each (non-imputed) personal income in 1976 to 11.9 percent in 1980 despite some tax reductions, including a drop in capital gains tax rates, during those years. By 1980 the time was ripe for a major tax reduction as the effects of bracket creep were becoming too pronounced to be ignored by the administration or Congress, no matter who was in office.

TABLE 1.—"BRACKET CREEP" IN 1980 FOR A FAMILY OF FOUR

1980 income	Inflation-induced tax increase [1]
$10,000	$297
20,000	252
30,000	521
50,000	1,179
100,000	2,524
200,000	4,271
500,000	4,863

[1] Excess of 1980 Federal income taxes over 1979 taxes, expressed in 1980 dollars for a married couple with two dependents and no deductions, tax credits (except the earned income credit), or adjustments to gross income and whose income increased as much as the CPI between 1979 and 1980.

Before considering the changes that were actually enacted in ERTA, it is worth examining bracket creep further. As Table 1 suggests, the effects of bracket creep fall proportionally more on those with lower incomes. (The $10,000 family was subject to a double whammy in 1980, not only because more of their income was taxed at a higher rate, but also because the workings of the earned income credit added 12.5 percentage points to their marginal tax rate.) Inflation-induced income gains have a proportionally larger impact on taxes in the lower income ranges, because the brackets are narrower at the bottom. At the top, taxpayers are less affected by bracket creep. The marginal tax rate can creep no higher than the top. The tax liabilities of those in the top bracket are only inflated to the extent that income taxed in the top bracket becomes a larger proportion of total inflated income.

One of ERTA's key provisions was to "index" taxes starting next year (1985), so that any gains in nominal income which simply reflect a loss of purchasing power of the dollar will not lead to lower real after-tax incomes and purchasing power. If the indexizaton of tax brackets and other provisions fixed in dollars is postponed or repealed, the impact will be proportionally largest on taxpayers with the smallest incomes. Any resultant increase in tax receipts will mainly be paid by taxpayers in the middle (say, $20,000 to $75,000) because such taxpayers receive most U.S. income and pay the bulk of income taxes. Of course this latter aspect is inescapable: Any prospective increase in taxes designed to increase Federal revenues will mainly affect those in the middle: neither the "poor" not the "rich" have sufficient aggregate resources for tax changes to make a substantial impact on tax receipts from those groups.

The major provision of ERTA was a phased-in reduction of tax rates "across the

board." Starting with a 1¼ percent tax credit against 1981 tax liabilities, rates were reduced in all brackets during 1982, 1983 and 1984. The overall reductions totaled about 23 percent (with some variation due to rounding tax rates to whole numbers). In addition the top marginal rate was reduced in the first year (1982) from 70 to 50 percent, a 28.6 percent reduction.

At the time of enactment, official projections were for a 25 percent decrease in the purchasing power of the dollar over the four-year span that tax rates were to be reduced. Thus, it was expected that the ERTA tax rate cuts would be slightly less than the effects of bracket creep for most taxpayers whose incomes kept up with the cost of living between 1980 and 1984.

As it turned out, prices increased less than was expected: the purchasing power of the dollar is now "only" about 20 percent less than four years ago, which means that most taxpayers received small real income tax cuts instead of slight real increases between 1980 and 1984. (For wage and salary earners this was offset by increased Social Security taxes.) It was this underestimate of price inflation combined with the effects of the 1981-82 recession (also unanticipated at the time ERTA was passed), that produced the large shortfall of Federal income tax receipts from earlier projections.

But ERTA was designed not so much to reduce tax payments in real terms (except in relation to what they might have been if bracket creep had continued unchecked) as to reduce mariginal tax rates. In Table 2, I have shown the average and marginal Federal tax rates (including both income and Social Security taxes) for 1980 and 1984 and the percentage point change between those years. I have also shown the total taxes due and the 1980 to 1984 changes, expressed in 1980 dollars. As in Table 1, these were computed for families of four with uncomplicated tax returns.

It should be stressed that the data in Tables 1 and 2 are artificial. Few taxpayers today have uncomplicated returns. Above relatively modest income levels, virtually none do. At a minimum, this means that anyone who is paying the 1984 taxes on the income levels shown in Table 2 is likely to have a higher income in any generally understood sense. Nevertheless some general observations seem warranted.

First, ERTA did not actually produce significantly reduced Federal taxes in real terms for most taxpayers. In fact, real tax liabilities (including Social Security taxes) increased slightly for real incomes in the range in which the vast majority of taxpayers are found.

TABLE 2.—CHANGE IN COMBINED FEDERAL INCOME AND SOCIAL SECURITY TAXES, MARRIED WORKER WITH 2 DEPENDENTS, 1980 TO 1984 [1]

[Dollar amounts in 1980 dollars]

	1984 taxes	Change from 1980	Average tax rate (percent)			Marginal tax rate (percent)		
			1980	1984	Change	1980	1984	Change
Income:								
$10,000	$1,140	+$153	9.9	11.4	+1.5	22.1	20.7	−1.4
$20,000	3,562	+71	17.5	17.8	+.3	30.1	28.7	−1.4
$30,000	6,870	+332	21.8	22.9	+1.1	32.0	34.2	+2.7
$50,000	13,900	−505	28.8	27.8	−1.0	49.0	42.0	−7.0
$100,000	35,927	−5,299	41.2	35.6	−5.6	59.0	49.0	−10.0
$200,000	85,571	−20,328	53.0	42.8	−10.2	68.0	50.0	−18.0
$500,000	235,571	−79,940	63.1	47.1	−16.0	70.0	50.0	−20.0

[1] Calculations assume no deductions or tax credits and no exclusion for dividend income, alimony paid, contributions to a retirement plan or other adjustments to gross income (nor do they reflect the maximum tax on earned income for 1980). Income up to the maximum subject to social security taxes ($25,900 in 1980 and $37,800 in 1984) is presumed to be earned by one source only.

Second, marginal tax rates did decrease "across the board" between 1980 and 1984. The ERTA decreases were offset by the increased Social Security taxes of 0.6 percentage point where applicable and, because the Social Security tax base rose faster than the CPI, the marginal rate on wage and salary income may have actually increased for a few souls who had managed to receive a small portion of their pay free of this tax in 1980 but not in 1984. (This is the cause of the 2.7 percentage point increase in the marginal rate of the $30,000 family shown in Table 2.)

Finally, it is clear that ERTA significantly reduced the marginal tax rate on those with higher incomes. However, the individual income tax schedules remain sharp progressive. The 1984 rate schedules call for a family of four with 10 times the income of a $10,000 family to pay 30 times as much tax and for a family with 50 times $10,000 of income to pay 200 times as much.

Since the time it was first proposed, critics and opponents of ERTA have focused on the extent of the tax reduction for upper-income taxpayers that the new rate schedules called for. This lies at the heart of the so-called fairness issue with respect to ERTA. But as anyone who has even looked at a form 1040 recognizes, there can be vast differences between "income" in a generalized sense of the word and what appear on the line labeled "taxable income." [1] At some level of marginal taxation, an individual will begin to consider the tax consequences of decisions to work, save or invest. This level cannot be determined precisely (and it probably varies among individuals), but there can be little doubt that anyone who was subject to the top 70 percent marginal rate in 1980, made few, if any, financial decisions in which the tax implications were not considered.

Even people facing much lower marginal rates probably make tax-influenced choices concerning work vs. leisure, taxable vs. nontaxable investments, do-it-yourself vs. paying for services, "on-the-books" vs. "off-the-books," and so forth. Choices that taxpayers make to avoid or evade taxes not only serve to shrink the tax base but also retard economic growth. The economy as a whole reflects countless individual choices and if the tax laws drive people toward inefficient but lightly-taxed uses of resources and away from more efficient fully-taxed uses, then the economy as a whole suffers.

Serious analysts have recognized that the "fairness" issue cannot be assessed simply from the relationship between the old and new rate schedules without reference to any changes in actual taxpayer behavior. Unfortunately, measuring the effects of ERTA on the tax base and on resource allocation are incomparably more difficult to measure than is analysis of the effects of the new tax schedules on hypothetical taxpayers (as I have done in tables 1 and 2). The latter type of analysis has dominated discussions of the effects of ERTA since it was first proposed.

The largest and most exhaustive attempt was a March 1984 staff memorandum of the Congressional Budget Office (CBO), "The Combined Effects of Major Changes in Individual Income and Excise Taxes Enacted in 1981 and 1982 for Households in Different Income Categories." Astoundingly this study relied on "static estimates . . . based on the somewhat [!] arbitrary assumption that . . . changes in the tax code do not have significant effects on general taxpayer behavior or otherwise on the economy at large." This methodology effectively precluded any findings that ERTA had worked in ways that its advocates had expected.

With this methodology, it should have been no surprise that the CBO found that the "rich" benefited far more from ERTA than the "poor." ERTA's opponents reacted to their findings like felines to catnip. The New York Times editors proclaimed that the CBO was "a professional, not a partisan, organization." And they asserted that "it seems clear that the rich have gotten richer and the poor poorer."

However, as behavioral scientists, professional economists must look when possible to actual evidence of human behavior. Such evidence, IRS and Treasury reports of changes in actual tax payments, was available to the CBO well before their study was published. In terms of the ethics of the economics profession, I can only call the CBO's methodology scandalous. If anything the actual data on tax collections have indicated that high income taxpayers have paid a larger proportion of the Treasury's total income taxes since ERTA even though ERTA gave them the largest reduction in tax rates. I have appended an article on this subject, portions of which appeared in The Wall Street Journal for May 1, 1984. (I have also appended a letter from Mr. Rudolph Penner and an editorial from the Journal, that relate to this article.)

ERTA presented a rare opportunity for economists: a significant sudden change in the rewards and penalties applicable to a relatively small but heterogeneous group: those who have high property incomes. One might have expected that a major effort would have been made to ascertain what these changes have been especially on the part of those who have a major interest in the subject and who have the quickest

[1] In strict economic terms, an individual's income in a given period can only be defined as total consumption plus change in net worth adjusted for price level change is taxed on form 1040s is only vaguely related to this, especially if the taxpayer holds assets or is a net debtor or creditor.

access to the available data: the Treasury and the CBO for example.

I hope these hearings will prompt those with the best abilities and resources to determine what actually happened. I believe that acutal tax liabilities this year may well be more "progressively" distributed in 1984 than in 1980, i.e., that as a result of ERTA, upper-income taxpayers now account for a larger proportion of all personal income taxes due. If this proves to be the case, attacks on ERTA as "unfair" can be based on envy alone.—Lawrence S. Pratt, American Institute for Economic Research.

THE CBO REPORT: "FACTS" FOR THE OCCASION [1]

(Chart 1 not reproducible in the RECORD.)

A key idea of supply-side economics is that lower tax rates encourage more productive effort and incomes. The 1981 tax bill provided "across the board" income tax rate cuts. But for most taxpayers there has been little actual tax relief, because rate cuts have been offset by "bracket creep" due to inflated incomes. The major exceptions were the high-income taxpayers, for whom the top rate dropped from 70 percent in 1981 to 50 percent in 1982. The share of income taxes paid by the top group increased in 1982, and their actual taxes paid decreased much less than the rate cuts implied. This was a classic supply-side response. The Congressional Budget Office, which purportedly provides Congress with accurate and nonpartisan information, recently produced a widely reported analysis of the effects of changes in Federal taxes and spending on various income groups. In suggesting ERTA was more advantageous to the "rich" than the "poor," this report completely disregarded actual tax changes, relying on estimates based on the assumption that taxpayers' behavior is unaffected by tax rate changes. The politicians seem to prefer the belief that citizens do not act on their own initiative and can benefit only from politically targeted tax and spending programs.

Since the Economic Recovery Tax Act of 1981 (ERTA) was first proposed, critics have decried the dollar magnitude of the prospective tax savings of the "rich" (large) and of the "poor" (small). These dollar magnitudes are calculated by applying the lower tax rate to an estimated amount of taxable income—which amount is assumed to be the same under the high-rate tax structure as under the low-rate structure. This is called a static analysis of tax revenues. The supply-side rationale for the cuts, that lower rates would foster higher taxable income, was dismissed as a sort of eccentric nuttiness, at worst, or something that cannot be tested, at best.

Not the least reason for this has been the Administration's failure to enunciate and repeat at every opportunity the original supply-side rational. Instead, the Administration's tendency has been to respond to the critics with some variation on the theme: "Golly, we treated everyone the same." As recently as at his April 4 news conference, the President answered a hostile question on this subject with, ". . . there is no way that the tax program could have benefitted someone at one end of the scale and not the other. It's based on proportions." By now, however, it should not be necessary to guess about the response of taxpayers to the Reagan tax cuts. The initial evidence is in, and it is consistent with the supply-side rationale.

In 1982, the first full year after ERTA, most Americans received little or no real income tax relief. Personal income tax rates were indeed 10 percent lower "across the board" than in 1981, but nominal incomes were driven up by inflation (6.0 percent as measured by the GNP deflator). Therefore, the 1982 reductions mainly offset "bracket creep," and for most groups marginal income tax rates changed little.[2] Persons with high property incomes were a major exception—the top rate on such income dropped from 70 percent in 1981 to 50 percent in 1982.

Here at the American Institute we looked to the nonwithheld ("other") component of Federal individual income tax receipts for an early sign of a supply-side response to ERTA. In the summer of 1982 we noted that the 12-month total of this "other" component, which is where quarterly estimated tax payments on property incomes are reported, had increased to a 9-year high as a proportion of individual income tax receipts. (It has since remained higher than at any time during the years 1973–81. See Chart 1.) We subsequently reported that for fiscal 1982 the "other" component was $7.9 billion higher than in fiscal 1981 and $9.7 billion more than had been forecast by the Office of Management and Budget in February of that year. The amount had increased, when the static analysis of the budgeteers had foretold a decrease.

In fiscal 1983 the "other" category was the only major category of Federal receipts to exceed the early-1982 budget projection. This was all the more remarkable because the economic assumptions used in that budget projection were grossly optimistic, and thus one would have expected taxable incomes, and thus tax revenues, to be much lower than projected.

The trend of non-withheld, or other, individual income tax receipts is influenced by many factors. Collection procedures and the timing of payments are two. Therefore, the early data were never more than an indication that the rich were paying a larger share of tax. Confirmation had to await publication of detailed data from the 1982 tax returns. These recently became available. (The date over the signature of the Commissioner of Internal Revenue is January 31.) One of the first reports of these data was in a Wall Street Journal editorial of April 11. There the editors used the data, as presented in Table 1, to show that for groups with incomes of less than $50,000, the share of taxes paid in 1982 was lower than it was in 1981 and that for groups above $50,000 the share was 2.5 percentage points higher. The Reagan "tax cuts for the rich" had, if anything, shifted some of the income tax burden away from the poor.

TABLE 1.—TAX SHARE UNDER REAGAN 1981–82 CUT [1]

[Actual data for tax liabilities confirm that higher income taxpayers paid a larger share of individual income taxes in 1981 than in 1982]

	Percent share of taxes paid	
	1981	1982
Net income group:		
$0–10,000	3.0	2.7
$10–15,000	6.1	5.6

TABLE 1.—TAX SHARE UNDER REAGAN 1981–82 CUT [1]—Continued

[Actual data for tax liabilities confirm that higher income taxpayers paid a larger share of individual income taxes in 1981 than in 1982]

	Percent share of taxes paid	
	1981	1982
$15–20,000	8.0	7.2
$20–50,000	50.0	49.1
$50–100,000	17.9	18.1
$100–500,000	11.9	12.9
$500–1,000,000	17.9	18.1
$1,000,000 & up	1.7	2.4

[1] From The Wall Street Journal, April 11, 1984.

Source: U.S. Treasury.

WASHINGTON CAN'T BE BOTHERED WITH THE FACTS

The most widely quoted attempt to assess the effects of "Reaganomics" has been a March 1984 staff report of the Congressional Budget Office (CBO) called "The Combined Effects of Major Changes in Federal Taxes and Spending Programs Since 1981." Its findings usually have been distilled to an estimate that between 1981 and 1984, households with less than $10,000 income "lost $820, while households with over $80,000 income "gained" $8,270 as a result of the "Reagan revolution." A subsidiary report indicates that the $8,270 figure was more than accounted for by average estimated ERTA tax savings of $8,750 by top-income households this year (1984). For this group ERTA was estimated to have "saved" $7,510 in 1983 and $5,100 in 1982.

In Table 2 we have shown (1) the average tax per return for the various income groups used in the CBO study and (2) the change from 1981, in percent and in dollars. As one should expect in the light of the top group's large tax liabilities, the dollar decrease in the top group (over $75,000 adjusted gross income) was the largest. But the 2.7 percent per return decrease in the top group was proportionally by far and away the smallest.* By static analysis it should have been the largest, because 1982 was a year of recession (property income is more cyclical than wages, contrary to popular myth) and because of the large drop in the brackets that were over 50 percent in 1981. In short, the data strongly suggest that there was a supply-side response to the Reagan cuts.

Although the CBO estimates for the 1982 tax savings of the lower income groups (shown in the last column of the table) are reasonably close to the actual dollar changes on tax returns from 1981 to 1982, the $5,100 figure for its top group is overstated by a factor of more than four. (Simple arithmetic reveals that the 1982 average tax liability on returns with over $75,000 adjusted gross income was about $1,210 less than in 1981.) This error cannot be explained by definitional differences, such as "households" vs. "returns" or over $80,000 vs. over $75,000 grouping. The CBO acknowledged that its figures are ". . . static estimates based on the somewhat arbitrary assumption that . . . changes in the tax code do not have significant effects on general taxpayer behavior." This makes about as much sense as saying that motorists are unaffected by road signs and police cars.

We shall have to wait for the 1983 and 1984 tax return data to learn more of what actually happened. No massive cuts for the rich were made in these years. The CBO's estimated $3,650 additional ERTA tax savings for its top group (from $5,100 in 1982 to

[1] A briefer version of this report was published on the editorial page of The Wall Street Journal, May 1, 1984.

[2] The marginal tax rate is the rate on the highest dollar of taxable income.

$8,750 in 1984) apparently reflects 1983 and 1984 cuts in the brackets under 50 percent (high-income taxpayers pay tax in all brackets). However, given (1) the small actual 1982 change in relation to the average total paid, (2) the cyclical rebound of property income, and (3) the additional time in which to re-deploy assets, the possibility cannot be ruled out that the top group will pay more taxes on average in 1984 than they did in 1981.

On the other hand, it is possible that high-bracket taxpayers took steps to delay receipt of 1981 income in order to be taxed at the lower 1982 rates (thereby distorting the 1982 data) or that post-1982 "revenue enhancement" measures will discourage the rich from generating taxable income. Only time will tell.

We are not in a position to dissect the CBO's estimate of the $820 average "loss" of under-$10,000-income households between 1981 and 1984. Apparently it involves some estimate of what various income-transfer outlays would now be under 1981 law and apportioning the difference from current 1984 estimates among income groups. The questionable accuracy of a figure derived from the difference between two guesses divided by a third guess is one reason to doubt the usefulness of the CBO's approach. But even more condemning is that it totally ignores the possibility that low-income groups benefited from the 4 million increase in employment since 1981, at least some of which may have been due to a supply-side boost to output.

BEHIND CLOSED MINDS

It is probably too much to ask that the media headline the CBO report with "Congressional Aids Publish Fake Data" instead of "Rich Gain, Poor Lose," even though it is scandalous that the CBO could have continued to employ static estimates of tax changes after actual results were available. But it is, alas, all too understandable that the CBO report came out the way it did, given the question the staff was asked to answer: How has government policy affected the distribution of income? Economic changes that reflect the spontaneous decisions of producers and consumers are suspect or ignored in Washington. "Inside the beltway" it seems that only Government policy matters.

Economic change fostered by market forces has long been fought by the politicians. For example, Government grants extraordinary assistance to areas of high unemployment and thereby discourages outmigration of persons to places where opportunities are greater. Government thus prolongs the agony of the "rustbelt." The same attitude finds more to celebrate in the Chrysler bailout (which "saved" the jobs of a relative handful of workers whose wage rates are higher than most of the taxpayers who paid for the bailout) than in the over 5 million net gain in employment since December 1982. The latter jobs presumably are more closely matched to providing consumers with what they want at a price they can afford than were the 1 million jobs that were eliminated (net) during the years 1980–82.

That the average income tax payment of the rich decreased only about $1,200 while the CBO's static analysis estimated a decrease of about $5,000, of course does not indicate that the rich failed to benefit as much as those with lower incomes. It simply indicates that the taxable incomes of the rich increased substantially more than those in other groups. Although the ability of individuals to spend and invest their own money with less regard to artificial "tax consequences" benefits the economy as a whole, its impact on the economy would have been small in 1982. Only about 1 percent of all taxpayers were involved. Not until 1983, when the "across the board cuts" exceeded the effect of "inflation," was there much supply-side incentive for the vast majority of taxpayers to respond to. The unexpected vigor of the current expansion and perceived improved attractiveness of the United States as a world investment haven may be a result.

That governments cannot make someone better off without robbing someone else is well understood. The fairness issue can never be resolved to universal satisfaction because what one group perceives as fair another group will not. Economic analysis cannot provide warranted assertions about what is or is not fair. However, the study of economics can be used to determine whether government policies and actions foster or retard human progress.

As for fiscal policy (Government spending, taxation, borrowing and lending), the issue is how much of the Nation's resources are taken or directed by Government not only in total but also at the margin of decisions to work, spend, and save. Some taxes, such as those on site-values or even head taxes in underdeveloped countries, can actually promote economic activity. Others can stifle it or force activities underground.

Supply-siders deserve much credit for drawing attention to the latter issue. But their achievements to date have been quite limited, for all the rhetoric. Marginal tax rates remain high, while the total taxes collected are inadequate to pay for the spending voted by the politicians. The reason, of course, is that the politicians love to take credit for the special provision of the tax laws that provide "relief" to specific groups just as they love to spend for the benefit of favored special groups. That the economy as a whole suffers as a result seems to be beyond their comprehension or concern.

TABLE 2.—INDIVIDUAL INCOME TAXES AFTER THE 1981 TAX CUT

[The average 1982 tax savings of the top income group were only about one-fourth as large as estimated by the CBO and in relation to taxes paid were much smaller than for the other income groups]

Adjusted gross income (dollars)	Actual 1982 tax payments			CBO estimate [1]
	Average tax per return	Change from 1981		
		Percent	Dollars	
Less than 10,000	$210	−6.1	−14	$10
10,000 to 20,000	1,410	−10.3	−162	−130
20,000 to 40,000	3,890	−7.6	−320	−460
40,000 to 75,000	9,070	−10.7	−1,093	[2] −1,170
Over 75,000	43,900	−2.7	−1,210	[2] −5,100

[1] 1982 dollar change in taxes "per household resulting from ERTA by income category." From a March 1984 memorandum prepared by staff of the Tax Analysis Division of the Congressional Budget Office.

[2] The CBO's income categories divide at $80,000 (not $75,000) for these two groups.

LETTER TO THE EDITOR

The Congressional Budget Office's analysis of the distributional impacts of Congressional legislative actions in 1981 and 1982 seems destined to be much discussed but seldom read.

If Lawrence S. Pratt (editorial page, May 1) had read it carefully, he would have realized that in no way did we purport to provide a forecast of changes in the distribution of tax burdens between 1981 and 1982. On the tax side, the analysis examined only one of the many sets of variables that changed between those two years, namely, those related to changes in the tax law. It isolated the initial impact using carefully decribed static assumptions—that is, it evaluated the impact before any behavioral response occurred. The column of figures that Mr. Pratt labels "CBO estimate" does not denote the tax liability "change from 1981" as he says, but rather it computes the difference between applying the old versus the new tax law to 1982 income levels. Mercifully, though badly misrepresenting our data, Mr. Pratt did at least note that we used static assumptions.

While the static approach has many disadvantages—carefully enumerated in our analysis—it is difficult to know where else to begin. Without a quantitative estimate of initial impacts, there is no basis for what should be a vigorous debate regarding behavioral responses and fairness. Isolating behavioral responses involves difficult statistical problems that are far from being resolved, which issues of fairness involve political value judgments that CBO is required to avoid.

Certainly, comparisons of two years of actual data shed little light on such issues. Too many things other than the tax law changed during those two years. There was a rather major recession in 1982 with effects far more complex than indicated by Mr. Pratt, and The Wall Street Journal's editorial writers in their analysis of "Tricklenomics" (April 11) seem to have forgotten it entirely. Those who use the recession to argue that there is no merit to supply-side economics are naive, but so are those who maintain that the principles of supply-side economics are confirmed by the fact that high-bracket taxpayers received a greater share of nominal income in 1982 than they did in 1981.

Aside from the effects of the recession, many taxpayers undoubtedly "gamed" the tax system between 1981 and 1982. Any sensible taxpayer would, as far as possible, have moved deductions for such things as charitable contributions backward to 1981 to take advantage of high marginal rates while moving income items, such as capital gains, forward to 1982 to take advantage of lower rates. The incentives for such maneuvering were highest in the top brackets. If taxpayers did not take advantage of such obvious incentives, they surely are not likely to have adjusted their work effort and savings behavior to changing tax burdens. But it will take many years of data to sort out the importance of such behavioral phenomena.

On a more minor point, a careful reading of our analysis would have shown Mr. Pratt that we did not use adjusted gross income to distribute taxpayers across income categories. We used something called "expanded income," which is somewhat closer to economic income than is AGI. Consequently, his table not only confused very different methodologies but also different statistical definitions. Thus his comparison between our tables and actual data is doubly meaningless—if that is logically possible.—RUDOLPH G. PENNER, *Director, Congressional Budget Office, Washington.*

[From the Wall Street Journal, May 1, 1984]

FAIRNESS

Just when you thought it was safe to go out in the water . . . up pops . . . The Fairness Issue!

Like the metal shark in "Jaws," the Fairness Issue is a kind of prop, contrived by

people who have a particular vision of fairness—namely redistributionism—and who, far from viewing it as an issue, have made up their minds. Their purpose, using reports by the Congressional Budget Office and the Treasury on the "Reagan" tax and budget cuts, is to spoil your fun at the economic recovery beach. Read the studies carefully, though, and you won't be scared off.

In separate articles on this page, Irving Kristol and Lawrence S. Pratt recently harpooned the CBO report. Frankly, we found CBO Director Rudolph Penner's response in defense of his underlings on our letters page yesterday rather disingenuous. Perhaps the CBO is precluded from "value judgments" and perhaps dynamic analysis is more difficult than the CBO's static analysis, as Mr. Penner says. But a lot of liberal politicians had no trouble finding in the CBO report the value judgment they were looking for, that Mr. Reagan's tax program has shifted tax burdens from the rich. And that is clearly untrue.

Mr. Penner pleads that the CBO's report was only a quantitative starting point for the debate. The "difficult" dynamic analysis of behavioral response to tax cuts was left to others. That's a little like claiming you have baked a chocolate cake but neglecting to mention that you didn't put in the chocolate. Economics to have any meaning at all has to be a behavioral science. The CBO, by skirting the question of a supply-side response to tax cuts, made possible the rapid blossoming of specious arguments that there is no supply-side response.

The report also ignores any "indirect" economic effects. Let's say the government cuts $100 billion from the federal budget by reducing Social Security, welfare and all other federal benefits by an average of $500 a family. And let's say that as a result of this budget balancing move, interest rates and inflation plummet, as deficit cutters say they would, raising the purchasing power of the average family by perhaps $1,000. Simple arithmetic would suggest that, on average, every family would be $500 better off. But CBO-style analysis would still have the average family $500 worse off.

Indeed the CBO urges, with gross understatement, that its analysis "be used with caution." The press gives this academic caveat all the heed a chain smoker affords the Surgeon General's warning while ripping into a pack of Camels. CBO findings are not only not qualified, but are frosted with pseudoscientific precision: "Well, Joe, if you earned $14,703, you were 482 dollars and 18 cents worse off," says the matter-of-fact voice, as if we were talking about the boiling point of water or the consequences of smoking 2.83 packs a day.

Of greater interest are the Treasury figures dealing with the tax side, outlined here recently. "Fairness" critics predicted that cutting top marginal tax rates to 50% from 70% would shift tax burdens to the poor. Yet in 1982, when such a cut took effect, individuals making $1 million or more paid 40% more than in 1981.

As some sensible letter writers note nearby, part of the surge was induced by bracket creep—taxpayers being pushed into higher brackets largely by inflation. Still, inflation slowed to 4% in 1982, and "thanks" to the recession, nominal GNP rose only 4%. Remember, it's growth in nominal income, not inflation itself, that pushes people into higher brackets. Higher prices are simply what make the process unfair. It seems very unlikely that in a recession year bracket creep accounted for a 40% rise in high-income tax payments and very likely that reduced incentives to shelter income were mainly responsible.

Likewise, there is reason to believe that once the cut in top rates passed in August 1981, people crammed income into 1982 to take advantage of the cut. Others claimed more, largely because of a cut in the capital-gains tax. But these observations do not refute the supply-side case; they enhance it providing yet more evidence that people respond to incentives.

As Mr. Kristol observed, there is room for a legitimate debate on fairness. But, in all fairness the debate should be based on what the real consequences of a government action are—as yearly as they can be discovered—rather than on a bunch of meaningless numbers. And if, after having discovered that lower tax rates on upper bracket earners induce them to pay more taxes, there are still people who want to punish them with high rates, let them say so. They will have to admit that in the name of "fairness" they are willing to settle for Pyrrhic victories, but that's their business. "Jaws" makes good drama, but it is not persuasive to argue that it is good public policy.

STATEMENT ON FAIRNESS AND THE ECONOMIC RECOVERY TAX ACT BEFORE THE JOINT ECONOMIC COMMITTEE

I am Richard Rahn, Vice President and Chief Economist for the Chamber of Commerce of the United States. On behalf of our over 200,000 members, I would like to thank you for the opportunity for expressing our views on the fairness of the Economic Recovery Tax Act of 1981 (ERTA).

THE GOAL OF ERTA

ERTA led to at least a 25 percent reduction of marginal tax rates for everyone and about a 7.5 percent reduction in the average person's tax liabilities. Single taxpayers making $41,500 or more and married taxpayers making more than $60,000, however, saw their rates reduced from 70 percent to 50 percent, or about 29 percent.

Proponents of the Reagan tax cuts urged that the tax cut would encourage more work, savings and investment and would lure the rich out of tax shelters and into taxable investments. This would increase the tax base and actually increase the share of taxes paid by the rich. Further, everyone would benefit from the economic growth sure to follow.

In effect, with the rate cut from 70 percent to 50 percent, the rich would both earn and "show" more income. In the long run, the tax cuts, by increasing the return to capital and labor could also lead to robust economic growth, an even greater expansion of the tax base and more economic benefits for everyone.

The Chamber of Commerce of the United States is the largest federation of business and professional organizations in the world, and is the principal spokesman for the American business community. It represents about 200,000 members—business firms, state and local chambers of commerce, and trade and professional associations.

More than 85 percent of the Chamber's members are small firms with fewer than 100 employees. Yet, virtually all of the nation's largest companies are also active members. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

Besides representing a cross section of the American business community in terms of number of employees, the Chamber represents a wide management spectrum by type of business and location. Each major classification of American business—manufacturing, retailing, services, construction, wholesaling, and finance—numbers more than 14,000 members. Yet, no one group constitutes as much as 26 percent of the total membership. Further, the Chamber has substantial membership in all 50 states.

The Chamber's international reach is substantial as well. It believes that global interdependence provides an opportunity, not a threat. In addition to the 50 American Chambers of Commerce Abroad, an increasing number of members are engaged in the export and import of both goods and services, and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on national issues are developed by a cross section of its members serving on committees, subcommittees and task forces. Currently, some 1,800 business people participate in this process.

WHAT ERTA'S DETRACTORS SAID

Many doubted the efficacy of these "supply-side" incentive effects. They maintained that such a drastic cut of marginal rates would have no impact upon the tax base. As a consequence, less taxes would be collected from the rich and the poor would have to shoulder a larger percentage of the tax burden. Some have argued for three years that the tax cut favors the rich and have attempted to sell that notion.

This is a very sensitive issue and the resolution of the debate will influence the course of economic policy for decades to come. A recent volley in the continuing battle over the actual effects of the Reagan tax cuts was a Staff Analysis prepared by the Congressional Budget Office (CBO). The CBO study, entitled "The Combined Effects of Federal Taxes and Spending Programs" since 1981, was a static estimate of net tax reduction by income class and gave the distinct impression that the tax cuts would actually reduce the share of taxes paid by the rich and increase the poor's share. Some members of the press, ever eager to pounce on the "fairness issue", utilized the CBO study to attack Reaganomics. "Rich gain, the poor lose", read the headlines.

REAGAN TAX CUTS SOAK THE RICH

The results for 1982 are now officially in. They show emphatically that incentives do matter. The percentage of taxes paid by the rich has increased while the percent paid by the poor has actually fallen.

The actual results for 1982 are shown in table 1. They clearly document the powerful incentive effects triggered by the 1981 tax cut. The percentage of taxes paid by those in the income classes above $50,000 actually increased. Individuals making $1 million or more paid 42 percent more taxes in 1982, after the tax cut. As shown by table 1, a reduced share of taxes was paid by lower income groups.

The pattern is clear. If one wants to truly "soak the rich," the way to do it is to reduce high marginal tax rates. Some of the most able ministers of public finance, cognizant of the disincentive effects of taxation, have employed this tactic to boost both economic growth and tax revenues. In the nineteenth century, William Gladstone of England often employed the metaphor that imposing high taxes on the rich was like killing the goose that laid the golden egg. His tax cuts

were an important ingredient in the booming economic growth of the British Empire during the middle and late nineteenth century. Andrew Mellon, Secretary of the U.S. Treasury during the 1920s, used the same policies to boost taxes paid by the rich. He argued, "Is it fair to tax the rich at a very high rate and collect a paltry amount or tax them at a lower rate but get more money?"

THE FAILURE OF STATIC ECONOMICS

Apparently, history seem easily neglected when it comes to examining the actual effects of the Reagan tax program. Although it was merely a static estimate, the CBO analysis, for example, was used as a basis for prediction, by others. The CBO simply "projected" tax shares by multiplying the previous tax base with a lower tax rate. This static arithmetic exercise would obviously lead to a smaller share paid by the upper income groups since the tax cuts were initially greater for this group. The CBO exercise was inexcusably misleading because they employed their static revenue estimates in a March, 1984 report even though actual results were available in January 1984.

Table 2 illustrates the large reduction in tax revenues found by CBO in its study. In 1982, for income categories above $40,000, CBO projected a $23 billion shortfall. The actual results show that tax revenues from this group actually rose by approximately $4.5 billion. This increase is all the more impressive since it occurred in during a deep recession. The marginal rate reduction caused higher income taxpayers to work more, invest more and to invest in higher risk-higher return assets; the lower rates also encouraged the rich to shelter less income, placing their resources instead in more productive areas. These effects were so powerful that they overshadowed the effects of the cyclical downturn.

Actual results for future years will almost certainly show greater taxes collected from higher income taxpayers, not less. Whereas many interpreted the CBO study to mean that the rich will be paying less in taxes in response to a cut in marginal tax rates, the available data indicates just the opposite. Apparently, when it comes to actual results, supply-side incentive economics is alive and well.

In the face of such overwhelming evidence, critics continue to quibble. John Berry of the Washington Post argues that the tax cuts have, nevertheless, been unfair since total income, in 1982, has fallen for income classes below $25,000. However, as the Wall Street Journal notes, this has little to do with fairness. The fact is that more lower bracket taxpayers simply moved up the income ladder. 20.6 million taxpayers claimed income between $25,000 and $50,000 in 1981, 22 million did so in 1982.

A legitimate concern is whether the wealthy paid increased taxes simply due to bracket creep. Are the rich simply paying more because this group is becoming larger through bracket creep?

Probably not. 1982 was a year of low inflation; the Consumer Price Index (CPI) increased by only 3.9 percent. Consequently, not much bracket creep occurred. Furthermore, the percentage of taxes paid by the rich has increased only in those years where they have received significant tax decreases. From 1973 to 1983, the most important bracket creep years, the sharpest rise in the percentage of taxes paid by the rich occurred only in those years which coincided with tax reduction. For example, the effective maximum rate on capital gains above $50,000 fell from 49 percent to 28 percent in 1978, then to 20 percent in 1981. It was over this same period that we experienced a significant increase in the percentage of taxes paid by the rich, the sole group for whom capital gains are an important source of income.

WHY MOST ECONOMISTS' FORECASTS ARE ERRONEOUS

Why is it that many, perhaps most, economists, continue to believe that the path to higher tax revenues is to push tax rates even higher? The answer: because they fail to incorporate the incentive effects of taxation into their analyses. Within their macroeconomic models lurk a strange sort of "economic man," a person who does not respond to changes in the relative rewards or trade-offs between work and leisure, consumption and savings, tax-sheltered and nonsheltered investments. Human nature is blithely ignored.

The failure to consider the incentive effects of taxation is clearly stated, for example, in the statement of methodology in the CBO report. The report notes that their "estimates do not take account of an individual's behavior resulting from tax changes as they affect the household or the economy at large." In effect, this statement is equivalent to saying that "we are going to estimate the effects of Reaganomics by assuming that Reaganomics does not work." Recall, the point of Reaganomics was that the supply-side incentive effects of the 1981 tax cuts.

INDEXING MUST BE RETAINED

Beginning in 1985, the personal exemption and tax rate brackets will increase each year to compensate for increases in the cost of living as measured by the CPI. This provision is most important to lower and middle income taxpayers; wealthy taxpayers are already in the top bracket and therefore will remain subject to the same top marginal rate whether the tax code is indexed or not.

Tax indexing assures honesty and integrity in the tax policy process. It will prevent continued unlegislated increases in real individual tax liabilities that result entirely from the effects of inflation on the tax system. If tax indexing were repealed, individual and business taxpayers at the lower income levels would continue to be taxed at higher and higher rates. Furthermore, inflation would lessen the value of the personal exemption and zero bracket amount, which are relatively more important to lower income persons.

As noted above, the relative tax burden on the wealthy has increased over the past several years. This is because we have had de facto indexing. The 25 percent cut in marginal rates has benefitted lower income taxpayers disproportionately over the past several years; middle income taxpayers received a reduction in rates each year—helping them to compensate for bracket creep—while the highest income taxpayers remained subject to the highest marginal rates. The rate cuts helped lower income taxpayers avoid bracket creep, even though the code was not indexed. Inflation increased their nominal incomes, but not their real incomes, and would have forced them into ever higher tax brackets if the tax cuts were not taking effect at the same time.

The Congressional Research Service in its January, 1983 study noted that, because of narrower low income tax brackets and fixed personal exemptions, inflation disproportionately hurts lower and middle income taxpayers. It concluded that this continual increase in their tax burden will be stopped by indexing. Instead of increasing the burden on the middle income taxpayers, it concludes that "once indexation begins this new distribution will, for all practical purposes, be 'locked in' ". That is certainly preferable to increasing the burden on middle income taxpayers by continued and unlegislated bracket creep.

RECORD CAPITAL FORMATION

The Accelerated Cost Recovery System (ACRS) was a cornerstone of ERTA and it is working. Replacement of the inadequate Asset Depreciation Range (ADR) system with ACRS cut the cost of capital and allowed businesses to make the investment in plant and equipment needed to drive the recovery. Nonresidential fixed investment (equipment and machinery) has increased by 16.5 percent in the five quarters since the recovery began in the fourth quarter of 1982. This is the highest rate of capital formation in any recovery since 1949 (when it grew at 22.5 percent). The average increase during post-1950 recoveries is 8.4 percent, half of the present rate.

Capital formation during the recovery

Recovery began:	*5 quarter* [1]
1949	19.1
1954	15.3
1958	10.5
1961	10.7
1970	6.3
1975	8.8
1980	7.8
Average of all 7	12.1
Average last 4	8.4
1982 most recent	16.5

[1] Percentage increase in fixed nonresidential investment.

CAPITAL RECOVERY DURING THE RECESSION

Quarters after peak	Average of 7 postwar recessions	Last recession
1 (percent)	−2.0	+0.2
3 (percent)	−6.4	−4.1
5 (percent)	−14.2	−7.5

Capital formation did not fall nearly as much during the last recession because of ACRS.

Increased capital formation increases productivity, employment and competitiveness. Because pre-ERTA allowances were insufficient, the U.S. economy has fallen behind, stagnated and become uncompetitive. Our capital stock is much older than our trading partners because our allowances have been insufficient for decades. Any further cutbacks in ACRS will sabotage the progress made to date.

The tax law has undergone many changes over the last seven years—often several major changes in one year. Businesses have watched tax cuts be enacted only to be undone within the year. This sort of activity makes it difficult to plan. Moreover, it makes every tax reduction suspect and therefore reduces the efficacy of its incentive effects.

Many businesses choose not to take "advantage" of new tax incentives because they expect the new advantages to disappear. They will not make marginal investments on the basis of tax provisions if they expect them to disappear, thus rendering their investments unprofitable.

ACRS under ERTA was simple. The Tax Equity and Fiscal Responsibility Act of 1982

(TEFRA) introduced new complexities. Any additional attempts to decrease depreciation allowances will just add complexity. This ever increasing complexity is rapidly undoing the progress made in 1981.

One of the most important incentive effects of lower taxation is the increased reward to both savings and investment. Lower marginal tax rates reduce the tax wedge that exists between savings and investment. It simultaneously increases the after tax reward to savings and the after tax return on capital investment. As Dr. Norman Ture, former under secretary of Treasury for tax and economic affairs, notes, this has been an important characteristic of the current expansion. The recovery has been literally driven by gross private investment.

Dr. Ture states that real gross private domestic investment surged ahead by 37.4 percent from the fourth quarter of 1982 through the fourth quarter of 1983, a growth rate almost seven times that of consumption, and substantially faster than the 26.4 percent average of the first-year growth rates of investment spending for prior postwar recoveries. Producer's durable equipment outlays were up a remarkable 20.3 percent, almost double the average first-year postwar recovery rate. Residential investment, presumably a casualty of "gigantic federal budget deficits", increased during the first year of the current recovery by 37.4 percent, more than twice the postwar average first-recovery-year rate. Consumption certainly has not been the prime mover of this recovery to date. Capital formation has provided most of the momentum.

THE FUTURE COURSE OF FISCAL POLICY

As we look beyond the impact of the 1981 tax cut on 1982 tax revenues, the positive incentive effects of the tax cuts continue to unfold. The robust expansion presently underway has developed unexpected speed and power. The incentive effects of taxation have played an important role, particularly in business fixed investment. The effects of lower taxation not only contributed to the rising tax share paid by the rich, but also to the strength of the present economic recovery.

What this adds up to is a surprisingly large increase in the tax base. The incentive based tax cuts have been responsible for a 12.5 percent increase of taxes collected in the first seven months of 1984 compared to 1983. In effect, economic growth is increasing federal revenues at the same time it is cutting federal spending. Better business conditions have resulted in higher tax revenues and reduced unemployment benefits. If this trend continues, the FY '84 deficit would be $37 billion less than the $195 billion FY '83 deficit.

Having failed to make much of a dent in the federal budget, some now cast their eyes upon so-called tax "reforms" to close the deficit. For the most part, this translates into a euphemism for major tax increases. But where are the tax revenues to come from?

Evidence provided by the Internal Revenue Service (IRS) indicates it will not come from the rich. Increasing tax rates which the rich will simply drive them into tax shelters and reduce federal revenues. The Grace Commission has calculated that even if the IRS confiscated one hundred percent of all remaining taxable income above $75,000, it would run the government for no more than ten days.

This means that any tax increase will come out of the paychecks of lower and middle income class taxpayers. This group accounts for ninety percent of all personal income tax payments. Their 1981 tax cuts have already been whittled away by bracket creep, Social Security tax increases, and higher excise taxes. How much further can we dip into their pocketbooks?

The message should be clear by now. Any major assault on the federal deficit must be based on cuts in the growth of federal expenditures. An increase in tax rates would create strong disincentive effects that would eradicate any gains made by reducing the demand for credit by the federal government. Furthermore, it would not lead to anything like the increased tax revenues that proponents of tax increases claim. We must face up to the problem that the federal government is an extravagant spender, and that one does not cure the habits of an extravagant spender by providing him with more funds.

CONCLUSION

The results of the 1981 tax cut are filtering in. They show that these tax cuts have had strong incentive effects. They have increased the share of taxes paid by the rich by causing them to produce more and to shelter less income. They have been a prime ingredient in the current economic expansion. ACRS has caused a dramatic increase in capital formation which is vital for continued economic growth. This proven success should place the focus of deficit reduction on the expenditure side of the ledger. Major tax increases threaten to reverse all the gains that have been made so far.

TABLE I.—TAX SHARE UNDER ERTA 1981–82 CUT

[Dollars in millions]

Net income group	Tax revenues collected		Percent change	Percent share of taxes paid	
	1981	1982		1981	1982
$0 to $10,000	$8,634	$7,627	−12	3.0	2.7
$10,000 to $15,000	17,680	15,873	−10	6.1	5.6
$15,000 to $20,000	23,385	20,425	−13	8.0	7.2
$20,000 to $50,000	145,412	140,135	−4	50.0	49.1
$50,000 to $100,000	52,156	51,732	−1	17.9	18.1
$100,000 to $500,000	34,613	36,723	+6	11.9	12.9
$500,000 to $1,000,000	4,118	5,719	+39	1.4	2.0
$1,000,000 and up	4,901	6,945	+42	1.7	2.4
Total	290,900	285,179	−2	100.0	100.0
Summary:					
Under $20,000	49,699	43,925	−12	17.1	15.5
$20,000 to $50,000	145,412	140,135	−4	50.0	49.1
Over $50,000	95,788	101,119	+6	32.9	35.4

Source: U.S. Treasury, Office of Tax Analysis.

TABLE II.—CONGRESSIONAL BUDGET OFFICE ESTIMATES OF TAX CHANGES RESULTING FROM ERTA AND TEFRA BY INCOME CATEGORY CALENDAR YEARS 1983–85

[In billions of dollars]

Calendar year	All households	Household income				
		Less than $10,000	$10,000 to $20,000	$20,000 to $40,000	$40,000 to $80,000	$80,000 and over
1982	−37.8	−.1	−1.0	−13.6	−16.0	−7.1
1983	−68.0	−.1	−4.9	−25.1	−27.8	−10.0
1984	−93.6	−.4	−7.3	−35.0	−38.8	−12.1
1985	−115.9	−.9	−9.8	−44.1	−47.9	−13.3

Source: Congressional Budget Office. Based on CBO economic projections of February 1983.

TAX RATES, TAXABLE INCOME, AND THE DISTRIBUTIONAL EFFECTS OF THE ECONOMIC RECOVERY ACT OF 1981

(By James Gwartney*)

EXECUTIVE SUMMARY

Many observers are misled as to the distributional effects of a change in tax rates because they erroneously assume that taxable income is unaffected by tax rates. When tax rates decline, particularly high tax rates, people will respond by spending more time earning taxable income and less time (and money) with investment consultants and tax experts figuring out how to shelter their income. As a result, lower rates will expand the tax base. This factor is particularly important in the upper tax brackets.

Once allowance is made for the responsiveness of the tax base to the lower rates, comparison of the 1981 and 1982 tax data indicate that the rate reductions shifted the burden of the income tax toward high income taxpayers. Even though the 50 percent rate ceiling imposed in 1982 cut the rates of high income taxpayers by as much as 28.6 percent (from 70 percent to 50 percent), the tax revenues collected from the wealthy grew. The revenues collected from the top 1.36 percent of taxpayers, the group most directly affected by the sharply lower rates, jumped from $58.0 billion in 1981 to $60.5 billion in 1982. The top 1.36 percent of taxpayers shouldered 21.8 percent of the tax burden in 1982, up from 20.4 percent in 1981 (see Exhibits 4 and 5).

At the other end of the income spectrum, the tax liability fell. The bottom 50 percent of income recipients paid income taxes of $19.5 billion in 1982, down from $21.7 billion in 1981. The share of total income tax revenues contributed by the lower half of income recipients fell from 7.6 percent in 1981 to 7.0 percent in 1982 (see Exhibit 5). Far from creating a windfall gain for the rich, as some have charged, the 1981 tax cut actually shifted the burden of the income tax toward those with higher incomes, including taxpayers who received substantial rate reductions as the result of the 50 percent rate ceiling applicable in 1982.

There is nothing mysterious about the shift in tax liability emanating from the 1981 tax cut. It was totally predictable. The shift in the tax liability toward the rich reflects the greater responsiveness of the tax base to rate changes in the upper brackets. As a result, a roughly proportional rate reduction will always shift the tax burden toward the upper tax brackets. Both the Kennedy-Johnson tax cuts of 1963–1965 (see Exhibit 6) and the rate reductions of the 1980s illustrate this point.

Contrary to the conventional wisdom, it is not easy to determine the impact of tax rate reductions on the distribution of the tax burden across income groupings. Economic theory indicates that the taxable income base will be negatively related to tax rates, particularly in the upper income brackets. Failure to incorporate the impact of the rate changes on the taxable income base will result in potentially misleading projections. This is precisely the problem with static income projections. They are based on the fallacious assumption that taxable income is unaffected by changes in tax rates.

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This study integrates the impact of the rate changes on the taxable income base when estimating revenue changes across income groupings. Comparative income and revenue data for 1981 and 1982 are utilized to analyze the distributional effects of the Economic Recovery Tax Act of 1981 (ERTA). The findings are discussed in light of both economic theory and other research in this area.

Tax facts and tax policy

Historical evidence sheds light on the likely distributional effects of ERTA. The following four tax policy facts will help the reader better understand the forces at work.

Fact 1: Literally millions of Americans now pay marginal tax rates that were previously reserved for only the rich and super rich. Since the tax rate increases were brought about by inflation and the accompanying bracket creep rather than legislative action, few Americans realize how much tax rates have increased. There has been a dramatic increase in the number of taxpayers paying marginal tax rates in the 30, 40, and 50 percent ranges during the last two decades. Exhibit 1 illustrates this point. In 1965, only 2.9 percent of the families (1.13 million returns) filing joint returns confronted a marginal federal income tax rate of 28 percent or more. By 1979, the figure had jumped to 35.3 percent (15.238 million returns), a twelvefold increase over the 1965 figure. Stated another way, by the end of the 1970s most persons in the upper third of the income distribution faced marginal tax rates previously confronted by only the very rich—the top 2 or 3 percent of earners. As Exhibit 1 shows, the picture is the same for still higher marginal tax rates. While only 1.0 percent (376 thousand) of the taxpayers filing joint returns in 1965 paid a marginal rate of 37 percent or more, the comparable figure in 1979 was 12.8 percent (5.533 million returns). A similar increase was recorded in the 49 percent marginal tax bracket.

These figures, as dramatic as they are, actually understate the increases in marginal tax rates during the last two decades. In the mid-1960s, persons facing marginal rates of 30 percent or more would have had earnings above the cutoff point of the Social Security payroll tax. This would not be true today. For most taxpayers in the 30 percent federal income tax range, the Social Security tax boosts their effective marginal rates another 6.7 percent. If they live in states with an income tax, this tax takes another 5 or 10 percent of their additional earnings. Clearly, the tax collectors take 40 percent or more of each additional dollar earned by many middle and upper middle income families—particularly those with dual earners.

Fact 2: As marginal tax rates increased during the post-1965 period, tax avoidance activities soared. Sheep may stand still while they are sheared, but taxpayers do not. Predictably, they responded to the higher rates by increasing their tax avoidance activities. Self employment, which offers greater opportunity for tax avoidance, expanded rapidly as the marginal tax rates rose. The underground economy grew at a rate twice that of the "reported income" economy. The prices of depreciable assets, including housing, increased more rapidly than the general price level, as investors sought out projects yielding accounting losses while appreciating in value. Of course, the losses reduced their current tax liability while the appreciation transformed ordinary income into a capital gain.

In several areas, this expansion in tax avoidance is clearly observable. A comparison of income losses relative to gains in major categories affected by tax shelter investments illustrates this point. As Exhibit 2 shows, during the 1966–1981 period, there was a sharp increase in net income losses from rents, business and professional practice, farming, partnerships, and small business corporations, the income categories most directly affected by tax shelter investments. In 1966, net income gains from these five categories were seven times greater ($52.23 billion compared to $7.43 billion) than the net income losses. In each category, net income gains were substantially greater than the losses. By 1981, the picture had changed dramatically. By 1981, the net income gains were only one and a half times greater ($122.28 billion compared to $80.74 billion) than the losses. In four of the five categories the losses actually exceeded the gains.

Fact 3: High marginal tax rates promote economic waste and discourage productive activities. When individuals bear the full cost of their actions and are able to reap fully the gains that occur from their activities, they use resources wisely. When I bear the full cost of food, clothing, telephone service, recreation facilities and thousands of other items, you can be reasonably sure that I will conserve on my use of these items. I will not consume them unless I value the services that they provide more than the cost of the provision. Similarly, when I am able to reap the full benefits of my productive activities, you can be sure that I will undertake even unpleasant tasks when the benefits (usually personal income) exceed the costs. When individuals bear the full cost and reap the full benefits, they will use resources in a wealth-creating manner. They will engage in positive-sum economic activity.

In contrast, as economists have long been aware, problems arise when a sizable share of the benefits or costs emanating from economic activity accrues to non-participating parties. This is precisely the problem that arises when marginal tax rates are high. High marginal tax rates make it possible for individuals to enjoy tax deductible items at a fraction of their costs to our economy. High marginal tax rates make tax deductible expenditures cheap to the taxpayer-consumer, but not to society. The personal cost of tax-reducing expenditures such as business-related vacations, luxury restaurants, nice automobiles, plush offices, mortgage financed homes and literally thousands of other items are substantially reduced because such items are deductible. However, deductibility does not reduce the cost to society of the valuable resources used to produce these commodities. Since they bear only a fraction of the costs, individuals often choose the deductible goods and services even though the items cost more to produce than they are valued by the taxpayer-consumer. Wealth is destroyed by this process; it wastes our valuable resources.

Simultaneously, high marginal tax rates reduce the incentives of individuals to engage in wealth-creating activities that generate taxable income. When taxpayers are permitted to keep only 40 or 50 percent of the fruits of their labor, they spend less time working in the taxable income garden. Lawyers, doctors and other high income professionals spend more time on the golf course and consulting with their accountants and less time serving their clients. Similarly, secondary workers decide that their job is not worth the hassle when they get to keep only a fraction of every dollar they earn. Individuals forego wealth-creating activities because they are unable to capture fully the fruits of their labor. The result—a smaller output and slower economic growth.

It is no coincidence that the 1970s were a period of both rising marginal tax rates and stagnating economic growth. The incentive structure created by the former leads to the latter. Rising marginal tax rates and stagnating economic growth—predictably, the two will be associated.

Fact 4: Essentially what the Economy Recovery Tax Act of 1981 (ERTA) did was correct for bracket creep and higher Social Security tax rates. Except for the imposition of the 50 percent rate ceiling which took effect in 1982, ERTA did little to rollback high marginal tax rates. In a nutshell, it kept rates from increasing. Exhibit 3 indicates the marginal tax rate a two-earner family of four would confront if their money income just kept pace with inflation. Thus, their inflation adjusted family income is constant. Only the federal income and Social Security taxes are considered. The data indicate that by 1984, marginal tax rates are slightly lower than 1980, but almost identical to the marginal rates of 1979 for families with real incomes (1979 dollars) of less than $75,000. Since returns with an adjusted gross income of $75,000 or less constitute approximately 98.5 percent of the total, it is clear that ERTA only modestly reduced the enormous rate increases that took place during the 1970s.

The incentive effects of a proportional rate reduction differ across tax brackets

Many observers are misled as to the distributional effects of a change in tax rates because they erroneously assume that taxable income is unaffected by tax rates. Static revenue comparisons based on the assumption that taxable income would be the same before and after the rate changes are meaningless. They are akin to General Motors comparing before and after revenues associated with, for example, a 10 percent price reduction, assuming that the number of GM automobiles purchased by consumers would remain constant. However, since consumers would buy more GM cars at the lower price, such a calculation would be of little value to a manager seeking to determine the impact of a price reduction on GM revenues. Similarly, since taxpayers will generate more taxable income at the lower rates, the static projects reveal little about the impact of the lower rates on tax revenues.

As Richard Stroup and I discussed in an article on the 1964 tax cut, economic theory provides insight on the distributional effects of a proportional tax rate reduction.[1] The 1964 tax cut reduced rates across the board by approximately 20 percent. Except for the 50 percent rate ceiling, ERTA also reduced rates proportionally. For 1984, both upper and lower rates applicable to nominal income are approximately 23 percent lower, as compared to the 1980 rates.

When tax rates fall, particularly high tax rates, people will respond to the lower rates by spending more time earning taxable income and less time (and money) with investment consultants and tax experts figuring out how to shelter their income. The result—the tax base expands due to the lower rates. Higher rates exert the opposite

[1] James Gwartney and Richard Stroup, "Tax Cuts: Who Shoulders the Burden," Economic Review: Federal Reserve Bank of Atlanta, March 1982.

effect. For an economist, the negative relationship between tax rates and the size of the tax base should be obvious. After all, it is merely a reflection of the basic economic postulate that "incentives matter" in a predictable way.

From an incentive standpoint, what really matters is the impact of a tax rate change on after-tax income. People work, save, and invest mainly for "take home" income. The larger the share of additional earnings that the taxpayer is permitted to keep, the greater his or her incentive to generate additional income.

The incentive effects of a proportional tax reduction will differ considerably across tax brackets. Proportional rate reductions, such as the 1963-65 and 1981-83 tax cuts, will increase the take-home pay derived from additional earnings far more in the upper brackets than for the lower brackets. Perhaps some numbers will drive this point home. Suppose tax rates are cut across the board by 20 percent. In the 10 percent bracket, the rate is cut to 8 percent. For the 50 percent bracket, the rate falls to 40 percent and the 70 percent rate declines to 56 percent. Now, consider how this proportional rate reduction impacts take-home pay. For persons in the 10 percent bracket, after-tax income increase from 90 cents per dollar of additional earnings to 92 cents, a paltry 2.2 percent increase. Clearly this small increase is unlikely to exert a major impact on the incentive of those taxpayers to earn more taxable income.

In contrast, look what happens in the 70 percent bracket. Here the 20 percent rate reduction increases take-home pay from 30 cents to 44 cents per dollar of additional earnings—an increase of 47 percent. This exerts a substantial incentive effect. Taxpayers in this and other high income brackets are now permitted to keep a significantly larger proportion of their before tax earnings. Predictably, they will respond by earning more taxable income and engaging less intensely in tax shelter activities which generate less tax savings at the lower rates.

How does this incentive structure affect the distribution of the tax burden across income groupings? The answer is now straightforward. Since the rates were all reduced by the same percentage, the size of the revenue reduction will be inversely related to the changes in taxable income. If taxable income is virtually unaffected by the rate reductions, as is likely to be the case in the lowest marginal tax brackets, revenues will fall by the same percent as the rates. In these brackets, a 20 percent rate cut will lead to approximately a 20 percent reduction in tax revenues. In contrast, in the upper income (and marginal tax) brackets where the incentive effects on take-home pay are greater, increases in the tax base will at least partially offset the lower rates. In these brackets, tax revenues will fall by less than the 20 percent rate reduction.

Since tax revenues fall by a smaller amount in the upper income brackets, the share of taxes collected from high income taxpayers expands. As the Laffer curve emphasizes, if the expansion in the revenue base in the upper brackets is large enough, lower rates may lead to an increase in revenues. However, even if this is not the case, the incentive structure indicates that the tax burden is shifted toward the rich.

The distributional effects of ERTA

Thus, economic theory indicates a proportional rate reduction will shift the tax burden to high income taxpayers because the taxable income base will be more sensitive to rate changes in the upper tax brackets. However, the 50 percent tax ceiling reduced the highest tax rates (on non-personal service income) more than proportionally. Unless the tax base is highly responsive in the upper brackets, the 50 percent ceiling may reduce the share of revenues collected from taxpayers previously facing marginal rates of 50 percent or more. The test of a theory is in its ability to predict. We now turn to the empirical evidence.

Exhibit 4 presents income and revenue data for taxpayers most directly affected by the imposition of the 50 percent rate ceiling. In recent years, itemized deductions have averaged slightly more than 20 percent of adjusted gross income (AGI). Assuming itemized deductions summed to 20 percent of AGI, taxpayers filing joint returns with adjusted gross incomes in excess of $75,000 would have confronted marginal tax rates of more than 50 percent in 1981. The 50 percent rate ceiling would have reduced the marginal rates of similarly situated taxpayers in 1982. The rates (on non-personal service income) of those at the top of the income pyramid were slashed from 70 percent to 50 percent, a whopping 28.6 percent cut in one year. Thus, in this area the rate reductions in 1982 were both real and significant.

In 1981, 1.36 percent of the returns had gross incomes of $75,000 or more. Exhibit 4 compares the income and tax liability of the top 1.36 percent of tax returns in 1981 with the parallel data for 1982. Just as our theory indicated, the reported adjusted gross income, wages and salaries, and taxable income of this group of taxpayers grew quite rapidly. Even though 1982 was a recession year and nominal gross national product rose by only 4 percent, AGI, wages and salaries, and taxable income for the top 1.36 percent of taxpayers, each expanded at double digit rates. As a result of the rapid growth of taxable income, the tax revenues collected from the top 1.36 percent of taxpayers rose from $58.0 billion in 1981 to $60.5 in 1982, a 4.3 percent increase in a recession year. These findings illustrate that the taxable income base is quite sensitive to changes in the rates, at least in the upper tax brackets.

Exhibit 4 also presents the income and revenue data for all other taxpayers (the bottom 98.64 percent). As expected, the reported income of other taxpayers grew less rapidly, more in line with the growth rate of GNP. As a result, the tax liability of the bottom 98.64 percent of taxpayers, reflecting the lower rates in 1982, declined by 4.3 percent. Thus, even though the 50 percent ceiling cut the top rates by a larger amount, tax revenues collected from the taxpayers most directly affected by the rate ceiling expanded by 4.3 percent while the tax liability of other taxpayers declined by an identical percentage.

Exhibit 5 presents data on the share of tax revenues collected from a broader set of income groupings for both 1981 and 1982. The tax liability of the bottom 50 percent of returns fell from $21.7 billion in 1981 to $19.5 billion in 1982. In these lower tax brackets, the 10 percent lower rates resulted in approximately 10 percent less tax revenues. Thus, the bottom 50 percent of returns contributed only 7.0 percent of the tax revenues in 1982, down from 7.6 percent in 1981. The tax liability of taxpayers in (a) the 50 to 75 percentile and (b) the 75 to 98.64 percentile groupings also declined by 5.8 percent and 2.8 percent respectively. Thus, the share of income tax revenues paid by these groups declined slightly. In contrast, the share of income taxes paid by the top 1.36 percent rose from 20.4 percent in 1981 to 21.8 percent in 1982. Note the decline in tax liability was inversely related to income—the largest reductions in tax liability were in the lowest income and marginal tax brackets. As economic theory indicates, this is precisely the pattern that one would expect from a roughly proportional rate reduction. Far from creating a windfall gain for the rich, as some have charged, ERTA actually shifted the burden of the income tax toward taxpayers in upper brackets, including those who received the largest rate reductions as the result of the 50 percent rate ceiling.

Exhibit 6 presents parallel data for the 1964 tax cut. Just as theory predicts, the proportional rate reductions of 1964-65 also shifted the tax burden to the rich. The tax revenues collected from the bottom 50 percent of returns fell by 6.4 percent between 1963 and 1965. Smaller reductions in tax liability accrued to those in the 50 to 75 percentile and 75 to 95 percentile groupings. In contrast, the revenues collected from the top 5 percent of returns rose by 16.9 percent between 1963 and 1965. As a result, the share of tax revenues collected from the top 5 percent of taxpayers rose from 35.6 percent in 1963 to 38.5 percent in 1965. The proportion of revenues collected from all other groups fell. Just as economic theory predicts, the proportional rate reductions of 1963-1965 like the reductions in 1981-1982 shifted the tax burden to the rich.

Two fallacious views as to why high income taxpayers paid more taxes in 1982

Confronted with the evidence that the tax burden shifted toward upper income taxpayers in 1982, critics of the "incentives matter" view have raised two points. First, some have argued that the pattern merely reflects cyclical conditions—the recession of 1982. Of course, a recession does reduce incomes. However, there is no reason to believe that it reduces incomes more in lower tax brackets than in upper brackets. In fact, the evidence indicates that business income and profits fluctuate more than other components of income over the business cycle. This being the case, a recession is more likely to *retard* incomes in the upper tax brackets more severely than in the lower brackets because business income and profits are a larger component of total income for those with higher incomes. However, the most damaging evidence against the cyclical view is the pattern of the 1963-1965 data. During this period of economic growth and rising incomes, the distributional pattern emanating from a tax reduction was similar to the pattern experienced in 1982. This indicates that changes in the structure of incentives across tax brackets is far more important than cyclical conditions as a determinant of changes in tax liability across income groupings.

Second, other critics have argued that the shift in the tax burden toward the rich merely reflects rising capital gains associated with the bull market on Wall Street beginning in August 1982. Inspection reveals that this is a "tail wags dog" theory. Capital gains are a small component of total income. In 1981, net capital gains less losses contributed only 1.7 percent to the total adjusted gross income. Even for the top 1.36 percent of taxpayers, the capital gains component was only 9.6 percent of AGI. Given the size of capital gains as a share of AGI, it

would have taken a huge expansion in capital gains income to explain the observed pattern of income growth across income groupings in 1982. But the actual increase in net capital gains income was rather modest—from $29.3 billion in 1981 to $32.0 billion in 1982, an increase of only 9.2 percent. Of course, the major component of income is wages and salaries. In 1981, the wage and salary component summed to 84 percent of AGI. As Exhibit 4 shows, this component of income grew substantially more rapidly in the upper tax brackets between 1981 and 1982. Clearly, it provided the major impetus for the growth of taxable income in the upper brackets.

Why taxpayers have not made a major move out of tax shelters

As we noted previously, the tax shelter industry boomed with the rising marginal tax rates of the 1970s. In fact, taxpayers are still adjusting their investment portfolios to the higher marginal rates. We are in the midst of a tax shelter investment boom. Why didn't the 1981-1984 tax cuts arrest the growth of the the tax shelter industry?

There are three major reasons why recent tax changes have failed to reduce significantly the size of the tax shelter industry. First, given bracket creep and higher Social Security tax rates, marginal tax rates are not much lower today than they were in 1979 and 1980 for taxpayers with an AGI of less than $75,000 (see Exhibit 3). Since the overall marginal rates were not reduced, at least not reduced very much, it is not surprising that there has been little movement away from tax shelters.

Second, ERTA provided far more rapid depreciation allowances beginning in 1982. This aspect of the legislation would make tax shelters more attractive. The more rapid depreciation writeoff would mean larger up front losses from real estate and other depreciable investments. Far from discouraging the tax shelter industry, the rapid depreciation allowances made the shelter business more profitable.[2]

Finally, the incentive to engage in tax shelter investments is influenced by expected future rates as well as current rates. Many influential policymakers have argued, and continue to argue, that tax rates will have to be increased in the near future. Given the current environment, many investors anticipate higher tax rates in 1985 and 1986. Predictably, they will stay with their tax shelter investments, so they will not be caught short when the anticipated higher rates are instituted.

Additional evidence from the 1979 data

Analysis of both the 1963-1965 and 1981-1982 data indicate that the taxable income base is more responsive to rate changes in the upper income (and tax rate) brackets. In the terminology of economists, the tax elasticity coefficient is larger in the upper income brackets. In order to investigate this issue more thoroughly, Professor James Long of Auburn University and I utilized the Internal Revenue Service 1979 Individual Tax Model File to estimate the impact of differences in marginal tax rates on the taxable income base. Since the IRS data contain a state of residence indicator, we were able to integrate the federal and state rate structures so the income base of persons with the same gross income but a different effective marginal tax rate (reflecting differences in the state marginal tax rates) could be compared.

Seeking to obtain an income measure that was not contaminated by tax sheltering, we developed a gross income variable. "Gross income" is defined as the positive components of income and thus is a measure of taxpayer income prior to their engaging in tax shelter activities. In contrast, "adjusted gross income," as defined by the IRS, indicates the income of taxpayers after deduction of losses from many, if not most, tax shelter activities. Thus, gross income is a better indicator of the taxpayer's income level in the absence of tax shelter activity.

Utilizing the 1979 data, the following model was developed and estimated:

Taxable Income=f(MTR, GI, Age, PE, and IA)

where: MTR is the combined marginal federal and state income tax rate the taxpayer would confront in the absence of deductible expenditures and deductions for losses;

GI is the gross income of the tax return;

Age is a dummy variable indicating the taxpayer is age 65 or over;

PE is the number of personal exemptions; and

IA is a dummy variable indicating the taxpayer used the income averaging method to calculate tax liability.

In order to reduce variability from factors outside the focus of our study, only taxpayers filing joint returns were included in our analysis.

Taxpayers residing in states where the state marginal tax rate is higher will confront higher marginal tax rates than taxpayers in states with lower rates. State marginal tax rates range from zero in states without an income tax to maximum rates in the teens in several states.[3] Therefore, even after making allowance for the deductibility of state income tax payments on one's federal return, differences in state income tax rates lead to substantial differences in marginal rates among taxpayers with similar gross income and number of exemptions.

Within the framework of our model we are most interested in the impact of changes in marginal tax rates on taxable income. Since higher marginal rates increase the taxpayer's incentive to shelter income and thereby reduce taxable income,[4] we expect a negative relationship between taxable income and marginal tax rates. The regression equations for our model were estimated within income groupings. Exhibit 7 summarizes the results. As expected, higher marginal tax rates exerted a negative impact on taxable income.

Predictably, the largest negative impact was in the high income (and high marginal tax rate) categories. For the $40,000 to $60,000 gross income cell, after adjusting for gross income, age, personal exemptions, and income averaging, taxable income declined by $103 for every one unit increase in marginal tax rates. This indicates that in this income range, a one unit increase in the marginal tax rate induces a decline of $103 in taxable income. For the $60,000 to $80,000 gross income grouping, taxable income is estimated to decline by $322 for each one unit increase in marginal tax rates. As one moves to income groupings above $80,000, the negative impact of marginal tax rates increases. For the $80,000 to $100,000 gross income cell, the negative impact of a unit tax rate change rose to $1,525. Still, larger estimates were obtained for income brackets above $100,000.[5]

The estimates of Exhibit 7 (column 1) can be converted easily to tax rate elasticities. The tax rate elasticity coefficient is equal to:

Percent change in taxable income divided by percent change in marginal tax rate.

Since the tax base and tax rate generally change in opposite directions, a negative tax rate elasticity coefficient is anticipated. If the percent change in the tax base (taxable income in our case) is less than the percent change in the tax rate, the elasticity coefficient will be less than one. Under these circumstances, higher (lower) marginal tax rates would lead to an expansion (contraction) in tax revenues. In contrast, when a change in the tax rate leads to an ever larger change in the tax base, the tax rate elasticity coefficient will be greater than one. When this is the case, higher (lower) tax rates would lead to a reduction (increase) in tax revenues. Tax rate elasticity coefficients in excess of unity indicate that taxpayers in the grouping are on the backward bending portion of their Laffer curve.

Exhibit 7 (column 2) presents estimates for the tax rate elasticity coefficient for each of the ten gross income groupings. For income cells below $60,000 the tax elasticity coefficient is small. However, beginning with the $60,000 to $80,000 gross income cell, the estimated elasticities rise sharply. For gross income cells in excess of $80,000, the estimated tax elasticity coefficient is greater than one. This indicates that lower

[2] Some of us indicated at the time the legislation was passed, that this would be the case. For example, Richard Stroup and I stated the following at a conference held in March 1982:

"Will the Reagan tax program reduce the flow of resources into tax avoidance? Unfortunately, the answer is, Probably not. Congress added sections providing favorable tax treatment for special-interest groups such as racehorse owners and commodity traders. The leasing provision of the new law will increase the attractiveness of this technique as a means of sheltering income. The more rapid depreciation writeoffs, particularly for real estate, will clearly increase the attractiveness of tax-shelter investments in depreciable assets.

"However, the major reason for doubting that the 1981 legislation will reduce tax avoidance is that for most people it does not reduce marginal tax rates on real income. The rates during 1981-84 will be lower than they would have been in the absence of the Reagan plan. However, they will be about the same or higher than the 1980 tax rates."

See Federal Reserve Bank of Atlanta, *Supply-side Economics in the 1980s* (Westport, Conn.: Quorum Books, 1982).

[3] Florida, Nevada, South Dakota, Texas, Washington, and Wyoming did not levy a state income tax. In contrast, California, Delaware, Hawaii, Iowa, Minnesota, Montana, New York, and Wisconsin all levied maximum rates of 11 percent or more in 1979.

[4] Since we are interested only in taxpayer decisionmaking that influences their taxable income, our taxable income variable adds state and local income tax deductions to the taxpayers' taxable income. Thus, the lower taxable income for taxpayers confronting high marginal tax rates reflects factors other than the deductibility of state and local income tax liability from their gross income.

[5] Our estimate for the open-ended $200,000 and above grouping should be interpreted with caution. Since the Internal Revenue Service does not provide information on state of residence for returns with an adjusted gross income of $200,000 and over, these returns had to be excluded from our analysis. Thus, we are left with persons who had an adjusted gross income of less than $200,000, but a gross income (positive components of income) of more than $200,000. The more tax sheltering undertaken by a taxpayer with an adjusted gross income near the $200,000 cutoff, the more likely their gross income will place them in our $200,000 and over bracket. Therefore, taxpayers in our $200,000 and over gross income grouping may be a biased sample of all returns in this bracket.

marginal rates in these cells would have raised more tax revenue.

Perhaps a little additional discussion is necessary to highlight the importance of these estimates. Consider the $60,000 to $80,000 gross income category. Our analysis indicates that taxpayers who have the same gross income (remember gross income is a control variable in the model) report $322 less taxable income for each one unit increase in their effective marginal tax rate. Given the shrinkage in taxable income as tax rates rise in this grouping, it takes a substantial increase in tax rates in order to squeeze additional tax revenue from this tax bracket. In fact, the estimated tax elasticity of minus .34 indicates that a 10 percent increase in tax rates in this bracket will reduce taxable income by 3.4 percent. Thus, the 10 percent higher marginal rates will lead to, at most, only a 6.6 percent increase in revenues from taxpayers in this bracket.

For higher incomes (and tax rates), the tax elasticity is still greater. For example, the 1.29 estimated tax elasticity in the $80,000 to $100,000 grouping indicates that a 10 percent rate hike in this category would cause a 12.9 percent shrinkage in taxable income. Of course, since the decline in the tax base is larger than the increase in rates, higher rates for this bracket would lead to a reduction in revenue collected. As of 1979, our estimates indicate that taxpayers in this grouping were on the backward bending segment of the Laffer curve. As expected, the estimated elasticities are even larger for the higher income categories.[6]

In interpreting the estimates of Exhibit 7, it is important to recognize that they reflect long-run adjustments. One would expect a smaller shrinkage in the tax base in the year or two immediately following a rate increase than the shrinkage that will eventually take place as the result of a tax rate increase.[7] The major factor contributing to rate differences within income categories in our model is differences in state income tax rates. Since the general pattern of state rates has been in place for a considerable period of time, it is reasonable to assume that taxpayers have adjusted their tax sheltering activities accordingly. Thus, the responsiveness of taxable income to changes in tax rates in the year or two immediately following a change in tax rates may be somewhat less than the magnitude indicated by the estimates of Exhibit 7.

SUMMARY

Economic theory indicates that the taxable income base will be more responsive to changes in tax rates in the upper tax brackets than in the lower brackets. A detailed analysis of the 1979 individual tax data indicate that this proposition is true. Given the greater responsiveness in the upper brackets, proportional rate reductions such as those instituted in 1964-1965 and 1981-1984 will shift the burden of the income tax to taxpayers in the upper brackets. Predictably, there will be an increase in the share of tax revenues collected in the upper income brackets. The empirical evidence from both the 1963-1965 and the 1981-1982 period is highly consistent with the underlying economic theory.

EXHIBIT 1.—THE RISING MARGINAL FEDERAL INCOME TAX RATES: 1965-79

	1965	1970	1973	1977	1979
No. of joint returns (in millions)	39.506	42.660	39.805	42.576	43.217
Joint returns (in millions) facing:					
Marginal tax rates of 28 percent or more	$1.130	$2.984	$5.386	$12.003	$15.238
(Percent)	2.9	7.0	13.5	28.2	35.3
Marginal tax rates of 32 percent or more	$0.722	$1.701	$3.044	$7.308	$9.782
(Percent)	1.8	4.0	7.6	17.2	22.6
Marginal tax rates of 37 percent or more	$0.376	$0.797	$1.321	$2.965	$5.533
(Percent)	1.0	1.9	3.3	7.0	12.8
Marginal tax rates of 49 percent or more	$0.136	$0.296	$0.481	$1.032	$1.541
(Percent)	.3	.7	1.2	2.4	3.6

Source: Internal Revenue Service, "Statistics of Income: Individual Income Tax Returns" (annual).

EXHIBIT 2.—NET INCOME LOSSES COMPARED WITH NET INCOME GAINS FOR SELECTED SOURCES OF INCOME, 1966 AND 1981

[Dollars in billions]

Source of income gain or loss	1966 returns			1981 returns		
	Net income gain	Net income loss	Loss/gain ratio (percent)	Net income gain	Net income loss	Loss/gain ratio (percent)
Rents	$4.36	$1.75	40.1	$15.05	$17.82	118.4
Business and professional practice	28.14	1.95	6.9	68.53	15.46	22.6
Farming	5.99	1.92	32.0	8.53	16.34	191.6
Partnerships	12.08	1.35	11.2	25.91	26.05	100.5
Small business corporations	1.66	.46	27.7	4.26	5.07	119.0
Total	52.23	7.43	14.2	122.28	80.74	66.0

Source: Internal Revenue Service, "Statistics of Income: Individual Income Tax Returns" (annual).

EXHIBIT 3.—MARGINAL TAX RATES FOR A TWO-EARNER FAMILY OF FOUR, 1979-84 [1]

Adjusted gross income (1979 dollars)	Marginal tax rate [1] (percent)			
	1979	1980	1982	1984
20,000	24.13	27.13	28.7	24.7
40,000	38.13	43.13	45.7	39.7
60,000	49.13	55.13	50.7	48.7
75,000	49.00	54.00	49.0	48.7
100,000	54.00	54.00	50.0	45.0

[1] The data are for Federal personal income and social security tax liabilities. The calculations are based on the following assumptions: The couple files a joint return and all income is earned income. The second wage earner earns one-half the amount of the first. Taxpayers take the zero-bracket amount or itemize deductions equal to 23 percent of income, whichever is greater. When calculating the 1980 and 1984 incomes in 1979 dollars, the actual inflation rates were used for the 1980-83 period and a 5-percent inflation rate was projected for 1984.

[6] Our model estimates the impact of a change in tax rates on taxable income, holding gross income constant. To the extent that higher marginal rates also induce taxpayers to consume more leisure, engage in the underground economy, shift income to closely held corporations, and/or take other steps (e.g., purchase municipal bonds) to reduce their reported gross income, our model will underestimate the negative impact of higher marginal tax rates on the taxable income base.

[7] See James M. Buchanan and Dwight R. Lee, "Politics, Time, and the Laffer Curve," *Journal of Political Economy*, vol. 90, no. 4 (1982), pp. 816-819.

EXHIBIT 4.—THE ESTIMATED GROWTH RATE OF INCOME COMPONENTS AND THE INCOME TAX LIABILITY FOR TAXPAYERS AFFECTED BY THE 50-PERCENT TAX CEILING OF ERTA COMPARED TO OTHER TAXPAYERS

	Top 1.36 percent of tax returns [1]			Bottom 98.64 percent of tax returns		
	1981	1982	Percent change	1981	1982	Percent change
No. of returns (in millions)	1.3005	1.2992	−0.1	94.096	93.998	.01
Income range	>$75,000	>$80,300		<$75,000	<$80,000	
Adjusted gross income (billions)	177.0	196.9	+11.2	1595.6	1652.3	+3.6
Wages and salaries (in billions)	102.3	113.0	+10.5	1383.8	1451.6	+4.9
Taxable income (in billions)	138.2	155.0	+12.2	1245.5	1313.9	+5.5
Income tax liability (in billions)	58.0	60.5	+4.3	226.1	216.4	−4.3

[1] In 1981, persons filing joint returns faced a marginal tax rate of more than 50 percent on nonservice income if their taxable income was in excess of $60,000. Allowing for 20-percent itemized deductions, this suggests that returns with an AGI of $75,000 or more would have confronted marginal rates in excess of 50 percent in 1981. In 1981, 1.36 percent of all returns had an adjusted gross income of $75,000 or more. Here, the income and tax liability of the top 1.36 percent of returns—those confronting a marginal tax rate of 50 percent or more in 1981—are compared with the income and tax liability data for the top 1.36 percent of returns in 1982.

Source: The 1981 data are from Internal Revenue Service, "1981 Statistics of Income: Individual Income Tax Returns," tables 1.1 and 1.3. The 1982 data are from Internal Revenue Service, "Statistics of Income: SOI Bulletin" (winter 1983–84), pp. 11–22.

EXHIBIT 5.—THE SHARE OF TAX REVENUE COLLECTED FROM VARIOUS PERCENTILE GROUPINGS RANKED ACCORDING TO ADJUSTED GROSS INCOME—1981 VERSUS 1982

[Dollars in billions]

	Income tax liability			Share of total income tax liability	
	1981	1982	Percent change	1981	1982
Bottom 50 percent [1]	$21.7	19.5	−10.1	7.6	7.0
50 to 75 percentile [1]	59.0	55.6	−5.8	20.8	20.1
75 to 98.64 percentile [1]	145.4	141.3	−2.8	51.2	51.0
Top 1.36 percent [1]	58.0	60.5	+4.3	20.4	21.8
Total	284.1	276.9	−2.5	100.0	100.0

[1] The adjusted gross income intervals for the percentile groups were:

	1981	1982
Bottom 50 percent	<$14,160	<$14,344
50 to 75 percentile	14,160–26,140	14,344–26,855
75 to 98.64 percentile	26,140–75,000	26,855–80,300
Top 1.36 percent	>75,000	>80,300

When necessary, interpolation was used to estimate the tax revenues within income intervals.

Source: The 1981 data are from Internal Revenue Service, "1981 Statistics of Income: Individual Income Tax Returns," tables 1.1 and 1.3. The 1982 data are from Internal Revenue Service, "Statistics of Income: SOI Bulletin" (winter 1983–84), pp. 11–22.

EXHIBIT 6.—THE SHARE OF TAX REVENUE COLLECTED FROM VARIOUS PERCENTILE GROUPINGS RANKED ACCORDING TO ADJUSTED GROSS INCOME PRIOR TO AND SUBSEQUENT TO THE 1964 REDUCTION IN TAX RATES

[Dollars in billions]

	Tax revenues collected from group			Percent of personal income taxes collected from group [1]	
	1963	1965	Percent change	1963	1965
Bottom 50 percent	$5.01	$4.69	−6.4	10.4	9.5
50 to 75 percentile	10.02	9.90	−1.2	20.8	20.0
75 to 95 percentile	16.00	15.88	−.7	33.2	32.1
Top 5 percent	17.17	19.05	+10.9	35.6	38.5
Total	48.20	49.53	+2.8	100.0	100.0

[1] These estimates were derived via interpolation.

Source: Internal Revenue Service, "Statistics of Income: Individual Income Tax Returns" (1963 and 1965).

EXHIBIT 7.—THE ESTIMATED ELASTICITY OF TAXABLE INCOME WITH RESPECT TO MARGINAL TAX RATE FOR VARIOUS INCOME CATEGORIES—JOINT RETURNS 1979

Gross income	Impact of 1 unit increase in marginal tax on taxable income	Estimated elasticity of taxable income with respect to MTR	Hypothetical marginal federal income tax rate, midpoint of income interval, 1979 [1]
	(1)	(2)	(3)
$0 to $20,000	−$5	−0.01	16
$20,000 to $40,000	−1	−.00	28
$40,000 to $60,000	−103	−.13	43
$60,000 to $80,000	−322	−.34	49
$80,000 to $100,000	−1,525	−1.29	54
$100,000 to $120,000	−2,584	−1.86	54
$120,000 to $140,000	−3,371	−2.10	59
$140,000 to $170,000	−3,630	−1.92	64
$170,000 to $200,000	−5,000	−2.38	64
Over $200,000	−5,708	−3.93	>64

[1] Assumes a family of four married and filing a joint return. Taxpayers are assumed to take either the standard deduction or itemized deduction equal to 22 percent of AGI, whichever is greatest.

COMPUTER CRIME

● Mr. TRIBLE. Mr. President, decades ago, the United States embarked on a vast technological adventure and as a result, the computer has become a centerpiece of our life. The Federal Government alone uses more than 16,000 computer systems, and the private sector employs more than 50,000 large general purpose computers. In addition, some 3.5 million personal computers are currently in use in the business market, and about 100,000 have already been installed in the Nation's schools.

These are tremendous and welcome changes, and the benefits they have conferred on our way of life are immeasurable. Yet, the Nation's judicial system has failed to keep abreast of these changes, and the daily efforts of government, of business, and of individuals are at risk because of it.

Last year, I introduced legislation designed to protect the computer systems of the Federal Government, federally insured banks, and businesses operating in interstate commerce from fraud and abuse. This measure, S. 1733, has the support of many private computer-related firms and of many computer security associations. In addition, the Department of Justice has already testified that the lack of a specific computer crime statute:

> Could lead to the dismissal of a prosecution, notwithstanding the egregious nature of the offense or the extensiveness of trial preparation, because decades old statutory elements designed to deal with other crimes have been stretched too far to accommodate modern criminality.

Despite this, S. 1733 still languishes in the Senate Judiciary Subcommittee on Criminal Law, and hearings have not been held on the bill.

Nevertheless, the American Bar Association today provided additional evidence why the Congress must move swiftly in this area. In one of the first major empirical surveys of computer crime, the ABA computer crime task force found "disturbing and undeniable evidence that the scope and significance of computer crime, and its potentially devastating effects, are broad and deep."

More importantly, the ABA's task force concluded that the need for a Federal computer crime statute—like that provided by S. 1733—is clear and unmistakable. Its report said that prosecutors need a specific statute to use against computer criminals, and that such legislation would reduce the belief the computer abuse is a victimless intellectual challenge.

The survey by the ABA's computer crime task force also made these important findings:

Almost 50 percent of the businesses and agencies surveyed reported some form of computer crime just in the last year, with total losses estimated at between $145 million and $730 million.

The most frequent computer crimes are thefts of assets, including software; embezzlement of funds; and defrauding of consumers and investors.

The perpetrators are most often people employed inside the organization, and their motive is usually personal financial gain.

It is also important to note that these figures are almost certainly understated. For the survey also found that many organizations don't know when a computer crime has been committed, and often cannot monitor their systems to detect a crime. As a result, many go unreported and unprosecuted.

The full breadth of the computer crime problem will probably remain a mystery, of course, until victims are assured a reasonable chance of legal recourse. Affected companies will remain reluctant to report crimes as long as the damage to their reputations outweighs the likely results from prosecuting the case. And attorneys and judges will remain reluctant to involve themselves in these cases until they are provided a more effective tool of prosecution than the wire fraud laws that have frequently been used in the past.

Also, a common attitude found by the survey, and by the Washington Post in a series of interviews with computer abusers, is that their antics are merely an enjoyable challenge. Absent a comprehensive computer crime law, they will continue to be a challenge without risk. Many abusers are well aware that their chances of being caught, reported, and successfully prosecuted under present law are virtually nonexistent—no matter how threatening or damaging their actions. Those actions will continue unabated until abusers are told by this Congress that they are committing crimes—every bit as serious as vandalism, fraud, and robbery that does not involve a computer—and that they will be punished accordingly.

The United States has moved boldly into the computer age, and has reaped the rewards of vastly enhanced productivity and efficiency. It is time for the Congress to move with equal boldness and vigor, by enacting a Federal computer crime statute that will preserve the integrity of the computer systems on which we increasingly depend.

I would like to commend the ABA on its timely and important report, and I ask that their findings, along with the recent Washington Post series, be printed in the CONGRESSIONAL RECORD.

The material follows:

[From the Washington Post, May 20, 1984]

REPORT CITES EXTENT OF COMPUTER CRIME

(By Fred Barbash)

An American Bar Association committee, in one of the few empirical surveys of computer-related crime, said yesterday that it rivals conventional white-collar crime in cost and gravity and is aggravated by the spread of computer technology.

The committee, also citing the absence of deterrents and the glorification of computer "whiz kids," concluded that the "need for federal computer crime legislation is clear and unmistakable."

Its report said prosecutors need a specific statute to use against computer criminals rather than stretch current laws. And legislation would reduce the perception that computer crime is a harmless game or intellectual challenge, the committee said.

The report of the Computer Crime Task Force of the association's Criminal Justice Section was based on a survey of 283 large corporations and government agencies.

There is "disturbing and undeniable evidence that the scope and significance of computer crime, and its potentially devastating effects, are broad and deep," the report said. Among its conclusions:

About 48 percent of those surveyed reported some form of computer crime in the last year with total annual losses estimated at $145 million to $730 million. The estimates are described as "conservative," because the respondents were asked to report only "known and verifiable" incidents.

The most significant computer crimes were thefts of assets, including software; embezzlement of funds; defrauding of consumers and investors, and destruction or alteration of data and software.

The perpetrators—where identified—most frequently have been people employed inside an organization. But 45 percent of the crime victims reported that outsiders were responsible. Among the outsiders were consultants, customers, competitors and individuals with no prior relationship with the organization.

The motive, where it can be identified, is usually personal financial gain. But another significant impetus has been "the intellectual challenge" associated with computer crime.

"The survey responses reflect a concern that we are developing a culture of young computer users who are challenged to use computers to the ultimate extent possible, with little or no regard for other peoples' property or privacy interests," the report said.

"These young users are encouraged by their peers and by the role models that they see treated as 'whiz kids' and 'heroes' by the media, to push technology to the limit, without any balancing of legal or ethical considerations in computer use."

One of the biggest problems found by the committee was that organizations often do not know who committed a computer crime. Many do not know when a computer crime has been committed and cannot monitor their systems to select crime, the study said.

Uncovered crimes often go unreported to law enforcement authorities, who are unequipped to deal with the problem.

There is a "gap between computer technology generally and computer security technology," the study said. "This gap, or lag, between the two seems to be increasing."

Survey participants expressed grave concerns about the future. A health services company responded that it worried about "the growing industry of personal computers and the ability of connecting to on-line applications and data bases in the public and private sectors. Individuals, from elementary students on up, who would not as a rule have access to this very powerful equip-

ment can now purchase it at local computer stores."

An accounting firm officer said that proliferation of computers will put the equipment into the hands of more people "with criminal propensities."

A system-design firm official responded that "it is difficult to explain to 12 men and women that a copy of a software code, on a mag tape valued at $25, has an overall value in excess of millions of dollars."

A computer security consulting firm said one of the biggest problems was "the inability of the courts and law enforcement to deal with complex issues relating to theft of computer technology, trade secrets, transborder data-flow and leniency in dealing with white-collar criminals. Juries may never be trained in computer crime, but jurists should be."

The task force members were Joseph B. Tompkins Jr., former deputy chief of the Justice Department's fraud section and now a partner in the Washington office of the law firm of Sidley & Austin; James R. Jorgenson, a Florida appeals court judge; Nathaniel E. Kossack, former deputy assistant attorney general in the Justice Department's Criminal Division and now a partner in the law firm of Perito, Duerk & Pinco; and Marcia L. Proctor, manager of security policies at R. J. Reynolds Industries Inc.

[From the Washington Post, May 20, 1984]

AGE OF ELECTRONIC CONVENIENCE SPAWNING INVENTIVE THIEVES

(By Mary Thornton)

On Jan. 18, 1980, a New York air traffic controller, angered by the Soviet invasion of Afghanistan a month earlier, momentarily took over an incoming Aeroflot jet carrying Soviet Ambassador Anatoliy F. Dobrynin. He transferred control to his computer, deleted a signal identifying the aircraft as a large jet, then returned control to the main console.

Without the signal, the jet looked like a small private aircraft on other controllers' monitors. It landed safely, but only after flying through heavily traveled airspace without proper controls for 20 perilous minutes. The controller was fired but not prosecuted.

Last summer, a group of young Milwaukee computer enthusiasts, nicknamed "the 414s" after their telephone area code, was raided by FBI agents after gaining access to more than 60 computer data banks, including those at New York's Memorial Sloan Kettering Cancer Center, the Los Alamos scientific laboratory in New Mexico and a California bank.

Those incidents, one potentially deadly and the other apparently playful, represent the extremes of a phenomenon that has triggered growing concern among law enforcement officials: computer crime and abuse.

Experts in the federal government and private industry say the variety of such crimes and the potential for damage are staggering. They cited harassment, copyright violations, extortion, multimillion-dollar electronic bank thefts, industrial and military espionage, terrorism, sabotage and even murder.

Computers also present unnerving opportunities for invasion of privacy. If a young computer buff can gain access to computerized credit records, hospital medical records, motor vehicle records and bank records, the experts ask, what potential mischief can a computer professional wreak?

Yet, as the nation becomes more computerized, the experts warn that too little effort is going into legislation governing computer abuse, security measures to prevent it, new kinds of insurance to protect against loss or addressing the ethical and social questions raised by the arcane wonders of electronic information processing.

Joseph F. Coates, a consultant on long-range technological trends, put the problem this way.

"The computer industry is so complacent, its buyers and users so beguiled by the equipment and regulators so enchanted by the calm sea as computers slowly spread across this nation [that] the industry needs its equivalent of Hiroshima to alert the nation . . . to the enormous risks in the way we organize our computer affairs."

The special and increasing danger of computer crime arises from several factors, including.

Invisibility: The crime can be committed from great distances, perhaps in the privacy of a home or office. Evidence of the intrusion often can be erased.

The microcomputer: Alexander Stein of Dataquest, a California consulting firm, said that at the end of 1983 there were 7.9 million home and personal computers and more than 1 million business computers in the United States. The number is increasing by 34 percent a year, or more than doubling every three years, he said.

Without exception, federal law enforcement officials said they expected the proliferation of personal computers to cause a corresponding increase in computer crime.

Computer "literacy:" Microcomputers are common even in elementary schools now. Young people go to summer computer camp. Teen-agers can buy a small computer system for less than $1,000. The Massachusetts Institute of Technology, with help from IBM Corp. and Digital Equipment Corp., is providing 3,000 computer teaching terminals for its 4,500 undergraduate students.

As a far larger portion of the population learns to use computers, the experts said they fear a substantial rise in computer abuse by criminals, malcontents and the mentally unstable.

Networks: Inexpensive devices called "moderns" allow home computers to be connected by telephone with computer systems worldwide. Already available are hundreds of consumer services, including news, stock tips, worldwide airline schedules and fares, a full encyclopedia, weather information and even movie reviews dating to 1930.

The next stage involves "interactive," or two-way, services such as computerized grocery shopping, billing, banking and mailing—an innovation that recently got a major boost from the formation of a joint venture by Sears, Roebuck and Co., IBM and CBS.

Improved technology: Computers are becoming faster, cheaper and simpler to use, and memory capacity is growing. Thus, use of computers both for more complex and more mundane tasks becomes even more practical.

Smarter computers: The race between the United States and Japan to develop "fifth-generation" computers could lead to early forms of "artificial intelligence" within a few years, providing undreamed-of capabilities for good and evil.

Marvin Minsky, an artificial-intelligence expert at MIT, said the computer world is at a stage he once thought would take centuries to reach. As for the future, he said, "You should be reading [science fiction writers Robert] Heinlein or [Isaac] Asimov."

Estimates of annual losses from computer crime range from $100 million to more than $3 billion, but even the experts admit that the figure is drawn from thin air. Anthony Adamski, who oversees computer crime cases for the FBI, said no one knows the number of computer crimes or what they cost.

Robert P. Campbell, a private computer-security specialist who until five years ago headed computer security for the U.S. Army, has estimated that only one in 22,000 criminal acts involving a computer will be prosecuted.

He believes that one crime in 100 is detected; that of those detected, 15 percent or fewer are reported, and that of those reported, one in 33 is successfully prosecuted.

Federal officials said one reason is that many companies, often banks, do not want the public or shareholders to know that they have been victimized and that the crime was relatively simple to commit. In addition, the way many white-collar crimes are classified, it is impossible to tell whether a computer was used.

Even when computer crimes are reported, they often do not go to trial because prosecuting attorneys, judges and jurors do not have the technical expertise to deal with the issues.

Yet computer crimes occasionally make headlines.

Officials in several states have uncovered schemes in which an individual substitutes his deposit slips at the bank counter where blank slips normally would be. When other customers unknowingly use them, the computer reads a slip's magnetic-ink number and deposits the money in the criminal's account.

By the time irate customers come in with their bank statements, the criminal has withdrawn the money and fled.

In 1978, computer consultant Stanley Mark Rifkin called the wire room at Security Pacific National Bank in Los Angeles, identified himself as a senior bank officer, gave the proper codes and arranged for transfer of $10.2 million to a Swiss bank account.

He converted the cash into Soviet diamonds and was caught trying to sell them. He served less than three years of an eight-year sentence and now runs the computer system for a major organization.

Former Federal Reserve Bank Board employe Theodore Langevin, who took a job with E. F. Hutton and Co., Inc. in New York, illegally tapped into the Fed computer to obtain secret money-supply information in 1980.

He was caught, pleaded guilty to wire fraud and was sentenced to one year's probation.

In a case uncovered in 1980, San Francisco's Wells Fargo Bank lost $21 million in a year, allegedly to two boxing promoters who, with a bank employe's help, used a computer for illegal transfers.

Richard P. Kusserow, inspector general for the Department of Health and Human Services, recently finished the first survey of crimes involving the federal government's 650,000 microcomputers and 16,000 large "mainframe" computers and concluded that there is an "extraordinary vulnerability" to crime.

"The government has become the biggest user of computers in this country," he said. "There is an information explosion going

on. . . . It's come so quickly that the bureaucracy hasn't had time to respond."

The study found 172 cases of fraud and abuse in 12 government agencies in slightly more than four years. One employe diverted $24,000 in unauthorized benefits checks to himself over five months and erased the evidence. In another program, three clerks were able to steal $150,000 worth of food stamps because their supervisor left a key in a computer terminal.

Kusserow said those cases are not even the tip of the iceberg since most crimes were discovered by accident and most agencies have virtually no procedures for finding such problems. Three of every four agencies contacted said they did not know if their computer systems had ever been audited for possible crimes.

David Geneson, a Justice Department lawyer who deals with computer crime, said no federal law deals specifically with use of computers in a crime or with trespassing by computer or reading private files.

"There's no statutory definition of computer crime," he said. "It's a more complicated area than you might think. If you break in [to a government computer office] and steal a disc pack, that's theft of government property. But if you break in electronically and copy it, that's not clear. You haven't really stolen anything."

The closest relevant federal laws, he said, deal with wire fraud, theft of government property and interstate transportation of stolen property in cases where the theft tops $5,000.

The FBI's Adamski said that 21 states have enacted laws dealing with computer crime but there is little consistency from state to state and several fail to deal with "hackers" who enter systems for fun rather than profit.

Enacting a law does not necessarily give state authorities the manpower or expertise to enforce it. In Florida, where the nation's first computer-crime law was passed in 1978, only two cases have been brought.

Congress is debating several computer crime bills. One introduced by Rep. Bill Nelson (D-Fla.) and Sen. Paul S. Trible Jr. (R-Va.) would provide for a fine as high as $50,000 or a five-year prison sentence for theft from or abuse of federal or private computers used in interstate commerce. A second bill, introduced by Rep. Ron Wyden (D-Ore.) would set up an 18-month task force to investigate the extent of computer crime in small businesses.

A third, introduced by Rep. William J. Hughes (D-N.J.) and approved by a House subcommittee last week, would establish as a federal felony unauthorized computer access that yields a defendant $5,000 or more a year, the use or modification of materials in someone else's computer would be a "computer abuse" misdemeanor.

The proposed legislation does not deal with a person who enters the system simply to look around. Not does it deal with computer wiretaps. Although it is against the law to wiretap a telephone conversation—even the FBI needs court approval—no law prevents a wiretap on a computer communication on a telephone line.

As a result, much of the congressional debate has focused on making it a federal crime for young "hackers" to intrude without authorization into government or private computers. But most law-enforcement and computer-security experts said the real problem is crime by insiders who already have access to the system.

[From the Washington Post, May 21, 1984]

"HACKERS" IGNORE CONSEQUENCES OF THEIR HIGH-TECH JOY RIDES

(By Mary Thornton)

For Susan Headley, it started when she was 17, a high school dropout who had run away to California to work as a waitress. She was lonely and fell in with a group of young people who used home computers to harass the telephone company.

For the next four years, they spent almost every night at their consoles—romping through the computers of government agencies, defense contractors, corporations and credit bureaus, occasionally lowering the credit rating of prominent citizens or doing similar exploits.

Their chief target was the phone company. Using a variety of techniques—from job tryouts to searching through trash for computer passwords—they penetrated telephone security and made free calls all over the world, complete with such special features as call forwarding.

Headley left the group in 1981 when she decided that such computer antics could land them in jail. She was right. Her companions had been inserting obscenities into a California company's computer-generated catalogue. The company decided to press charges.

Headley was not prosecuted and now, at 24 has turned to computer security as a career.

Despite public attention to outside "hackers" such as Headley law enforcement officials say their largest computer problem by far is crime by insiders. But even that pales when compared with the criminal potential in coming decades as millions more people learn to use computers.

As a portion of the population eventually turns to criminal activities, the experts say, computer crime is bound to grow and some young computer wizards are almost certain to become super criminals.

Moreover, organized crime has had lawyers and accountants for decades. Computer experts would be the next logical step. Donn Parker, of SRI International Inc. and author of "Fighting Computer Crime," said that there are documented instances of organized crime using computers, especially in bookmaking and that he expects more imaginative schemes to surface soon.

"If I were a Mafia capo, the one place I'd be sending my sons is to the school of engineering at MIT," said Joseph F. Coates, a consultant on technological trends.

Some experts say they are also worried about crime by terrorists, not just with computers but also against them. Parker said that 29 computer centers have been blown up by terrorists in Italy, France, and Germany in the last four years.

Robert P. Campbell of Advanced Information Management Inc., a computer security firm in Woodbridge, Va., said, "We've been relatively free of terrorism in the United States, but the days are numbered. . . . We're investing more in our computer systems than any other nation in the world."

Computer experts and law enforcement officials say there is an explosion in the number of young people turning to computers for thrills. Their journeys into forbidden territory are accelerated through electronic bulletin boards, which can be dialed into by anyone knowing the right phone number and access codes. Whenever a hacker discovers how to break into a system, he's likely to post the information on a bulletin board so that his friends can try it.

In 1980, students at Dalton Middle School in Manhattan used classroom computers to break into 21 systems in Canada, destroying crucial data in one intrusion. They were caught but not prosecuted.

Last summer the FBI raided the homes of several Milwaukee area youngsters who called themselves the "414s" after their telephone area code. The group had broken through the security of 60 computers, including one at New York's Memorial Sloan Kettering Cancer Institute containing patient files.

In October, the FBI raided the homes of other young computer enthusiasts around the country. They had been detected raiding the message system of the GTE Telenet network that links 200,000 users and 2,000 computers.

Similar exploits were romanticized in the movie "War Games" and the television show "Whiz Kids."

Unlike much of the public Parker calls computer hacking a "very serious epidemic across the country" and says hackers activities are not larks but crimes. In the Sloan Kettering case, he said, changing records could have led to a patient's death.

"You have to prove intent and maliciousness, and the kids deny that" he said. "But once you get into this electronic land of Oz, you don't know what you're doing. It's a bull-in-the-china-shop situation. Just turning around can destroy something, cause the system to crash."

Professor John Kender who teaches computer science at Columbia University, said of the hackers. "The closest analogy is joy riding where kids find a car with the keys in it. There's a thrill of doing something powerful.

"Perhaps there's not much sense that they are violating someone's rights. . . . It's anonymous. . . . In some ways, its a less violent form of juvenile delinquency. There is the same alienation and hanging out in groups of hackers."

Kender said most hackers are young, male and very bright. Some students become virtually "addicted" to computer studies, excelling in them but failing in everything else.

Susan Headley, like Kender, said the thrill of cracking computer security is "simply exerting power—joy riding."

She described most hackers as socially awkward loners. In many cases, she said, fellow hackers provide their first close friendships. She said most in her group were "reclusive types . . . with no civic involvement. Their sole entertainment was in their computer terminals."

Many people, including some law enforcement officials say they believe that most hackers are relatively harmless.

Richard Stallman, 30, a professed hacker who worked at Mill's Arundal Intelligence Lab for seven years, said hacking, committing sophisticated pranks, has been going on for years, especially at places like MIT and Caltech, and that it is not always related to computers.

There is elevator hacking, for instance, which might involve rewriting the control panel in the elevator of a rival dormitory so that pushing the button for the second floor might sent it the 20th floor.

At MIT, there is a tradition of disrupting the annual Harvard-Yale football game. In 1949 Fortney H. (Pete) Stark, now a Democratic member of Congress from California, was suspended briefly for helping to blow up part of the Harvard gridiron during a game so that it spelled "MIT."

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In a widely publicized hack during the Illinois-UCLA Rose Bowl game this year, two Caltech students took over the scoreboard by computer and changed the team names to show Caltech leading MIT, 38 to 9.

Perhaps the best-known hack was the MIT "Cookie Monster" in the 1970s. As an unsuspecting user worked at his terminal, the word "cookie" would flash across the screen, obliterating his work. Unless the startled user responded quickly, the machine would begin to flash more rapidly. "Cookie, cookie, give me a cookie."

Finally, just as the user was convinced that the computer had eaten his work, the "monster" would flash, "I didn't want a cookie anyway," and vanish into the system to wait for another user. The assault could be stopped by typing "cookie" prompting a polite "thank you" from the monster.

Yet there have been cases of real crimes by hackers.

Jerry Schneider, 19, posed as a magazine writer to research the telephone company's equipment-ordering system in Los Angeles, then manipulated the computer to order himself $1 million in telephone equipment. He went to prison.

Two suburban Chicago teen-agers who called themselves System Cruncher and Vladimere, cracked the three-character password at DePaul University in 1980, causing the system to crash and costing the university about $22,000 to restore it to service. They were prosecuted but got probation and a movie offer.

Lewis DePayne, Susan Headley's former companion went to prison for various computer escapades. In one case, he and his friends stole a computer manual from Pacific Telephone to assist them in invading the main computers to shut down area telephone service.

Most hackers seem to see little ethical problem with their activities.

Headley said that, as far as she knows, her group never made personal profit from hacking. As for using others' computer time by intruding into their systems, she said, "We always did it at night when they weren't busy. The machine would have been turned on. It would have been using electricity anyway."

Stallman said hackers traditionally are not malicious and often assist in debugging programs. He contends that it is "immoral" to copyright computer programs and has quit his job at MIT to write programs to be distributed free.

"I consider that the golden rule requires that if I like a program, I must share it with other people who like it," Stallman said. "This means much more than just serving everyone the choice of a program. It means that much wasteful duplication of system programming effort will be avoided. This effort can go instead into advancing the state of the art."

Some hackers say they believe that making computer trespass a federal crime would merely provide teen-agers a bigger challenge.

"I never believed in obeying laws just because they're laws," Stallman said. "Rule is never reason for doing something. When someone tries to put in security, my impulse is to get around it."

Phil Bertoni, a former MIT hacker who recently wrote the book "Strangers in Computerland," warned that turning the FBI loose on hackers probably would make hacking more fun. The whole point of hacking is to challenge authority. . . . "The higher the authority, the greater the challenge. What better challenge could you have than proving you can outwit the whole FBI?"

"There's a tradition, a long history of tech hacking. It's just a way of young people testing their ingenuity. I can see a [crime] if you steal data or use it for profit or if you damage a system so that all the iron lungs in the hospital shut down. . . . But there is a difference," Bertoni said.

A number of federal law enforcement officials say, at least privately, that they do not see major crime problems with hackers. They say they would not want FBI resources squandered on low-level computer break-ins by young people if there is no profit motive or criminal intent. Even with a change in the law, they say, it would be extremely difficult to prove criminal intent when prosecuting a 14-year-old hacker.

FBI Director William H. Webster, who has not taken a position on proposed computer-crime legislation, said, "Most of these youngsters are not deliberately dishonest. . . . I think a little parental advice and a little personal awareness will reduce the amount of damage potential out there. . . .

"We're obviously not against children, and we're not against smart children. We're just hoping they'll find a more constructive use for that talent."

OTHER PERILS TO "THE SYSTEM"

Robert Courtney, former chief of security for IBM and now a security consultant says current crime is only one of the perils of the computer age. His list of hazards in order of importance:

Human error. "The No. 1 problem now and forever is errors and omissions. The dummies win hands down."

Crime by insiders, particularly non-technical people of three types: single women under 35, generally clerical employes whose boyfriends tell them to do it; "little old ladies" 50 and over who give the money to charity; and older men in accounting who may be disenchanted and feel unappreciated.

Disasters, including fires, floods and earthquakes.

Sabotage by disgruntled employees.

Water damage, such as from leaking roofs, overflowing toilets and broken pipes.

Outsiders who break into systems: "I'm convinced the damage they've done is less than 3 percent of the damage."

[From the Washington Post, May 22, 1984]

SECURITY IS OFTEN AN AFTERTHOUGHT

(By Mary Thornton)

Robert Campbell is part of an industry that barely existed 10 years ago.

He earns his living by trying to protect some of the nation's largest corporations from a serious new threat: the computer criminal.

On a given day, Campbell might be found at a major credit card company, such as VISA or American Express, setting up systems to prevent potential criminals—inside and outside—from tampering with the billing system to allow themselves unlimited free purchases.

Or, he might be helping a large bank guard against fraudulent electronic transfers of funds.

Or, Campbell could be working for the Defense Department, checking whether malcontents or foreign agents could gain access to U.S. missile systems and reprogram computerized directional coordinates to aim the missiles at American cities rather than ones in the Soviet Union.

Campbell, who retired five years ago as head of computer security for the Army, runs Advanced Information Management Inc., of Woodbridge, Va. The company is part of two prospering new industries—computer security and computer-crime insurance—that have arisen in response to the growing awareness of computer crime.

An estimated 9 million computers have flooded the nation's offices, schools and homes in recent years. And the number of computers is expected to grow by at least 9 million every three years. But security experts and law enforcement officials say that most companies and many government agencies have virtually no security and are naive about the risks they are running.

Even the most security-conscious agencies, such as the FBI, the CIA and the Pentagon, are not entirely safe from computer crime. Over the years, the military has used groups of computer experts called "Tiger Teams" to look for vulnerabilities in its computers. Some experts were given partial access to the system. Others started with nothing. According to Campbell, they have always managed to break in.

Joseph Coates, a consultant on long-term technological trends, said that companies without adequate security are "courting disaster." But he predicts it will take a $500 million crime to convince corporate management that there is a need for change.

Like other experts in the field, Coates blames computer-security violations on companies themselves rather than on the young people who get inside, such as the celebrated "414s" in Milwaukee.

"The Milwaukee babies are great," said Coates, "the kind of kids anyone would like their own to be. . . . They're heralding the types of problems we have to deal with. . . . There's nothing wrong with those kids. The problem is with the idiots who sold the system and the ignorant people who bought it.

"Nobody should buy a computer without knowing how much security is built in. The industry is bereft of that discussion. You have the timid dealing with the foolish. The scandal is with the industry and its reluctance to face the problem," he said.

Campbell speaks as alarmingly about the future. As computer technology mushrooms, he says, businesses and government agencies are facing a crime epidemic that few, if any, are equipped to handle.

Campbell and other experts say the biggest problem is that most managers, including those in the federal government, are unaware of the potential losses from computer crime.

The large electronic fund transfers between banks—sometimes as much as $1 billion in a day—present "a challenge beyond our capability," he said.

"The technology was not designed with security in mind. Security has been based on the ignorance of the public, but that's being stripped away by the personal computer. The group of potential abusers has expanded tremendously," he added.

Campbell complains that the computer-manufacturing industry as well as its customers in business and government have known of the threat for at least a decade and have failed to respond. Management, he said, is not willing to pay for security and not farsighted enough to see the potential threat. Manufacturers, therefore, have little financial incentive for greater research and development on security matters, he said, and as a result most available security is

haphazard, expensive and far from foolproof.

"So many folks say it can't happen here," said John Linden, vice president of International Security Technology Inc. in New York.

Robert Courtney, who handled security for IBM until he retired to start his company said most companies are extremely careless.

"Some guys become a religious fanatic and thinks the company is the agent of the devil. They fire him and give him two weeks notice. Anyone who does that's crazy," he said. "The policy at IBM is to take them to the lobby, find them a comfortable seat. You bring out the contents of their desk along with the final check."

Many companies compound their problems by failing to report the illegal entry into their computer system. Courtney said.

"The managements of those corporations [are] quite aware that shareholders, depositors, policyholders, customers and voters regard reports of major losses as solid evidence of gross mismanagement—and they are usually right," he said.

In the case of the break-in by the 414s into the computer system at New York's Memorial Sloan Kettering Cancer Institute, he said, "Long after they knew the kids had gotten in, they refused to tell the users. They didn't have nerve enough. The problem was greatly aggravated for that reason."

Richard P. Kusserow, the Department of Health and Human Services inspector general who last year did the first government-wide survey of computer crime, found that three-quarters of the federal agencies he contacted did not know if their computer systems had ever been audited.

While agencies like the Defense Department, the CIA and the FBI have very strict security, others do not. Kusserow, for example, calls the Social Security Administration's system an "unmitigated disaster." SSA has had theft problems, he said, because it has 1,300 district offices with terminals that can get access to the central computer system, generate checks and then erase the evidence.

The agency is spending $500 million to upgrade its computer system. But until recently, there were no backup records of individual Social Security histories. "One good fire and you'd have been out of business." Kusserow said.

"I'm not a merchant of doom, but automation is moving much faster than systems to guarantee integrity." he added.

Kusserow said that the main problem with computer security is insiders. He said that he would like there to be security clearance for data processing employees to weed out people with criminal records. But a low-level clearance check costs $1,500, and Social Security alone has 40,000 employes in data processing.

Louis Lushina, a NASA official, said that his agency takes some of the blame for a "hacker" intrusion into NASA's computerized mail system.

"They didn't get anything. They left little messages, drew pictures of Kilroy . . . . it was annoying, but we knew we hadn't done all we should have to go in and shut off the system [from outsiders]. We were trying to make it as easy as possible. We were probably amiss in not tightening up the password system," he said.

The National Bureau of Standards bears most of the responsibility for keeping the federal government's information systems secure.

But one government expert, Frederick Weingarten of the Office of Technology Assessment, is not optimistic that the job is manageable.

"We have to keep in mind the rapid growth of these systems," he said. "Just in my post-graduate lifetime they have gone from scientific toys to being huge tools of large corporations, and I'm not that old.

"They have not only grown in size, they've grown in complexity, incredibly in complexity. I'm not surprised at all that from year to year [system managers] are just trying to hang on and are not doing a terribly good job or effective job at managing the security of systems, of finding out when they work, when they don't.

"There are many federal systems that are just limping along from year to year. And the problem is mainly to get the checks out. Any kind of other fancy tinkering is just an extra problem."

Because of mounting concern over computer crime, several insurance companies have begun offering coverage against computer theft and vandalism by insiders or outsiders.

The types of coverage appear to vary widely. And most companies say that they are in the early stages of developing policies. The coverage is so new that no one is sure what the premiums should cost or what losses to expect.

So far, none of the companies requires a client to report a crime to the police when it files a claim. One executive said it should be required, but "it wouldn't work unless they required everyone to do it" because executives "don't want people to know that they were victimized, or that they were vulnerable."

David Kaiser, an underwriter for St. Paul Fire and Marine Co., said that his firm was one of the first to get into the computer crime insurance market, initially covering just computers but now covering software as well. St. Paul also offers software manufacturers insurance covering defective programs and even malicious errors.

For two years, St. Paul has offered banks protection for up to $25 million in thefts through outsider access to computers, according to another executive. But he said that his company is "not real pleased with the number that have actually purchased it."

The general insurance policy would not cover accidental malicious damage by outsiders. That would require a different kind of policy. In addition, there seems to be no coverage for simple security violations, such as a customer complaint about privacy violations after an outsider breaks into the system.

Kaiser who deals with non-financial companies said that it is not too difficult to set a value for coverage of inventory or data that has been destroyed. They simply determine replacement value.

"It's more difficult to put a price on something in the conceptual stage that when it gets to the market might bring $100 million," he said.

Terry Van Gilder of Chubb & Sons, Inc., said that when proprietary information is involved his company works with the customer in advance to agree on a dollar value. But he added. "The industry is in a bit of a turmoil. There's no standard approach . . . no uniform way."

If a computer invader were to steal data electronically from a covered customer, Van Gilder said, Chubb would pay for developing the data again. But what about unauthorized copying of data? That hasn't been worked out.

Van Gilder added that most companies are "not all that aware that the policy exists, not all that aware of the exposures they have to lose. And in some cases it's difficult to buy. We require a fair amount of work on the part of a potential client before we're willing to write the insurance policy."

For now, Kaiser said, the insurance market is "extremely limited. Insurance companies are trying to determine what are the chances of loss. What do we need to cover it? We really have no idea." But he said that he expects business to improve.

"Currently, with the lack of security, there is a lot of people who feel vulnerable," he said. "When they feel vulnerable, they buy insurance."

[From the Washington Post, May 23, 1984]

ETHICAL QUESTIONS ARISE FROM COMPUTERS BITING INTO PRIVACY

(By Vivian Aplin-Brownlee)

Last fall Joan D. Abrams, superintendent of schools in Red Bank, N.J., distinguished her small town from the rest of the state and most of the nation by introducing "computer responsibility" training in the schools—starting with the first grade.

"For the very little children, we don't talk about the computer, we talk about rules," she said. "In later grades, some of it is in social studies, and some of it is in library, and some is when they are actually in the computer lab." Abrams said she is trying to prepare her pupils for a world of ever-more-powerful computers and millions of sophisticated new users, a world of uncertain moral guidelines and a potential for staggering—even catastrophic—computer crimes.

"We recognize they have computers at home," she said, "and we wanted [to teach] the concept of the computer carrying with it responsibility and not just fun."

The Red Bank program exposes students to a host of ethical questions born of the age in which they live. Increasingly, it is a world in which employers are monitoring workers. Friends and neighbors are prying into one another's private affairs.

Government has the potential to spy on all its citizens. Large corporations swallow multimillion-dollar losses rather than publicly admit being stung in computer thefts. And every day the number of people capable of committing electronic wrongs grows.

Most attention has focused on the young computer generation, such as the Milwaukee teen-agers who drew national attention when they broke into the computer banks at Los Alamos National Laboratory in New Mexico and the Memorial Sloan-Kettering Cancer Institute in New York.

One of them, honor student Neal Patrick, 17, testified on Capitol Hill that he and his colleagues were acting out of curiosity and didn't consider the ethics of what they were doing until "the FBI knocked on the door."

Rep. Ron Wyden (D-Ore.) said he was especially concerned that the youngsters did not seem to realize the damage they might have done.

"What is particularly frustrating is that some of our brightest young people, who would never think of knocking an elderly woman down in the street and stealing her purse, seem to think there is nothing fundamentally wrong about playing with a few keys on a computer terminal, altering a hospital patient's medical file and possibly causing irreparable physical harm," Wyden wrote.

Wyden called on schools to add ethics to their computer courses. "No matter how many laws we pass," Wyden said, "we cannot prevent computer crime. I think education is just going to be the heart of this problem."

Some experts such as Robert Courtney, a New York computer security consultant and former chief of security for IBM, blame computer crimes on the offended rather than the offenders, especially youthful "hackers." Not only is security often lax, Courtney said, but companies compound their problems by not reporting unauthorized entries.

But beyond the question of hackers and the non-reporting of electronically stolen millions, the computer age has generated a new ethical debate.

Eileen M. Trauth, an instructor at the Boston University School of Management, argues that "tech-knowledgeable" persons must not be allowed to slip through legal loopholes.

"Taking the property of another is wrong behavior whether one uses a gun or a computer terminal," she has written. "This applies to the unauthorized use of another's computer resources, proprietary programs and private files as much as it does to their financial assets.

"The principle remains, using the computer does not absolve anyone from the requirements of behavior that are expected in non-computer mediated situations."

Yet, Frederick Weingarten, a project manager of the congressional Office of Technology Assessment's communications and information technology program, said that he wonders whether technology is controllable by law or policy.

The proliferation of small computers could make federal laws and corporate rules obsolete, he said.

"When the corporation or government agency has a large central system and a central data base, one can somehow think of setting laws [which] say you can keep this kind of data. You can't keep that kind of data. You can do this with it, but you can't do that with it . . . . You can go in and audit them, and see whether or not they're doing it.

"But when every executive in the agency has their own computer sitting in their office and does anything they please with it, then how do you set rules, how do you enforce them, how do you even know what they're doing?"

Weingarten and Yale Prof. Scott Boorman say that computers are changing private and professional lives and presenting new ethical quandaries.

Boorman described a hypothetical situation in which a manager is concerned that some of his "bright young engineers" who formerly worked together might be planning to quit and form a rival firm.

"What kind of early warning can one have for that kind of split-off?" Boorman asked. "That can be picked up by phone patterns . . . the phone calls are flying. Electronic mail is flying. Now that's kind of interesting. Why are they getting back together?"

Boorman said that employers can also follow electronic mail trails to separate promising employees from the rest of the lot—a practice adopted by "more sort-of-aggressive middle-size firms than one would think."

One technique, he said, would be to look at electronic "patterns of association between individuals."

"Who tended to send messages to whom? Who didn't reciprocate whose messages? You can identify in-house opinion leaders. There would probably . . . be some who work in patterns of alliance with others and there would be others who would jealously guard their information and not send anything more that the minimum that they had to carry out their jobs. . . ." Boorman said.

"This kind of technology and screening is perhaps most useful in tight organizations, some newspapers, some corporations, perhaps some government units, possibly some non-profits where essentially there's real concern to know small changes, small fluctuations in the behavior of particular employes," he added.

Employers are using these technology enhanced techniques, Boorman said, though obviously without fanfare. He said that they are certain to become widespread because "once it's been pushed successfully in one environment, others will pick it up."

Technology might be forcing new values on society, he said.

"I would say that the concept of privacy is profoundly changing," Boorman said. "In the old days, 10 or 15 years ago an invasion of privacy meant that some how somebody had gotten at some personal secret of yours and had revealed it to some third party or to the world at large."

But large new data bases of "very mundane information" about individuals—their telephone and shopping habits, medical records, entertainment choices—make it "possible to characterize one's life history on an almost minute-to-minute basis" on and off the job and to use the information for "something much more interesting than ferreting out particular secrets."

"Just the pattern of phone messages defines the person," Boorman said.

He also said union contracts can offer workers some protection from this sort of invasion, but added that non-union, white-collar workers are the likeliest targets and have the least defenses.

"I think that this goes well beyond the immediate, classic problem of government agencies exceeding their statutory mandate, which we have been aware of for a long time," he said. "In a funny way, the people we are most vulnerable to is our direct employer."

The OTA's Weingarten said that Congress is unlikely to protect the rights of individuals against such new threats to privacy unless there is public outcry.

"Several staff members for committees on the Hill tell me that there is virtually zero constituency that they hear concerned over privacy," he said. There was a wave of it post-Watergate, and Sen. [Sam] Ervin [D-N.C.] was able to somehow coalesce a political constituency behind the Privacy Act of 1974. And since that time people talk about privacy, articles are written, but there's virtually no political constituency behind it.

"And in the meantime, systems have changed, have grown. Data collection practices have changed in the executive branch and in private industry. But there's virtually no move, no support on the part of the public to deal with it."

Privacy, he said, means different things to different people. And that is part of the problem.

"One line of thought is to say, well, it's a question of abuse. In other words, if somebody has my information and they make a decision about my job or . . . throw me in jail, it may be because the information is inaccurate. So, my concern about privacy is about the misuse.

"Another person says, well, it's nobody's damn business. . . . I don't care if they misuse it or just file it away in a file drawer. It's none of their business, and I don't want them to have it.

"So, in some ways, maybe the problem is that privacy has not been a very good term to wrap around this set of problems."

Weingarten also said that computers may present future generations with the quandary of "knowing more than we want to know . . . . more than we're capable of dealing with.

"For instance, suppose I could predict with 80 percent accuracy [using a computer] that there would be an earthquake in Washington tomorrow. What do you do with that knowledge? Do you announce it, create a panic, a drop in property values, people trampling one another to get out of town—with a 20 percent chance that it might not happen?

"Do you keep silent and allow the loss of life and property damage? It presents us with enormous dilemmas, and you can see the same problem in medical science.

"And my guess is that the same kinds of problems will come out of using computers to define and predict functions and behavior. If one assumes that we can get more and more accurate with it, and we can predict with a 90 percent accuracy that a person is going to be a murderer, then what do we do with it within our constitutional limitations? What do we do with that information when they haven't committed a crime—we just are pretty sure that they will?

"What do you do when models tell us that such and such is going to happen, or that it will cost too much to clean up environmentally hazardous sites?

"It seems to me possible, at least in the realm of philosophical speculation, that technology is giving us more information than we are capable of dealing with and providing us as a society with decisions that we would be better off flipping a coin over than trying to understand."

Weingarten added, "It seems to me that right now if I were to write a letter to my congressman to tell him what I would want done, I don't really know that I'm prepared to tell him. And I'm supposed to be an expert.

"I want him to be more sensitive when he votes appropriations for new technology. I want him to hold more hearings and sort of investigate agency practices. But I don't know that I want to tell him to control technology because I don't know what that means."

TASK FORCE ON COMPUTER CRIME, SECTION OF CRIMINAL JUSTICE, AMERICAN BAR ASSOCIATION

In August 1979, the American Bar Association's policy-making House of Delegates approved a policy resolution concerning the need for federal computer crime legislation. This resolution is included in Appendix II of this report. The commentary accompanying the resolution, as well as the survey results and analysis contained in the body of this report, have not been acted upon by the Association's House of Delegates or Board of Governors and thus they do not constitute the policy of the American Bar Association.

EXECUTIVE SUMMARY

This report is the result of a study conducted by the American Bar Association Criminal Justice Section Task Force on Computer Crime. The report presents infor-

mation, gathered as a result of a nationwide survey, concerning the nature and occurrence of computer-related crime—its causes, its perpetrators, its victims, its effects, and how its occurrence can be prevented or minimized. The report also offers an analysis of the significance of the survey results, in the context of the current public debate concerning computer crime and its effects on society.

The Computer Crime Task Force survey was distributed to approximately 1,000 private organizations and public agencies, including the Fortune magazine list of the 500 largest United States corporations, numerous banking, accounting, financial services, and computer/electronics firms, all major federal departments and agencies, all state attorneys general, and a sample of district attorneys. The survey results presented in this report are based on the responses of the 283 survey respondents, representing a broad range of private industry and a substantial number of federal, state and local government agencies. The survey respondents were predominantly supervisors or executives with direct or indirect responsibility for computers and their use. Among other things, the survey responses indicate the following:

1. The most significant types of computer crime according to the respondents, are: Use of computers to steal tangible or intangible assets; Destruction or alteration of data; Use of computers to embezzle funds; Destruction or alteration of software; and Use of computers to defraud consumers, investors or users.

2. Computer crime is regarded by the survey respondents as less important than most violent crimes, but of equal or greater importance than many other types of White Collar Crime, including antitrust violations, counterfeiting, consumer fraud, bank fraud and embezzlement, securities fraud, and tax fraud.

3. The annual losses incurred as a result of computer crime appear, by any measure, to be enormous. Over 25% (72) of the survey respondents reported "known and verifiable losses due to computer crime during the last twelve months." The total annual losses reported by these respondents fall somewhere between $145 million and $730 million. Thus, the annual losses per respondent reporting losses could be anywhere from $2 million to as high as $10 million. Approximately 28% of the survey respondents reported no available system to monitor or estimate the value of their computer crime losses.

4. Approximately 48% (136) of the survey respondents reported that they had experienced "known and verifiable incidents of computer crime" during the past twelve months. The most frequently mentioned incidents were those involving: (1) unauthorized use of business computers for personal activities; (2) theft of computer software; (3) theft of tangible or intangible assets by means of a computer; (4) theft of computer hardware; and (5) destruction or alteration of software and/or data.

5. A large proportion of the respondents (39%) indicated that they had not been able to identify the perpetrators of known incidents of computer crime. Of the perpetrators identified, 78% of the respondents (125) indicated that the perpetrators were individuals within their organization; 46% (73) indicated that the identified perpetrators were individuals outside the organization.

6. Of the 148 respondents indicating that they had experienced incidents of computer crime (not necessarily during the past twelve months), approximately one-third reported that none of the incidents had been reported to law enforcement authorities, and another one-third reported that only some of the incidents had been reported. The remaining respondents indicated that most or all such incidents had been reported.

7. The respondents were asked to rank various means of preventing and deterring computer crime in terms of their effectiveness. The top-ranked items were as follows: (1) more comprehensive and effective self-protection by private business; (2) education of users concerning vulnerabilities of computer usage; (3) more severe penalties in federal and state criminal statutes; and (4) greater education of the public regarding computer crime.

8. The respondents were then asked to identify the steps that their organizations have actually taken to prevent and deter computer crime. The most frequently mentioned self-protection steps were: (1) limited access to computer programs, computer logic (85%); (2) limited access to computer operations (81%); (3) frequent changing of access codes, user ID numbers (72%); (4) limited access to input of data into computer (71%); (5) installation of asset controls and accountability (57%); (6) frequent security checks of computer and operations (50%); and (7) security education for employees (49%). The least-mentioned protective steps were prompt referral of suspected illegal activity to law enforcement authorities (20%), and coding of input or output data (14%).

9. The respondents were asked their views regarding the need for a federal criminal statute directed specifically to computer crime. Their views were as follows: strongly support=163 (58%); somewhat support=58 (21%); no opinion=43 (15%); somewhat oppose=12 (4%); strongly oppose=4 (1%).

10. The respondents were asked to provide written comments concerning "the most troublesome current and future aspects of computer crime." Over 60% (175) of the respondents provided such comments. The concerns most often articulated were the following: (1) the proliferation of business and personal computers and computer users; (2) the difficulty of detecting computer crime; (3) the existing vulnerability to computer crime, lack of adequate security measures; (4) the lack of public and/or managerial awareness and concern; and (5) the growing magnitude of potential losses from computer crime.

Based on the survey results and other available information, it is the view of the Task Force that both the public and the private sectors have important roles to play in combatting the incidence of computer crime. It is the intent of the Task Force to analyze further the respective roles and responsibilities of the public and private sectors and to offer a number of specific recommendations in a future report to the Criminal Justice Section and the ABA House of Delegates.

In August of 1979, the American Bar Association House of Delegates approved a resolution from the Criminal Justice Section supporting "legislation to establish federal jurisdiction, concurrent with state jurisdiction, over certain offenses committed against, or through the use of computers, computer systems or computer networks." The 1979 resolution, which remains the position of the ABA today, is fully supported by the results of the Task Force survey and other available information. While the Section and the Task Force reserve comment on specific legislative language, we believe that the need for federal computer crime legislation is clear and unmistakable.

The Section and the Task Force hope that this report will stimulate discussion and action by both the public and the private sectors. Comments on the report are encouraged.

INTRODUCTION

This report is the result of a study conducted by the American Bar Association Criminal Justice Section Task Force on Computer Crime. The Task Force, which consists of attorneys in private practice, industry and the judiciary, is part of the Criminal Justice Section's White Collar Crime Committee. This report is based, in part, on a survey of major American business and government organizations conducted by the Task Force in early 1984. The survey was conducted in an attempt to gather information and to elicit expert opinion on the nature of computer crime, its causes, its perpetrators, its victims, its effects, and how its occurrence can be prevented or diminished.

The purpose of this report is to provide useful information on the nature and occurrence of computer-related crime in order to enhance the current public debate concerning public and private actions that should be taken to deal with a growing law enforcement problem. It is the hope of the Section and the Task Force that this report will stimulate further discussion and appropriate action by individuals and organizations in both the public and the private sectors.

The report first presents the results of the Task Force's survey. The survey results are then analyzed in the context of other available information and the American Bar Association's existing policy with respect to the need for federal computer crime legislation.

The Section and the Task Force welcome public and private discussion of the information and analysis contained in this report. We also hope that interested parties will come forward with whatever comments they deem appropriate on this report and its contents.

I. The computer crime survey and its results

A. Nature of the Survey and the Respondents

In February 1984, the Computer Crime Task Force distributed its survey to approximately 1,000 private organizations and public agencies. The survey was 12 pages in length and contained questions eliciting information in a number of different areas—the nature and importance of computer crime, the effects of computer crime, the perpetrators of computer crime, prevention/deterrence of computer crime, and information concerning the responding organizations and the basis for their responses to the survey. A copy of the survey itself is attached as Appendix I.

The survey was distributed to the following organizations: companies in the Fortune list of the 500 largest United States corporations; banks, insurance companies, financial services/brokerage firms, and accounting firms selected from corporate directories; computer/electronics firms chosen from corporate directories and other available information sources; all major federal departments and agencies; all state attorneys general; a sample of district attorneys; and several relevant trade associations which were

invited to distribute the survey to their members. The respondents to the survey were not required to identify themselves, but they were asked to describe the type of business in which they were engaged. The distribution of respondents, by type of business, is as follows:

TABLE 1.—DISTRIBUTION OF RESPONDENTS BY TYPE OF BUSINESS

Type of business [1]	Number of respondents	Percentage of total
Manufacture of equipment and materials	44	16
State/local government—law enforcement	28	10
Production of consumer goods	27	10
Computer/electronics industry	27	10
Conglomerate	20	7
Insurance	17	6
Banking	16	6
Production or sale of energy	12	4
Financial services/brokerage	10	4
Natural resource industry	10	4
Federal Government—other than law enforcement	9	3
Communications	8	3
Retail sale or distribution of consumer goods	6	2
Medical health services	4	1
Federal Government—law enforcement [2]	4	1
Transportation	3	1
Accounting firm	3	1
Other [3]	35	12
Total responses	283	[4] 101

[1] In some cases, respondents indicated more than one type of business; in such cases, where it could be determined, the respondent's primary type of business was used; where that was not possible, the respondent was identified as a "conglomerate."

[2] The U.S. Department of Justice was asked to send the survey to 20 of the largest U.S. attorney's offices; the Department declined to do so, because of the "policy questions" raised by the survey.

[3] This category includes the following types of business: Computer security and engineering firms (9); other consulting and service firms (6); printing and publishing (4); manufacturers of industrial material (4); miscellaneous (12).

[4] Percentage totals in this and other tables may not equal 100 percent because percentages were rounded.

The respondents were also asked to indicate their annual gross revenues (or budget) and their number of employees. The results were as follows:

TABLE 2.—ANNUAL REVENUES (BUDGET) OF RESPONDENTS

Annual gross revenues (budget)	No. of respondents	Percentage of total (269)
Under $100,000	5	2
Between $100,000 and $500,000	5	2
Between $500,000 and $1 million	9	3
Between $1 million and $10 million	19	7
Between $10 million and $50 million	13	5
Between $50 million and $100 million	10	3
Between $100 million and $500 million	26	10
Between $500 million and $1 billion	52	20
Over $1 billion	130	48
Total responses	269	100

TABLE 3.—NUMBER OF EMPLOYEES OF RESPONDENTS

Number of employees	Number of respondents	Percentage of total
Under 100	26	9
Between 100 and 1,000	35	13
Between 1,000 and 10,000	93	34
Between 10,000 and 50,000	87	31
Between 50,000 and 100,000	26	9
Between 100,000 and 500,000	8	3
Between 500,000 and 1,000,000	2	1
Over 1,000,000		
Total responses	277	100

Finally, the respondents were asked to identify their principal place of business. To assess the geographic distribution of the respondents, the country was divided into six different regions; the distribution of the respondents was as follows:

TABLE 4.—GEOGRAPHIC DISTRIBUTION OF RESPONDENTS

Region [1]	Number of respondents	Percentage of total
Northeast	93	33
Middle Atlantic	36	13
South	30	11
North Central	86	30
Northwest	11	4
Southwest	27	10
Total responses	283	101

[1] The regions consisted of the following States:
1. Northeast: ME, NH, VT, MA, RI, CN, NY, NJ, PA.
2. Middle Atlantic: DE, MD, DC, VA, WV, NC, SC, KY, TN.
3. South: CA, FL, AL, MS, AR, LA, OK, TX.
4. North Central: OH, IN, IL, MI, WI, MN, IA, MO, ND, SD, NE, KS.
5. Northwest: WA, OR, ID, MT, WY, AL, HI.
6. Southwest: CO, UT, AZ, CA, NM, NV.

These identifying characteristics of the respondents indicate: 1) that they include a wide range of businesses, the largest groups being manufacturers of equipment and material, producers of consumer goods, state/local law enforcement, computer/electronics firms and conglomerates; 2) that the respondents include organizations of all sizes, with the majority having revenues of over $500 million and over 1,000 employees; and 3) that they represent all parts of the country, with slightly larger representation from the Northeast and the North Central regions of the United States.

B. Basis for Responses

In an effort to gauge the survey respondents' personal and organizational experience with computer-related crime, the respondents were asked to indicate the basis for their responses to the survey. The results were as follows (respondents were allowed to give more than one response):

TABLE 5.—BASIS FOR RESPONSE TO SURVEY

Basis for responses	Number of respondents [1]	Percentage of total
Organization's own experience with computers and computer-related crime	186	66
Personal experience with computers and computer-related crime	167	59
General knowledge of computers and computer-related crime (no direct knowledge)	130	46
Other	9	3

[1] Total number of respondents, 281.

These figures indicate that at least two-thirds of the respondents based their answers on their own, or their organization's, direct experience with computer and computer-related crime.

The respondents were further asked to indicate the nature of their personal involvement with computers and computer operations. Again, multiple answers were allowed, and the response was as follows:

TABLE 6.—RESPONDENTS' INVOLVEMENT WITH COMPUTERS

Involvement with computers and computer operations	Number of respondents [1]	Percentage of total
Executive with some responsibility/oversight	127	45
Supervisor or manager with direct responsibility/oversight	118	42
User of computers, computer services	87	31
Public law enforcement official with jurisdiction over computer-related crime	32	12
Computer programmer, software designer	22	8
Manufacturer or retailer of computer hardware or software	15	5
Computer operator, including data input and output	10	4
Other	59	21

[1] Total number of respondents, 282.

The respondents thus appear to be predominately supervisors and executives with direct or indirect responsibility for computers and their use. The responses in the "Other" category included a number of organizations in the computer servicing industry, including computer security firms, as well as corporate counsel whose involvement is with the legal aspects of computer use, and not with computer operations per se.

In general, the survey respondents appear to be well-acquainted with computers and with the actual and potential impact of computer-related crime on themselves and others. Their responses to other questions in the survey further demonstrated that most respondents have more than a passing acquaintance with computers and computer-related crime (see discussion below).

C. The Nature and Importance of Computer Crime

In an attempt to identify the respondents' views on the most significant type(s) of computer crime, the respondents were asked to review a list of computer-related crimes, grouped according to whether the computer or its components were the objects of crime or the instruments to perpetrate crime or were otherwise involved in criminal activity, and to indicate the types of computer crime considered "most significant." [1] The results of this inquiry are shown below:

TABLE 7.—MOST SIGNIFICANT TYPES OF COMPUTER-RELATED CRIME

	Number of respondents	Percentage of total
1. Crimes where computer or its components or its output are the object of crime:		
a. Destruction or alteration of data	221	79
b. Destruction or alteration of computer software	190	68
c. Theft of computer software	178	64
d. Theft of raw output data	110	40
e. Theft of coded output data	88	32
f. Destruction or alteration of computer hardware	84	30
g. Theft of input data	75	27
h. Theft of computer hardware	70	25
i. Other	22	8
2. Crimes where computer or its components are the instrument used to perpetrate crime:		
a. Theft of assets, tangible or intangible	241	87
b. Embezzlement	203	73
c. Fraud against consumers, investors or users	184	66
d. Sabotage	123	44
e. Extortion/blackmail	80	29
f. Other	14	5
3. Other criminal activity:		
a. Unauthorized use of computer for personal programming activities	140	50
b. Other	42	15
Total number of respondents	278	

Thus, the types of computer crime most often designated as significant are: 1) Use of computers to steal tangible or intangible assets; 2) Destruction or alteration of data; 3) Use of computers to embezzle funds; 4) Destruction or alteration of software; 5) Use of computers to defraud consumers, inves-

[1] The respondents were asked to rank up to five types of crime in terms of significance, with a 1 indicating most significant, a 2 indicating next most significant, and so on. Because a large number of respondents did not interpret the question correctly and did not rank the crimes as asked, the relative rankings given the various crime-types cannot be calculated. The responses shown herein simply indicate the number of times a particular crime-type was marked as a "significant" crime in the survey responses.

tors or users; and 6) Theft of computer software.

The respondents were then asked to identify who has the primary responsibility for controlling the incidence of computer crime. Their responses were as follows:

TABLE 8.—PRIMARY RESPONSIBILITY FOR CONTROLLING THE INCIDENCE OF COMPUTER CRIME

	No. of respondents	Percentage of total (262)
Private industry	114	43
Individual users	89	33
The Federal Government	27	10
State and local governments	13	5
Other [1]	23	9
Total number of responses	266	100

[1] The "other" category included vendors and manufacturers of computers and a large number of "all of the above" responses.

In order to gain a sense of how the respondents viewed the importance of computer crime generally, relative to other types of crime or crime-related problems, the respondents were given a list of other types of crimes and were asked to indicate whether, in their view, computer crime was more important, less important, or equally important, or whether they had no opinion. As the results below indicate, respondents generally regarded computer crime as less important than most violent crimes, but perceived it to be equal to or more important than many other types of White Collar Crime. The results, ranked according to the difference between the percentage of respondents finding computer crime more important than the listed crime versus the percentage finding it less important, are as follows:

TABLE 9.—RELATIVE IMPORTANCE OF COMPUTER CRIME

Type of crime/problem being compared	Computer crime more important		Computer crime less important		Same		Don't know		Total number of respondents
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	
Shoplifting	197	74	16	6	46	18	6	2	265
Illegal immigration	153	57	44	17	41	16	30	11	268
Overcrowded prisons	114	43	73	27	18	7	62	23	267
Illegal possession of firearms	117	44	83	31	46	17	21	8	267
Antitrust violations	73	27	58	22	108	40	28	11	267
Counterfeiting	65	25	59	23	138	52	5	2	267
Consumer fraud	44	16	42	16	171	64	12	5	269
Bank fraud and embezzlement	34	13	34	13	188	70	8	3	269
Insider trading/securities fraud	40	15	44	17	173	65	9	3	266
Tax fraud	40	15	50	19	165	62	12	4	267
Commercial espionage/bribery	39	15	53	20	168	63	7	3	267
Distributing marijuana	87	32	126	47	31	12	25	9	269
Commodities fraud	31	11	44	16	184	68	11	4	270
Fraud against the government	27	10	80	30	152	56	12	5	271
Criminal health and safety violations	52	19	133	50	59	22	23	9	267
Corruption of public officials	32	12	124	46	108	40	8	3	272
Criminal toxic waste violations	36	14	160	60	47	17	25	9	268
Assault	31	12	185	70	31	12	17	7	264
Armed robbery	17	6	197	73	46	17	11	4	271
Organized crime/racketeering	3	1	187	70	65	24	13	5	268
Distributing cocaine	14	5	204	76	26	10	25	9	268
Distributing heroin	11	4	213	80	22	8	22	8	268
Espionage/foreign counterintelligence	5	2	205	77	37	14	18	7	265
Rape	0	0	252	93	9	3	10	4	271
Murder	0	0	260	96	6	2	6	2	272

D. The Effects of Computer Crime

The respondents were asked a series of questions intended to evoke information regarding known incidents of computer crime and verifiable losses resulting therefrom, and also their opinions concerning the effects of computer crime beyond their own organizations. For example, the respondents were asked to indicate the "known and verifiable losses due to computer crime" experienced by their respective organizations during the last twelve months. The words "known and verifiable" were deliberately inserted so that the respondents would not give speculative estimates having no firm basis in fact. For this reason, the responses given would appear to be conservative estimates of actual losses sustained by respondents. The responses are also likely to be conservative estimates of losses because of the use of the phrase "losses due to computer crime." Many respondents may have considered "computer crime" not to include acts of abuse or misuse (such as use of business computers for personal programming activity) which may or may not constitute "computer crime" in a legal sense. The survey results are as follows:

TABLE 10.—KNOWN AND VERIFIABLE LOSSES DUE TO COMPUTER CRIME EXPERIENCED DURING THE LAST 12 MONTHS

Amount	Number of respondents	Percentage of total
None	125	45
Between 0 and $100,000	54	20
Between $100,000 and $500,000	8	3
Between $500,000 and $1,000,000	1	
Between $1,000,000 and $5,000,000	4	2
Between $5,000,000 and $10,000,000	0	
Between $10,000,000 and $50,000,000	4	2
Between $50,000,000 and $100,000,000	0	
Between $100,000,000 and $500,000,000	1	
Over $500,000,000	0	
No available system to monitor losses	41	15
No available estimate of value of losses	37	13
Total number of responses	275	100

One cannot extrapolate from the results of this limited survey to derive a valid "total annual dollar loss" figure for computer crime, a figure which has been sought by many, but which is elusive and unattainable given the current state of record-keeping. However, it does appear significant, given the conservative manner in which the survey question was framed, that over 25 percent of those responding have sustained "known and verified losses due to computer crime during the last twelve months." It also seems significant that these annual losses, given the parameters of the survey responses, could range anywhere from $145 million to as high as $730 million, for the 72 respondents reporting known and verifiable losses. The average annual loss per respondent reporting losses thus ranges from approximately $2 million to over $10 million per year. It is worth noting that many of the large federal agencies, with huge outlays and acknowledged significant losses due to computer crime, did not participate in this survey. It is also noteworthy that many of the largest organizations responding to the survey (those with annual revenues/budgets over $1 billion) reported no available system to monitor or estimate value of losses.

At the very least, the results of this survey support the proposition that the annual losses sustained by American business and government organizations as a result of computer crime are, by any measure, huge. If the annual losses attributable to computer crime sustained by the relatively small survey group are, conservatively estimated, in the range of half a billion dollars, then it takes little imagination to realize the magnitude of the annual losses sustained on a nationwide basis.

The survey respondents were asked their opinions concerning the total annual dollar losses due to computer crime in the United States. The resulting responses were as follows:

TABLE 11.—OPINIONS REGARDING TOTAL ANNUAL LOSSES DUE TO COMPUTER CRIME IN THE UNITED STATES

Amount	Number of respondents	Percentage of total
Under $1 million	1	
Between $1 million and $10 million	10	5
Between $10 million and $100 million	27	12
Between $100 million and $500 million	51	23
Between $500 million and $1 billion	39	18
Between $1 billion and $10 billion	59	27
Between $10 billion and $50 billion	24	11

TABLE 11.—OPINIONS REGARDING TOTAL ANNUAL LOSSES DUE TO COMPUTER CRIME IN THE UNITED STATES—Continued

Amount	Number of respondents	Percentage of total
Over $50 billion	7	3
Total number of respondents	218	99

Thus, *59%* of those responding to this question believe annual losses due to computer crime exceed $500 million, *41%* believe them to be in excess of $1 billion, and *14%* believe the annual losses exceed $10 billion. The respondent's *opinions* seem to be supported by the empirical *data* concerning actual losses sustained by respondents, provided elsewhere in the survey. If anything, the respondents' opinions regarding total annual losses may be conservative.

The respondents were also asked to identify the "known and verifiable types of incidents of computer crime" experienced by their organizations during the last twelve months. Two-hundred-thirty-seven (237) respondents answered this inquiry. One-hundred-one (101) of the respondents indicated that the question was "not applicable" to them. The remaining respondents (136) indicated the following types of "known and verifiable" incidents (multiple responses were allowed):

TABLE 12.—KNOWN AND VERIFIABLE INCIDENTS OF COMPUTER CRIME EXPERIENCED DURING LAST 12 MO

	Crimes	Number of respondents	Percentage of total (283)
1. Crimes where the computer or its components or its output were the object of the crime		124	44
(a) Destruction or alteration of computer hardware	10		
(b) Destruction or alteration of computer software	23		
(c) Destruction or alteration of data	23		
(d) Theft of computer hardware	43		
(e) Theft of computer software	45		
(f) Theft of input data	12		
(g) Theft of raw output data	22		
(h) Theft of coded output data	7		
(i) Other	28		
2. Crimes where the computer or its components were the instrument used to perpetrate crimes		87	31
(a) Theft of assets, tangible or intangible	44		
(b) Fraud against consumers, investors or users	14		
(c) Extortion/blackmail	5		
(d) Embezzlement	22		
(e) Sabotage	13		
(f) Other	26		
3. Other		70	25
(a) Unauthorized use of computer for personal programming activities	63		
(b) Other	13		

These results give some indication of the range of computer crime incidents experienced by the respondents during the past twelve months and the relative frequency of those incidents. The fact that approximately 48% of the respondents reported one or more computer crime incidents, while only 25% provided "known and verified loss" estimates, also underscores the conservative nature of the "known and verified loss" figures provided. The respective results of the two questions seem to indicate that a large number of respondents sustained losses as a result of computer crime, but were unable or unwilling to quantify the magnitude of those losses.

E. Perpetrators of computer crime

The survey respondents were asked a series of questions concerning the identity and motivation of known perpetrators of computer crime and what, if any, action had been taken with respect to them. The respondents were first asked to provide information concerning the perpetrators of incidents of computer crime actually experienced by the respondent. Of the 265 respondents responding to the question, 105 (or 40%) indicated that the question was not applicable to them. The responses of the remaining 160 participants were as follows:

TABLE 13.—IDENTITY OF KNOWN PERPETRATORS

	Crimes	Number of respondents	Percentage of total (160)
Perpetrator not identified		62	39
Individuals within the organization		125	77
a. Executives, managers not directly involved with computers	21		
b. Computer operations supervisors	22		
c. Computer programmers, software personnel	67		
d. Nonsupervisory computer operations personnel	42		
e. Nonsupervisory personnel not directly involved with computers	40		
f. Other	18		
Individuals outside the organization		73	45
a. Competitors	16		
b. Customers/clients	11		
c. Outside consultants	22		
d. Individuals with no prior relationship with organization	37		
e. Other	16		
Total number of respondents	160		

The respondents were then asked, with respect to the identified perpetrators of computer crime against their organization, to indicate what, if any, actions had been taken against them. Two-hundred-fifty-seven (257) respondents answered this inquiry, with the following results (multiple responses were allowed):

TABLE 14.—ACTION TAKEN AGAINST IDENTIFIED PERPETRATORS

Action	Crimes	Number of respondents [1]	Percentage of total (257)
None		39	15
Criminal investigation underway/completed		49	19
Criminal prosecution initiated		54	21
Status or outcome:			
Still pending	21		
Dismissed	7		
Acquittal	5		
Guilty plea	20		
Guilty verdict	13		
Sentenced	11		
Fined	4		
Other	5		
Civil legal action initiated		17	7
Disciplinary action against employee		69	27
Other		6	2
Not applicable		114	45

[1] Total number of respondents, 257.

The respondents were then asked to indicate the extent to which they had reported incidents of computer crime to law enforcement authorities. Their responses were as follows:

TABLE 15.—REPORTING COMPUTER CRIME INCIDENTS TO LAW ENFORCEMENT AUTHORITIES

	Number of respondents	Percentage of total
All such incidents reported	40	16
Most such incidents reported	13	5
Some such incidents reported	45	18

TABLE 15.—REPORTING COMPUTER CRIME INCIDENTS TO LAW ENFORCEMENT AUTHORITIES—Continued

	Number of respondents	Percentage of total
None of such incidents reported	50	20
Not applicable	102	41
Total number of responses	250	100

It is notable that, of the respondents to whom the above question was applicable, approximately one-third did not report any of the computer crime incidents experienced to law enforcement authorities, and another one-third only reported some of the incidents experienced.

Finally, the respondents were asked their opinion regarding the motivation of computer crime perpetrators. Their responses were as follows (multiple responses were permitted):

TABLE 16.—MOTIVATION OF COMPUTER CRIME PERPETRATORS

	Number of respondents	Percentage of total
Personal financial gain	261	96
Organizational/corporate financial gain	67	25
Organizational/peer group pressure	31	11
The intellectual challenge	168	62
Desire for publicity/recognition	43	15
Other personal reasons	96	35
Other	19	7

Note.—Total number of respondents equal 271.

Included in the "Other" category were the following Revenge/Retaliation against employers (7); Ease of access/financial gain (5); Espionage/vandalism (2); and Miscellaneous (7).

F. Prevention/Deterrence of Computer Crime

The respondents were asked a series of questions concerning the prevention and deterrence of computer-related crime. They were first asked to review a list of various means of preventing and deterring computer crime, and then to rank those alternative means in terms of effectiveness (a rank of one (1) indicates the most effective, a rank of two (2) indicates the next most effective, and so on). The results of this question are shown below:

TABLE 17.—MOST EFFECTIVE MEANS OF PREVENTING AND DETERRING COMPUTER CRIME

Action	Number of respondents	Relative score (rank)
More comprehensive and effective self-protection by private business	246	1.53
Education of users concerning vulnerabilities of computer usage	210	2.78
More severe penalties in Federal and State criminal statutes	193	3.62
Greater education of the public regarding computer crime	168	4.07
More aggressive Federal law enforcement	166	4.13
More aggressive State and local law enforcement	174	4.17
Greater caution by individual consumers, investors, entrepreneurs	163	4.38

Note.—Total number of respondents equals 259.

The respondents were then asked to identify the steps that their organizations have actually taken to prevent and deter computer crime. Their responses were as follows (multiple responses were permitted):

TABLE 18.—STEPS TAKEN TO PREVENT/DETER COMPUTER CRIME

Action	Number of respondents [1]	Percentage of total (274)
Limited access to computer program, computer logic	233	85
Limited access to computer operations	223	81
Frequent changing of access codes, user ID numbers	198	72
Limited access to input of data into computer	195	71
Installation of asset controls and accountability	157	57
Frequent security checks of computer and operations	137	50
Security education for employees	135	49
Improved screening of employees who have access to computers	114	42
Severe sanctions for employees involved in computer-related irregulatiries	101	37
Prompt referral of suspected illegal activity to law enforcement authorities	54	20
Coding of input data	39	14
Coding of output data	39	14
Other	34	12

[1] Total number of respondents, 274.

Included in the "Other" category were the following: Implementation of comprehensive computer security policies/program (8); Increased frequency of EDP/internal audits (7); Installation of software security package (5); Education of users (2); Miscellaneous (12).

The respondents were next asked their views on the need for a federal criminal statute specifically directed to computer crime. Their responses were as follows:

TABLE 19.—VIEWS REGARDING NEED FOR FEDERAL CRIMINAL STATUTE DIRECTED SPECIFICALLY TO COMPUTER CRIME

Position	No. of respondents	Percentage of total (280)
Strongly support such a statute	163	58
Somewhat support such a statute	58	21
Have no opinion regarding the need for such a statute	43	15
Somewhat oppose such a statute	12	4
Strongly oppose such a statute	4	1
Total number of respondents	280	99

Although the respondents were not asked to evaluate any specific proposed statutory language, the fact that 79 percent of them either strongly support or somewhat support the passage of a federal computer crime statute is noteworthy.

The respondents were asked to indicate whether their respective states had a computer statute in effect. If their state has such a statute, the respondents were asked to evaluate its effectiveness. If their state did not have a computer crime statute, the respondents were asked to indicate whether they favored or opposed the passage of such legislation. The results of these inquiries are shown below:

TABLE 20.—RESPONDENTS IN STATES WITH COMPUTER CRIME STATUTES

	Number of respondents	Percentage of total (274)
State has a statute	72	26
State does not have a statute	92	34
Don't know	110	40
Total number of respondents	274	100

TABLE 21.—OPINION REGARDING STATE COMPUTER CRIME STATUTES

	Number of respondents	Percentage of total (82)
Statute is beneficial and worthwhile	36	44
Statute is deficient; should be repealed or drastically amended	12	14
Insufficient information to respond	34	42
Total number of respondents	82	100

TABLE 22.—OPINION REGARDING NEED FOR STATE COMPUTER CRIME STATUTE IN STATES HAVING NONE

	Number of respondents	percentage of total (119)
Favor the adoption of such a statute	91	77
Oppose the adoption of such a statute	5	4
No opinion	23	19
Total number of respondents	119	100

The overall opinion of respondents strongly supporting the passage of a *federal* computer crime statute thus seems to carry over into their opinion regarding the need for *state* legislation, where there is none.

G. Respondents' Comments On Most Troublesome Aspect Of Computer Crime

The respondents were asked to describe in their own words "the most troublesome aspect of computer crime, currently and in the foreseeable future." Over 60% (175) of the respondents chose to provide comments. Although some of the respondents' handwritten responses require some interpretation, they fall roughly into the following major categories:

TABLE 23.—MOST TROUBLESOME CURRENT AND FUTURE ASPECTS OF COMPUTER CRIME

Problem	Number of respondents [1]	Percentage of total (175)
Proliferation of business and personal computers and computer users	40	23
Difficulty detecting computer crime	36	21
Vulnerability, lack of adequate security measures	35	20
Lack of public and/or managerial awareness and concern	24	14
Increasing reliance on computers/magnitude of potential losses	19	11
Difficulty of prosecution/lack of prosecutorial interest or measures	17	10
Lack of adequate statutes/criminal sanctions	16	9
Lack of understanding of problem/law enforcement expertise	16	9
Lack of clear definition/failure to recognize as crime	13	7
Espionage and spying, foreign and domestic	8	5

[1] Total number of respondents, 175.

Other areas of concern expressed by respondents include the following (number of respondents in parentheses): (a) Costs of prevention (5); (b) Exaggeration of the problem (5); (c) Privacy concerns (5); (d) Failure to report to law authorities (4); (e) Hackers (4); (f) Identifying perpetrators (3); (g) Determining damages (2); (h) Copyright problems (2); and (i) Exploitation by organized crime (1). Obviously, the categories described above sometimes overlap, and could have been divided differently. As presented, however, they provide a good description of the range of concerns expressed by respondents.

Some of the respondents' remarks merit specific citation, both for their tone and their content. A selection of some of the respondents' more emphatic comments is given below. The respondents' respective geographic location and type of business are indicated.

Proliferation of computers and computer users

"The proliferation of computer equipment among the general public will lead to the training in the use of such devices to greater numbers of individuals with criminal propensities. The lack of efficient security measures among both private and public sector users for storage of computer based technical and financial information will result in growing losses until the problem of security deficiencies catches up with technology advances." (Northeast; accounting firm).

"My concern is the growing industry of personal computers and the ability of connecting to on-line applications and data bases in the public and private sectors. Individuals, from elementary students on up, who would not as a rule have access to this very powerful equipment can now purchase it at local comp. stores. This accessibility and knowledge of automation has and will continue to lend to problems either maliciously or accidentally. The solution lies in more sophisticated computer security." (North Central; medical health services company).

"In my opinion, the largest security exposure in the coming year will be the use of personal computers with the data residing on moveable floppy disks. Manufacturers must address this problem so that the systems have a uniqueness for each company." (Middle Atlantic; banking company).

Detection

"Because software and magnetically recorded data are invisible, it is extremely difficult to detect criminal or fraudulent actions, and therefore, the level of computer crime or computer-based crime is difficult to assess." (Northeast; computer/electronics company).

"Government and business are not willing or are incapable of addressing computer crime/prevention issues. Corporate victims are reluctant to report computer crime as they fear stockholder suits. Lack of Federal/State law. In short, computer crime pays darn well." (Northeast; security consulting).

"Because a good programmer can cover up a crime so easily and effectively, the most troublesome aspect of computer crime is the difficulty detecting it. This is compounded by the fact that security and control of the computer are in their infancy, so preventing computer crime is extremely difficult. The situation will probably worsen in the future because of the continued rapid growth of computer usage." (Northeast; insurance company).

Lack of effective security measures

"The rapid pace of technology—both hardware and software, that continuously outdates existing controls or presents new control concerns." (South; natural resource company).

"A good system of internal controls—that is data processing control coupling with good accounting controls—will discourage and uncover theft of assets and embezzlement. From a data processing executive's standpoint, sabotage of equipment and data is the most difficult from which to recover." (Northeast; manufacturer of equipment materials).

"The failure of management to implement sufficient internal controls to supervise their systems is one of the major problems.

Because of this, individuals are the systems for unauthorized jobs. There are neither federal nor state statutes for a DA to use when dealing with computer crimes. It is difficult to process this type case. It is hard to explain to 12 men or women that a copy of a software code, on a mag tape (valued at $25.00) has a overall value in excess of millions of dollars." (North Central; system design, implementation and testing).

Lack of public/managerial interest

"Education and awareness—failure of the user to recognize loss/vulnerability potential to computer crime and of management to allocate resources to combat the problem." (Middle Atlantic; federal government agency).

"Lack of awareness—that a person is doing anything wrong by attempting to enter someone elses data system. It is viewed as a game. Education should start in high school. Even with legislation/laws—no resources to enforce." (North Central; manufacturer).

"The crime, where it is labelled 'crime', has an image of 'gamemanship' about it, with the 'gaming' often directed into an entity which is 'neutral' and 'rich' (the corporation) with a perception that no one loses anything, just an intangible 'corporation.'" (Northeast; computer/electronics firm).

"Difficulty in installing safeguards and lack of strong enforcement attitude against perpetrators. There is a tendency to look upon computer crime as a lark or the perpetrator as a 'little guy' who is a hero for 'ripping-off' a big institution." (North Central; producer of chemicals).

Magnitude of potential losses

"An organization's whole accounting system could be destroyed. Intangibles like this are more important than people doing it for monetary gain." (Middle Atlantic; computer/electronics firms).

"Theft of significant assets through embezzlement. Alteration of corporate data causing management to receive erroneous information. Destruction of critical corporate documents/files. Alteration of critical corporate documents/files leading to chaos within corporation and possible theft of assets." (Northeast; steel manufacturer).

"Computer crime creates financial losses that are eventually absorbed by all consumers, you and me." (North Central; producer of consumer goods).

Lack of law enforcement expertise/ resources

"The most difficult task at present is to educate government so as to make them aware of the computer problem. Law enforcement agencies are not familiar enough with computers and the losses that can occur to properly conduct an investigation and prosecute the perpetrators." (Northeast; consumer reporting agency).

"The inability of the courts and law enforcement to deal with complex issues relating to theft of computer technology, trade secrets, transborder data-flow and the leniency in dealing with white collar criminals. Juries may never be trained in computer crime but jurists should be." (Southwest; computer security consulting).

"Allocation of resources to remedy the problem and for enforcement of existing and developing laws has not been a priority. The degree of sophistication of the criminal is outstripping the enforcement/prevention forces." (Northwest; state/local law enforcement agency).

Lack of adequate laws/sanctions

"The difficulty in proving under the law that a specific individual committed the act (remote activation with technical obscurity)." (North Central; computer/electronics firm).

"Computer crime is more a potential than real problem at this time. I see a significant potential for major computer crime problems in the future. In addition, computer crime is inherently interstate in nature. State and local efforts to control such crime (at least where a computer is the instrument of the crime) will be of limited effectiveness on that account." (Middle Atlantic; federal government agency).

"As in other aspects of crime, there are too many liberals worrying about the rights of the criminal and not the public. Wrist slapping is the punishment likely to be given computer criminals. A thief is a thief whether he uses a gun or computer to rob doesn't matter, penalty should be the same." (North Central; manufacturing firm).

Spying

"Technology theft and transfer to potential adversaries." (Southwest; state/local law enforcement agency).

"Difficulty of policing in an open nonregimented society. I feel greatest problems lie in area of commercial and national security related espionage directed at computer related technology." (Southwest; computer/ electronics firm).

Hackers

"Computer trespass and vandalism where economic gain is not the motive. The thrill of destroying or playing havoc' with a computer system seem to be the motivating force." (Northeast; state/local law enforcement agency).

H. Caveats Concerning Survey Results

The Task Force believes that the survey results are very helpful and instructive on the issues surrounding computer crime and on public and private efforts to deal with it. However, it is appropriate to end this section with a number of caveats regarding the survey results and their significance. First, it should be noted that the phrase "computer crime" has different meanings to different people. In distributing the survey, we purposefully provided no hard-and-fast definition of "computer crime." Instead, we offered a wide range of types of computer crime, including crimes in which computers or their components are the objects of crime, and criminal activities in which computers are the instruments of crime, and asked the respondents to indicate those they considered most significant. Thus, by implication we suggested a broad definition of computer crime and, as it turned out, the respondents' answers indicated an equally broad view of the meaning of computer crime. Nevertheless, it is certainly possible that, in answering the survey, individual respondents had differing views of the meaning of "computer crime."

Secondly, as is inevitable with any survey, the respondents had different levels of experience and expertise with respect to computer crime. Many of the respondents were individuals with direct responsibility for the operation and security of computers. Other respondents were managers or legal counsel with only indirect responsibility and oversight over computer operations. The survey asked the respondents to indicate their personal involvement with computers and computer operations and the basis for their responses. Over two-thirds of the respondents indicated direct or indirect responsibility for computers and their operation, and based their responses on their own personal experience or on their organization's own experience with computers and computer-related crime.

Thirdly, because of the size of the sample, the survey results do not allow one to conclude with any certainty the number of incidents of computer crime that have occurred or are occurring on a nationwide basis, or the magnitude of economic losses that are attributable to these incidents. However, by looking at the respondents' answers concerning known and verifiable losses that they themselves have sustained as a result of computer crime during the past twelve months, one can make some reasonable inferences concerning the overall economic significance of computer crime. As various commentators have pointed out, valid and reliable statistics on the actual incidence of computer crime and actual losses sustained on any comprehensive basis are simply not possible until better reporting systems are in place.

Finally, as with any survey, there may be ambiguities in the survey instrument itself and ambiguities in some of the responses. We attempted to keep such ambiguities to a minimum by carefully constructing the survey and by pretesting it, and the survey responses do not indicate that the respondents were troubled by the ambiguity of any specific questions. However, it is always possible that the respondents viewed certain questions in slightly different ways. In the few instances where the written comments of the respondents were ambiguous, we have attempted to interpret them in a reasonable and consistent manner, and we have indicated where such interpretations were necessary.

With these caveats, we believe that the survey results, as reported here, are meaningful and instructive.

II. Significance of computer crime survey results

The foregoing section of this report set forth the results of the survey conducted by the Task Force on Computer Crime. This section attempts to place those results in the context of some of the issues currently being debated with respect to computer crime and society's response to it, and to assess the significance of the survey results based on facts available to the Section and the Task Force members.

A. Nature and Importance of Computer Crime

Discussions of computer crime often begin with an extended discourse on various possible definitions for computer crime and a lament that there is no one, clear, agreed-upon definition. We choose to forego any such discussion. For purposes of our survey and for purposes of discussion, we adopt a broad definition of "computer crime" including criminal activities directed against computers and their components, criminal activities which use computers or their components as instruments to perpetrate crime, and other activities involving computers which, while they may not constitute "crimes" in the strict legal sense, nevertheless amount to abuse which perhaps should be declared illegal.

Our broad definition of the phrase "computer crime" for purposes of this discussion does not mean that more precise or more limited definitions are not appropriate when one is attempting to craft legislation or design operating or security procedures. Dif-

ferent types of computer crime may indeed require different preventive measures and different sanctions. Our review of the phenomenon of computer crime is purposefully broad, to avoid meaningless semantic hairsplitting, while perhaps providing guidance on distinctions and disaggregations that may be useful for specific purposes.

Reports on computer crime also often contain numerical estimates, usually unexplained or unsupported, of the economic losses attributable to computer crime. These numerical estimates, which vary widely,[2] are typically offered to convince the reader that computer crime is a serious problem.

We are not in a position to offer any quantification of total annual economic losses due to computer crime. Such a quantification of aggregate losses would be interesting and helpful to have, but it is not necessary to convince us that computer crime is a problem of substantial, and growing, significance. There is more than enough evidence to support that proposition.

The survey results indicate that over 25% of those responding have sustained "known and verifiable losses due to computer crime during the last twelve months." Among the 72 respondents sustaining losses, the known and verifiable losses are, at a minimum, $145 million and could be as high as $730 million. This puts the average annual loss per respondent reporting losses in the range of $2 million to over $10 million. Given the small number of organizations reporting these large known and verifiable annual losses (total and per respondent), the total annual loss figures nationwide would appear to be enormous.

Beyond the survey results, the magnitude of the computer crime problem, both currently and in the future, becomes clear when one considers the latest estimates regarding computer usage: 3.5 million personal computers now in use in the business market, out of a total of 9.1 million personal computers currently in use in the United States ;[3] over 16,000 large computers being used by the federal government, and more than 56,000 large, general purpose computers in use in the private sector.[4] The proliferation of computers and computer users in recent years has far outpaced the earlier projections of those closely involved in the industry.[5] This proliferation of machines and knowledgeable users, along with recent concrete examples of the damage that can be caused by one person with one personal computer, provide disturbing and undeniable evidence that the scope and significance of computer crime, and its potentially devastating effects, are broad and deep. The survey results reveal that, among those responding, computer crime generally is viewed to be of equal or greater importance than many other types of White Collar Crime and is seen as being more important than a number of other crime problems (e.g., shoplifting, illegal immigration, illegal possession of firearms).

For these reasons, it would seem beyond dispute that computer crime is today a large and significant problem with enormous potential for becoming even larger and more significant.

B. Public and private sector response to computer crime

We believe that both the private and the public sectors bear responsibilities for dealing with computer crime. How each sector defines and fulfills its responsibilities obviously has an impact on society as a whole.

For example, it is relatively clear that, in economic terms, society's losses due to computer crime include two type of costs—the actual monetary losses to businesses, government agencies, and individuals caused by computer crime and the resources that society is called upon to spend in controlling (i.e., preventing, detecting, investigating, prosecuting) computer crime. The opportunity costs of the resources devoted to the latter (which we can call "security costs") are obviously great. The object of social policy toward computer crime, in economic terms, must be to minimize these combined economic costs (actual economic losses and security costs). This can be accomplished in a number of ways: (1) Utilizing the most efficient level of security investment;[6] (2) Lowering the probability of loss;[7] and (3) Lowering the potential magnitude of loss.[8]

The results of the Task Force's survey provide some relevant insights on these matters. The respondents overwhelmingly indicated that the primary responsibility for controlling computer crime rests with private industry and individual users (76% of the respondents so indicated; see Table 8 above). Similarly, by a large margin, the respondents indicated that "the most effective means of preventing and deferring computer crime" was "more comprehensive and effective self-protection by private business" (see Table 17 above). At the same time, one of the respondents' most-repeated concerns in their written comments is the alleged lack of awareness and lack of concern by management and the public generally concerning computer crime. There at least seems to be a different (greater) perception of the significance of computer crime by those directly involved with computers than by those farther removed (higher management, general public). If the concerns expressed by a large number of the respondents are accurate, it would appear that the upper levels of corporate (and government) management may be underestimating both the potential magnitude and the probability of various types of computer crime. If this is so, public and private management may be implicitly or explicitly undervaluing the possible, or likely, losses from computer crime and, therefore, underinvesting in protective security measures.

What significance does this apparent underestimation of the present and future dimensions of computer crime have for society at large? If the managements involved are not investing the appropriate amount in security measures (i.e., the "efficient" amount), the economic losses to them and to society from computer crime are greater than they should be. In addition, if managements are not adequately aware of and concerned about the potential for computer crime, they are unlikely to be adequately exploring and demanding more efficient computer security devices.[9] While the Task Force survey does not demonstrate conclusively that this is the case, it indicates strongly that this may be the case.

Several other themes emerge from the comments provided by respondents to the Task Force survey. One is the apparent gap between computer technology generally and computer security technology. This gap, or lag, between the two seems to be increasing.

Secondly, the survey responses reflect a concern that we are developing a culture of young computer users who are challenged to use computers to the ultimate extent possible, with little or no regard for other people's property or privacy interests. These young users are ecouraged, by their peers and by the role models that they see treated as "whiz kids" and "heroes" by the media, to push technology to the limit, without any balancing of legal or ethical considerations in computer use.

Thirdly, the survey responses indicate broad concern regarding the lack of effective federal and state computer crime legislation. Of the respondents in states having computer crime statutes, most thought the statutes were beneficial (see Table 21, above). The respondents in states not having a computer crime statute were strongly in favor of having a state statute (see Table 22, above). And, among all respondents, there was overwhelming support for a federal computer crime statute (see Table 19, above). The need for federal com-

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[2] *See, e.g.*, $20 to $100 million annual losses due to computer crime (Police Chief, June 1983, p. 50); $300 million to $5 billion per year (Technology Review, April 1982, p. 21); $1 billion per year (The Office, November 1983, p. 47).

[3] Wall Street Journal, April 9, 1984, p. 37; May 4, 1984, p. 29.

[4] Speech by Congressman Bill Nelson to the American Society for Industrial Security, October 31, 1983.

[5] See, e.g., Business Week, April 20, 1981, p. 86: "Five years ago, just 1,500 personal computers had been sold in the U.S.; today that number is 500,000, and by the mid-1980s the total should hit 3 million [citing International Data Corportation projections]."

[6] For example, if company A is currently investing X amount of resources in computer security and its expected losses from computer crime are X+Y, it may or may not be investing at the most efficient level. If company A increases its security investment by 1 unit (say, $1 million dollars) and the result is to decrease its expected losses by 2 units ($2 million), then the additional investment would seem justified. If, on the other hand, spending X+$1 million on computer security has no effect on company A's expected losses, or decreases them by any amount less than $1 million, the security investment should not be made.

[7] The probabilities of losses can be lowered by a number of means, including more aggressive law enforcement, the use of increased security measures, or the introduction of more efficient security measures which do not increase security costs while decreasing the likelihood of the successful perpetration of computer crime. Obviously, it does not make economic sense to spend more on these probability-reducing devices than they produce in reduced expected losses.

[8] For example, if a company or a government agency can reduce the potential magnitude of its losses from computer crime to $2 million instead of $10 million, its overall expected losses, assuming the probability of loss remains the same, will be lower. A concrete example of this might be designing an extensive computer network, with multiple access points, so that a person at access point A could affect only data relating to access point A, and not that of access points B, C, D, etc.

[9] Many of the survey respondents, in one form or another, seemed to be asking, "Why don't companies that design or manufacture computer systems pay more attention to security features in the design stage? Why don't companies (and government agencies) demand more from computer designers and themselves invest more in computer security, research and usage?"

Part of the answer to these questions is probably a lack of information or lack of awareness of the potential of computer crime losses. But another part of the answer is that these companies (and agencies) do not pay the full price of their failure to design or implement adequate security measures. The costs of their failures or their underinvestment are, at least in part, passed on to others—they are "externalized." In some cases, they are borne by other companies, by consumers, by taxpayers, or by society at large. Similarly, the gains that may result from technological advances in security are not necessarily internalized by the companies or individuals that develop them.

puter crime legislation will be discussed in the following section.

Finally, the survey results indicate that both private industry and public officials believe that law enforcement personnel do not have the expertise necessary to investigate and prosecute computer crime successfully. This may explain, in part, the high proportion of computer crime incidents that are not reported to law enforcement officials. The survey responses provided by law enforcement officials indicate that, while they recognize their need for more resources and improved expertise, they would welcome more conscientious reporting of alleged computer crime incidents.

C. The Need For Federal Computer Crime Legislation

The Criminal Justice Section first endorsed the adoption of federal computer crime legislation in 1979, in a resolution ultimately approved by the ABA House of Delegates in August 1979.[10] The ABA's position in favor of federal computer crime legislation is fully supported by the results of the Task Force survey and by recent events.

The need for such legislation seems clear; nonetheless, we will briefly discuss some of the major reasons such legislation is necessary and beneficial. First, the survey results and recent experience indicate that, among a large portion of the population, there is a failure to recognize various forms of computer abuse and misuse as illegal and improper. This illustrated by the view of the teenagers in the recent Milwaukee "414" gang who used a personal computer to infiltrate the computer records of the Sloan-Kettering Cancer Clinic, the Los Alamos Nuclear Weapons Research Laboratory, and over 50 other business and institutional computers. One of the teenagers involved admitted that the first time he felt he might have done something illegal or unethical was when the FBI knocked at his door.[11] But the lack of recognition of computer abuse as illegal or unethical appears to be not limited to young "hackers"; it seems to be shared by others in society who have the means and the ability to commit various forms of computer crime. The existence of a federal criminal statute specifically directed at computer-related illegal activity, and a few well-publicized prosecutions under such a statute, should dispel any lingering perception that computer abuse is a "game" that one may engage in freely without fear of prosecution or concern for the damage that may result.

Secondly, the enactment of a federal criminal statute should have a number of other positive effects on law enforcement. It will give investigators and prosecutors a specific jurisdictional hook and a framework for prosecution, so that they need not attempt to fit "a square peg" in a "round hole" [12] by crafting new theories of prosecution and stretching existing criminal statutes (many of which were drafted long before "computers" became part of our vocabulary) to cover situations that were clearly not contemplated by their authors. A specific computer crime statute should also encourage private citizens to report, and law enforcement authorities to pursue, incidents of computer crime. The current uncertainty about whether computer crime is a "crime" and whether it can be successfully prosecuted has an inhibiting effect on law enforcement. The existence of a specific computer crime statute should also increase the likelihood that investigators and prosecutors will receive the additional training they need to combat computer crime.

A third reason for enacting federal computer crime legislation is to make the sanctions for committing computer crime more rational and more consistent with the seriousness of the crime. At present, there are arguably no penalties that apply to certain types of computer abuse which nevertheless have the potential for great harm. Other types of computer crime, which could theoretically be prosecuted under various existing statutes (e.g., wire fraud, trespass, embezzlement, etc.), would be subject to greatly varying penalties depending upon which statute was used, many of which penalties are far from commensurate with the seriousness and the costliness of the associated crimes. Thus, equity and rationality of punishment would be promoted by the existence of a specific federal statute.

An additional reason for adopting a federal computer crime statute comes from the government's increased reliance upon computers and the devastating effect that manipulation or destruction of those systems could have on both public and private institutions. This increased reliance, and the increased vulnerability that comes with it, can be seen on a number of fronts: (1) Extensive use of computers in defense, national security work; [13] (2) Extensive use of computers by the Federal Reserve and financial institutions; [14] (3) Extensive use of computers by medical and health facilities; [15] (4) Extensive use of computers in connection with various benefit programs; [16] (5) Increased reliance on computers by other government institutions; [17] and (6) Increased government and private efforts to enhance computer compatibility.[18] Existing federal criminal statutes are simply not adequate, in their coverage or their sanctions, to deal with the government's increased exposure to computer crime.

Finally, a further positive effect of a federal computer crime statute worth noting is its likely impact on the collection of data concerning the occurrence and nature of computer crime and the outcomes of investigation and prosecution. Most law enforcement agency records, including those of the FBI and U.S. Attorneys' offices, are designed to collect data according to statutory provisions (e.g., mail fraud, wire fraud, RICO, etc.). Thus, existing records cannot be used to gather and analyze information concerning computer crime. The passage of a computer crime statute would trigger a record-keeping mechanism which, while not perfect, would nevertheless create at least a partial data base on computer crime. That data base could then be used to study the types and patterns of computer crime that occur and would also enhance efforts to locate perpetrators who engage in repeated and multi-district criminal activity.

For these reasons, the Section and the Task Force believe that the need for a federal computer crime statute, recognized and advocated by the ABA in 1979, is even more acute today. While we will reserve for the future recommendations concerning specific legislative language and other appropriate public and private actions, we have no hesitation in concluding that comprehensive federal computer crime legislation is long overdue.

[NOTE.—Appendix I not reproducible for the RECORD.]

APPENDIX II

[Approved by ABA House of Delegates, August 1979]

SECTION OF CRIMINAL JUSTICE

RECOMMENDATIONS

The Section of Criminal Justice recommends adoption of the following resolutions:

Be it resolved, That the ABA support legislation to establish federal jurisdiction, concurrent with state jurisdiction, over certain offenses committed against, or through the use of computers, computer systems or computer networks;

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[10] A copy of the 1979 resolution is attached hereto as App. II.

[11] Testimony of Neal Patrick before the House Subcommittee on Transportation, Aviation and Materials of the Committee on Science and Technology, Sept. 26, 1983, p. 27.

[12] See Statement of John C. Keeney, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice, before the House Subcommittee on Civil and Constitutional Rights, Committee on the Judiciary, Nov. 18, 1983, p. 1.

[13] The extensive use of computers in defense and national security-related work is well-documented. The teenagers in Milwaukee were able to penetrate the computer system at the Los Alamos Nuclear Weapons Research Laboratory. According to public reports, no sensitive records were accessed or manipulated, but the dangers of such manipulation are obvious.

[14] The country's financial institutions, including the Federal Reserve, banks, stock exchanges and commodity markets, are increasingly dependent on computers. The recent penetration of a Federal Reserve Bank computer by a former employee demonstrates the vulnerability of that system and others. Someone bent on sabotaging the country's financial markets, for whatever reason, could do so by successfully penetrating the computers on which those markets depend.

[15] The recent unauthorized tampering with the computers of the Sloan-Kettering Center Clinic is illustrative. The perpetrators inadvertantly altered patients' files controlling radiation treatment. One need not ponder long to recognize the havoc and the injury that could result from ill-intentioned tampering with medical records at major government research facilities (e.g., the National Institute of Health) and health care centers.

[16] Government agencies use computers extensively to manage and implement various benefit programs (e.g., Social Security, welfare, food stamps, Medicare/Medicaid). There have been a significant number of documented incidents involving the use of computers to manipulate records in government programs and defraud the government. (See, e.g., Computer-Related Fraud and Abuse in Government Agencies, Inspector General, U.S. Department of Health and Human Services, June 1983; Computer-Related Crimes in Federal Programs, Report of the Comptroller General, Apr. 27, 1976.) The potential for monetary loss and for destablization of these programs themselves as a result of computer crime is clear.

[17] Congress is now highly dependent on computers to process information and otherwise assist Members of Congress. The Securities and Exchange Commission relies on computers to monitor the activity of the stock markets. The FBI and other law enforcement agencies rely heavily on computers to maintain information concerning past and ongoing investigations and known or suspected criminals. The potential for mischief, disruption or worse is obvious.

[18] On Apr. 24, 1984, the U.S. Commerce Department and industry executives signed an agreement to develop and test internationally accepted standards intended to make it easier for different kinds of business computers to communicate with one another. (Daily Report for Executives, The Bureau of National Affairs, Washington, D.C., Apr. 25, 1984, pp. A-12, A-13.) The agreement, according to the Secretary of Commerce, is designed to promote computer compatibility so that companies with different computers will be able to communicate more easily with each other, both domestically and internationally. While the enhancement of computer compatibility will clearly have positive economic and trade benefits, it also, obviously, creates increased exposure to damages from computer crime.

Be it further resolved, That the proposed federal concurrent legislation reach:

(a) The use of attempted use of a computer, computer system or computer network to obtain money, property or services by means of false or fraudulent pretenses, representations or promises;

(b) Intentional, unauthorized accessing for the purpose of alteration, damage, destruction or theft of a computer, computer system, computer network or any computer software, program or information contained therein; and

(c) International, unauthorized interception of nonaural communications by wire or radio between computers, computer systems, or computer networks.

Be it further resolved, That legislation creating concurrent federal jurisdiction over offenses committed against or through the use of computers, computer systems or computer networks require the Attorney General, in consultation with state and local law enforcement authorities, to publish guidelines for the exercise of that jurisdiction by the United States;

Be it further resolved, That legislation denominating federal offenses committed against or through the use of a computer or computer systems or computer network should:

(a) Preclude the charging of a federal offense based upon the same facts except for proof of an element involving a computer, with a charge brought under the computer crime statute;

(b) Provide for gradation of offenses and a graduated scale of penalties consistent with ABA policy on the sentencing scheme of the proposed Federal Criminal Code, with a sanction not to exceed five years imprisonment or $50,000 or both; and

Be it further resolved, That additional study be undertaken to find solutions to the procedural and evidentiary problems that impede the detection and prosecution of computer crimes under existing law.

REPORT IN SUPPORT OF RECOMMENDATIONS

The Subcommittee on Criminal Laws and Procedures of the United States Senate Judiciary Committee held hearings on a proposed Federal Computer Systems Protection Act (S. 1766—95th Congress) during 1978. In a letter to the Criminal Justice Section, Senator Joseph R. Biden, Jr., Subcommittee Chairman, requested written comments by the ABA for Subcommittee consideration without further hearings. No action was taken on S. 1766 by the 95th Congress and the bill died at the close of the legislative session. Senator Abraham Ribicoff (R–CT) and twelve cosponsors introduced a slightly modified version of the Federal Computer Systems Protection Act proposal (S. 240) in January, 1979 (S. 240 attached).

The Section of Criminal Justice recommendations are based on a report submitted by the Section's Committee on Economic Offenses and Complex Criminal Litigation Problems in support of federal computer crime legislation. The Section takes no position on the technical computer definitions contained in the proposed Act.

Pending legislation

The bill proposing the Federal Computer Systems Protection Act of 1979, S. 240, intends "to amend Title 18 of the United States Code, to make a crime the use for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions and entities affecting interstate commerce."

Section 2 of S. 240 details the need for legislation, highlighting the growing problem; the high cost to the public; the impact of this type of crime on federal programs, financial institutions and interstate commerce; and the difficulty of prosecuting computer related crime under current federal criminal statutes.

Section 3 adds a new section to Chapter 47 of Title 18 U.S.C. entitled "1028 *Computer fraud and abuse.*" The critical portions of this new section are:

"(a) Whoever knowingly and willfully, directly or indirectly accesses, causes to be accessed or attempts to access any computer, computer system, computer network, or any part thereof which, in whole or in part, operates in interstate commerce or is owned by, under contract to, or in conjunction with, any financial institution, the United States Government or any branch, department, or agency thereof, or any entity operating in or affecting interstate commerce, for the purpose of—

"(1) devising or executing any scheme or artifice to defraud, or

"(2) obtaining money, property, or services, for themselves or another, by means of false or fraudulent pretenses, representations or promises, shall be fined a sum not more than two and one-half times the amount of the fraud or theft, or imprisoned not more than fifteen years, or both.

"(b) Whoever intentionally and without authorization, directly or indirectly accesses, alters, damages, destroys, or attempts to damage or destroy any computer, computer system, or computer network described in subsection (a), or any computer software, program or data contained in such computer, computer system or computer network, shall be fined not more than $50,000 or imprisoned not more than 15 years, or both."

As proposed by S. 240, 18 U.S.C. § 1028(c) will set forth the controlling definitions under the Act, including definitions of "computer systems" and "computer network" that are particularly far reaching in scope.

The scope of proposed Federal jurisdiction

Some question the need for federal legislation that embraces a long list of offenses already proscribed by existing federal statutes *(e.g.,* Mail and Wire Fraud, Interstate Transportation of Stolen Property and Fraudulent Documents etc., embezzlement and the various larceny statutes). The Attorney General in a letter to Senator Biden dated September 21, 1978, estimates and reports in part ". . . As reflected in the testimony before the Committee, there are no less than 40 Federal statutes on the books that conceivably might impact on computer fraud and abuse . . .," but refers to "existing ambiguities" which hinder or prevent the application of those statutes. Apart from the "ambiguities" reportedly caused by technical definitions, the principle justification for the apparent duplication of federal jurisdiction proposed in S. 240 is the deterrent effect of a single statute proscribing the *use* of a computer as an instrumentality of the offense. Direct Congressional statements of federal government authority to investigate and prosecute have improved federal law enforcement effectiveness and deterrence in the past. The wire fraud statute, 18 U.S.C. § 1343, for example, was enacted to discourage confidence swindles in which the interstate and foreign wires were used to further or accomplish the fraud.

It is important to note that some computer offenses are not encompassed by S. 240. The principal omission is theft of the unusual assets of the computer—computer software, data and services. Prosecutors will also be forced to rely on judicial interpretation, similar to securities laws and mail fraud statute interpretations, to make the Act's language "devising or executing" reach computer "cover-ups" and "lulling." [1]

Concurrent Federal jurisdiction

Although federal computer crime legislation proposed to Congress creates potential problems in federal-state law enforcement relations by extending federal authority into areas of enforcement traditionally within the jurisdiction of state and local authorities based on the *means* used to accomplish otherwise wholly intrastate offenses, the position of the Attorney General is revealing on this point. In a letter to Senator Biden he states ". . . (1) As we indicated during our testimony, while the proposed statute may provide for expansive jurisdiction, it is not our intention to prosecute all conceivable violations. We are nevertheless, of the view that to reach all the instances of computer fraud and abuse which would be *appropriate* for Federal prosecutions and, in view of the uneven capabilities of state authorities to deal with the problem, broad jurisdiction would be highly desirable." (emphasis supplied)

The federal government is currently attempting to prioritize federal law enforcement efforts by seeking close cooperation from state and local agencies. While the language of the proposed Act does not constitute legal preemption, it can be argued that de facto preemption will take place if the federal government is given authority to "select" for prosecution cases that are traditionally considered local in character unless the Attorney General develops guidelines for the exercise of federal jurisdiction over computer offenses in consultation with state and local prosecutors. Those guidelines should respect the capability of metropolitan prosecutors and state attorneys general with large, well-equipped economic crime units to investigate and prosecute major computer thefts and frauds. They should reflect policies consistent with the Department of Justice's stated intention to decline prosecution in the bulk of bank embezzlement cases (those involving less than $5,000) in favor of state prosecutions, without regard to the use of computers in committing those embezzlements.

Published guidelines governing the exercise of federal jurisdiction over offenses committed against or through the use of computers can limit federal preemption to instances where required by the objective inability of local authorities to combat computer crime. The recommendation that published guidelines be required contained in the third Resolved clause of the Section of Criminal Justice recommendations is consistent with the position taken by the House of Delegates at the 1979 Midyear Meeting in adopting a Joint Substitute Resolution on the codification of federal criminal law.[2]

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[1] Many experts consider the famous Equity Funding case to have been a computer cover-up case, because the actual fraud was accomplished before the computer came into the scheme.

[2] "3. The Association makes the following specific recommendations with respect to codification legislation:

"(a) *Concurrent Federal/State Jurisdiction.* The Association expresses concern about the expansion of federal criminal jurisdiction over subjects within the traditional police power of the states. Accordingly, the Association recommends that codification legislation refrain from creating new federal offenses in situations now covered under state penal statutes absent a clear showing in the particular in-

Charging and punishment

In 1975, The Association adopted the position that "the several jurisdictional bases should be removed from the definitions of the substantive crimes, where they are now found in Title 18." The Criminal Code Reform Act of 1978 legislation (S. 1437) that passed the Senate in January, 1978, which would have separated the jurisdictional bases from the substantive offense, attempted to achieve the reach of current federal mail fraud and wire fraud statutes while obviating the most frequent criticism of current law—pyramiding of offenses. Legislation introduced in the United States Senate thus far (S. 1766-95th Cong.; S. 240—96th Cong.) is inconsistent with the Association position on recodification of federal criminal law. In the absence of criminal code reform, however, legislation should be enacted in Title 18 that confers federal concurrent jurisdiction over certain computer-related offenses. The computer crime statute should preclude the charging of a federal offense based on the same facts except for proof of an element involving a computer, with a charge brought under the computer crime statute to avoid the pyramiding of offenses.

Although the Section of Criminal Justice believes that the need to deter both professional swindlers and amateurs or first offender "computer freaks" justifies a clear statement of federal law enforcement authority to investigate and prosecute computer crime, the Section believes that a sanction that includes 5 years imprisonment provides an adequate deterrent and represents an appropriate outer limit of sentence severity. Legislation pending before Congress prescribes a 15-year maximum term of incarceration without any structure of gradation to guide the exercise of sentencing authority. Fifteen years is overly severe and inappropriate. The broad undifferentiated range over which sentencing discretion would be exercised under that legislation conflicts with Association positions on structuring sentencing discretion and should be disapproved.

Procedural and evidentiary problems

The proponents of S. 240 and its predecessor, S. 1766, contend that it facilitates detection, investigation and prosecution of computer crime. This, however, is an overstatement. The Attorney General also comments: "Use of traditional and prosecutive techniques for gathering evidence, such as immunity grants, grand jury inquiries, and search warrents, would be just as effective in this area (computer crime) as in dealing with any other white collar illegality. However, technical problems associated with computer crimes, such as the manner and means of executing a search warrant on a computer center, pose unique problems which will have to be dealt with as they occur."

The most troublesome problems posed by computer fraud concern detection and proof, which are not cured by the proposed statute. Auditors find themselves stymied without carefully planned audit leads and program security. The new Federal Rules of Evidence recognize the necessity of establishing the standardization of the computer and the integrity of the data input before the printout will be accepted into evidence as an exception to the hearsay rule. Case law has been concerned with the "mystique" of the computer and its evidentiary output. See *U.S.* v. *DeGeorgia*, 420 F.2d 889 (9th Cir. 1969); *U.S.* v. *Russo*, 480 F.2d 1228 (6th Cir. 1973) cert. den. 414 U.S. 1157 (1973). Neither this proposed statute nor other proposals have been helpful in extending these limited aids to meet the technical and novel problems of procedure and proof in these computer fraud cases. (See also Tapper, Colin, "Evidence from Computers", 4 *Rutgers Journal of Computers and the Law*, 324 (1974), where the problem and statutory progress is discussed. See also Freed, Roy N., *Computers and the Law*, p. 46 et seq. (4th Ed.)).

Very little has been done to overcome obvious problems in discovery, search warrants, and subpoenas except for the impact of the Privacy Act. Further study must be undertaken to find solutions to the procedural and evidentiary problems that impede the detection and prosecution of computer crimes under existing law.

Respectfully submitted,

TOM KARAS, *Chairperson.*●

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

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

CONCLUSION OF MORNING BUSINESS

Mr. TOWER. Mr. President, has the morning hour expired?

The PRESIDING OFFICER. Morning business is closed.

OMNIBUS DEFENSE AUTHORIZATION, 1985

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 2723) to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Glenn Amendment No. 3179, to provide a new GI educational assistance program.

(2) Tower-Nunn Amendment No. 3180 (to Glenn Amendment No. 3179), of a perfecting nature:

AMENDMENT NO. 3180

Mr. TOWER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is amendment No. 3180, offered by the Senator from Texas, to amendment No. 3179, offered by the Senator from Ohio.

Mr. TOWER. Mr. President, we debated this matter at some length last Monday. I do not know that there is much in addition I can say about my amendment, which is designed to make the proposal of the Senator from Ohio a test program. I am prepared to get a vote on that rather soon.

So that Senators will be on notice, Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER (Mr. KASTEN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

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

Mr. GLENN. Mr. President, last Friday, I sent a "Dear Colleague" letter to all Members of the Senate, announcing my intention to introduce what I term the citizen-soldier bill as an amendment to the defense authorization bill, and on Monday I offered that amendment. The distinguished chairman of the Armed Services Committee, Senator TOWER, and the distinguished ranking minority member of the committee, Senator NUNN, offered a perfecting amendment, with which I heartily agree, and I support that amendment, the one just referred to by the Senator from Texas, today.

Monday, after some rather spirited discussion and opposition by Senators COHEN, CRANSTON, and MATSUNAGA, who argued that the Armstrong GI bill was preferable, we achieved an agreement that the citizen-soldier bill amendment should be laid aside until this morning, when we would take it up first thing, and that is where we are now.

On the desk of each Senator is a second "Dear Colleague" letter on the citizen-soldier bill, to bring them up to date.

This new "Dear Colleague" letter is cosigned by the amendment's cosponsors, Senators JEPSEN, THURMOND, WARNER, and myself. It incorporates the provision of the Tower-Nunn amendment and reiterates the major attributes of the program. I commend it to you as a reference point in our discussion this morning.

On Monday, the distinguished chairman of the Veterans' Affairs Committee, Senator SIMPSON, offered some thoughtful and illuminating comments on the citizen-soldier GI bill, and I would certainly invite his additional comment and participation in the debate today. He made two especially important points; namely, that targeting a population of recruits and setting it up as a contributory program was extremely desirable. One of

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stance of a compelling federal interest; supports the proposal in the Brown Commission Report relating to publication of criteria for exercise of federal enforcement authority in cases of concurrent federal and state jurisdiction; and supports the proposal in that Report for the application of double jeopardy provisions to prosecutions in different jurisdictions."

the major outcomes of these elements is that the cost is held down while desired results can still be attained.

And I repeat that last sentence.

One of the major outcomes of these elements is that the cost is held down while desired results can be attained.

We are targeting a specific population, at the same time recognizing the budgetary problems that we have in the country today, and that is one of the major features of this bill. It is far, far, far less expensive than its alternative, the full-blown GI bill that we will be talking about some here today.

Let me give you just a brief outline of the citizen-soldier bill which I propose.

No. 1, it is a targeted program for new 2-year enlistees only who are willing to forgo $250 per month in salary in order to receive postservice educational benefits provided over and above that $250 saving, on a 3-to-1 basis.

These people would be assigned in whatever field the service needs them.

They would not receive subsistence or basic allowance for quarters, which means in effect they would live in the barracks.

And I must say that in the "Dear Colleague" letters that were sent around by the opposition to this amendment it was somewhat misrepresented, I felt, because any recruit would have barracks and base facilities available. The only subsistence or allowance that would not be provided would be an off-base allowance where the recruit was married, for instance, or where they are given the option at some bases to live off base or on base. That would not be the case with this particular program. We have, I would add, changed the language of the original draft to provide that where the services find they are assigning people to a remote facility where there are no quarters or subsistence available, the service at that point could say that they deserve quarters and subsistence allowance because regular Government-furnished quarters or subsistence was not available.

Upon release from active duty the service member would receive $500 per month for 36 months or 4 school years.

We have researched this proposal very carefully, and many people who have worked on this particular subject through the years will recognize that much of what I am proposing is the handiwork of Prof. Charles Moskos, professor of sociology at Northwestern University, who is an acknowledged expert on military manpower. He is a frequent witness before congressional committees on the subject and he is a very respected adviser to the Department of Defense.

I feel that this citizen-soldier bill will do precisely what it is designed to do; that is, induce high-quality recruits to join the military from a wide spectrum of American society. This will have the concurrent effect of enhancing a national attitude of societal responsibility and boosting our postsecondary educational system at the same time. All of this can be achieved at less cost than comparable plans, though it would not conflict or prevent utilization of plans already in existence.

We had concern expressed by some Senators privately about what this would do to the VEAP program and ultra-VEAP program. It would not alter those in any way. It would not conflict or prevent utilization of plans already in existence.

To insure that the plan does work and that the cost is kept moderate in light of budgetary considerations, the Tower-Nunn perfecting amendment institutes a 4-year test program and caps participation at what we feel to be the reasonable number of 12,500 recruits joining the program in any 1 year, which means a maximum of 25,000 in at any one time.

Mr. President, we are recognizing several things here. We are recognizing the need for high-quality recruits in the military. We are setting up a program that would appeal directly to them. We want to address their educational needs at the same time. And above all we want to keep the cost down so that we do not add to our budgetary difficulties.

So we think we have struck a very reasonable balance in this regard, and I hope my colleagues will support this amendment I have proposed as well as the amendment that is made to my amendment in the second degree by Senators TOWER, and NUNN, which I fully support.

I yield the floor.

Mr. ARMSTRONG. Mr. President, I have a number of observations which I wish to make about the broad subject of the GI bill, but I only want to ask for a moment of recognition now for two purposes:

First, to express my appreciation to the Senator from Ohio, the Senator from Texas, the Senator from California, the Senator from Wyoming, and the others who were kind enough when this issue arose and I was away from the Chamber to arrange it to recur at a moment when I could be here.

As Senators know, I have long been a champion of the GI bill. I believe it to be one of the most successful of all of the programs which have been undertaken in the entire history of our country.

There is just a handful of Federal programs in the entire history of our country which stand out above the others for succeeding in their intended purpose and doing so in a way that has been economic, efficient, admirable, and graph-free, and just in every way highly successful, and the GI bill is one of those.

For several years I have been urging my colleagues to consider bringing back the GI bill which, in my opinion, was unwisely terminated in 1976.

So when the Glenn amendment came up I am really grateful to him and the others I have mentioned for rearranging the schedule that it might occur at this moment.

Now, I do not wish at this time to discuss either the substance of the Glenn amendment nor of the alternative proposal which I will shortly introduce which is a full-blown GI bill education program.

The pending question, as I understand it, is the Tower amendment. Now I happen to believe for reasons which I will explain a little later that the Glenn amendment really does not address itself to the needs of this country either from a national defense standpoint nor from an educational standpoint.

But the Tower amendment is merely a limitation on the Glenn amendment and since it is a limitation which is acceptable to Senator GLENN, as I understand it, I see no reason that we should not go ahead and adopt the Tower amendment, thereby putting the Senator's proposal in the form that he wishes it to be so it can be considered by all Senators and then if, as I fully expect, the Tower amendment is adopted probably by a unanimous vote or a nearly unanimous vote, then I would seek recognition to offer a substitute on behalf of myself and a number of other cosponsors.

So, Mr. President, I have nothing further to add at this point. We are sort of jockeying for position to get the various proposals on the table as fairly and as cleanly as we can so that everyone can reflect and make up his own mind, and I am certainly going to vote for the Tower amendment. In fact, I would inquire whether the Senator wishes to go ahead and have a rollcall vote. I do not think it is controversial. But there may be other reasons why a rollcall vote would be in order.

Mr. TOWER. Mr. President, the yeas and nays have already been ordered on my amendment, and I think it is fitting that we have a rollcall vote on it.

Perhaps some Senators did not expect a rollcall vote to occur this early this morning. So I think we might have to put in a quorum call so they can be alerted.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Texas [Mr. TOWER]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. ANDREWS] and the Senator from Florida [Mrs. HAWKINS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Colorado [Mr. HART] is necessarily absent.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—96

Abdnor	Garn	Mitchell
Armstrong	Glenn	Moynihan
Baker	Goldwater	Murkowski
Baucus	Gorton	Nickles
Bentsen	Grassley	Nunn
Biden	Hatch	Packwood
Bingaman	Hatfield	Percy
Boren	Hecht	Pressler
Boschwitz	Heflin	Proxmire
Bradley	Heinz	Pryor
Bumpers	Helms	Quayle
Burdick	Hollings	Randolph
Byrd	Huddleston	Riegle
Chafee	Humphrey	Roth
Chiles	Inouye	Rudman
Cochran	Jepsen	Sarbanes
Cohen	Johnston	Sasser
Cranston	Kassebaum	Simpson
D'Amato	Kasten	Specter
Danforth	Kennedy	Stafford
DeConcini	Lautenberg	Stennis
Denton	Laxalt	Stevens
Dixon	Leahy	Symms
Dodd	Levin	Thurmond
Dole	Long	Tower
Domenici	Lugar	Trible
Durenberger	Mathias	Tsongas
Eagleton	Matsunaga	Wallop
East	Mattingly	Warner
Evans	McClure	Weicker
Exon	Melcher	Wilson
Ford	Metzenbaum	Zorinsky

NAYS—1

Pell

NOT VOTING—3

Andrews	Hart	Hawkins

So Mr. TOWER's amendment (No. 3180) was agreed to.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 3189

(Purpose: To establish two new programs of educational assistance for veterans of peacetime service, and for other purposes)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an amendment numbered 3189 to amendment No. 3179, as amended.

Mr. ARMSTRONG. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

The amendment of Mr. Glenn (Amendment No. 3179) is amended by striking out all after "NEW" on page 1, line 3, through the end of such amendment and inserting in lieu thereof the following:

TITLE IV—VETERANS' EDUCATIONAL ASSISTANCE AMENDMENTS

SHORT TITLE

SEC. 401. This title may be cited as the "Peacetime Veterans' Educational Assistance Act".

NEW EDUCATIONAL ASSISTANCE PROGRAMS

SEC. 402. (a) Title 38, United States Code, is amended by inserting before chapter 31 the following new chapters:

"CHAPTER 29—PEACETIME VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

"Subchapter I—Purposes; Definitions

"Sec.
"1401. Purposes.
"1402. Definitions.

"Subchapter II—Basic Educational Assistance

"1411. Entitlement to basic educational assistance for active duty service.
"1412. Entitlement to basic educational assistance for service in the Selected Reserve.
"1413. Duration of basic educational assistance.
"1414. Payment of basic educational assistance allowance.

"Subchapter III—Supplemental Educational Assistance

"1421. Entitlement to supplemental educational assistance.
"1422. Determinations of designated personnel categories.
"1423. Payment of supplemental educational assistance allowance.

"Subchapter IV—Additional Recruitment and Retention Incentives

"1431. Additional amounts of assistance.

"Subchapter V—General and Administrative Provisions

"1441. Expiration of periods during which entitlement may be used.
"1442. Suspension of educational assistance.
"1443. Exclusion of certain service for purpose of earning entitlement; bar to duplication of benefits.
"1444. Extension to permit completion of term.
"1445. Program requirements.
"1446. Appropriations; administrative expenses; budget function.
"1447. Reporting requirements.

"SUBCHAPTER I—PURPOSES; DEFINITIONS

"§ 1401. Purposes

"The purposes of this chapter are—

"(1) to promote and assist the total force concept of the Armed Forces by establishing a new program of educational assistance to aid in the recruitment and retention of highly qualified personnel for both the Active and Reserve components of the Armed Forces; and

"(2) to assist such personnel in obtaining an education that they might not otherwise be able to afford.

"§ 1402. Definitions

"For the purposes of this chapter:

"(1) The term 'basic educational assistance' means educational assistance provided under subchapter II of this chapter.

"(2) The term 'effective date' means the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act.

"(3) The term 'educational institution' has the same meaning provided in section 1652(c) of this title.

"(4) The term 'program of education' has the same meaning provided in section 1652(b) of this title.

"(5) The term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the Reserve components of the Armed Forces, as required to be maintained under section 268(b) of title 10.

"(6) The term 'supplemental educational assistance' means educational assistance provided under subchapter III of this chapter.

"Subchapter II—Basic Educational Assistance

"§ 1411. Entitlement to basic educational assistance for active duty service

"(a) Except as provided in subsection (b) of this section, an individual shall be entitled to basic educational assistance under this chapter if such individual—

"(1) after the effective date—

"(A) serves at least three years of continuous active duty in the Armed Forces, or

"(B) serves at least two years of continuous active duty in the Armed Forces and agrees to serve at least four years in a Reserve component of the Armed Forces after service on active duty;

"(2) before completion of the active-duty service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate); and

"(3) upon completion of the active-duty service described in clause (1) of this subection—

"(A) is discharged from such service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

"(B) continues on active duty; or

"(C) is released from active duty for further service in a Reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

"(b) An individual who receives a commission as an officer in the Armed Forces upon graduation from one of the service academies or upon completion of a program of educational assistance under section 2107 of title 10 is not entitled to basic educational assistance under this section.

"(c) For the purposes of subsection (a)(3(A) of this section, an individual who, upon completion of such individual's full period of obligated service or upon such individual's discharge under section 1173 of title 10, has received a general discharge shall be deemed to have been discharged with an honorable discharge if the Administrator determines that such individual's discharge was under conditions other than dishonorable.

"(d) Except as provided in subsection (b) of this section, an individual who has not yet become entitled to basic educational assistance under this chapter pursuant to subsection (a)(1)(A) of this section and who—

"(1) after the effective date serves at least two years of continuous active duty in the Armed Forces; and

"(2) before completion of the service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate),

shall be entitled to such assistance while such individual is serving a year of active duty that, when completed, will result in such individual meeting the length and continuity-of-service requirement of subsection (a)(1)(A) of this section.

"§ 1412. Entitlement to basic educational assistance for service in the Selective Reserve

"(a) Subject to subsection (b) of this section and except as provided in subsection (c) of this section, an individual shall be entitled to basic educational assistance under this chapter if such individual—

"(1) after the effective date serves—

"(A) in any order (i) at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service, and (ii) at least four years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned; or

"(B) at least six years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned;

"(2) before completion of the duty or service described in clause (1)(A)(i) or (B) of this subsection, has received a secondary school diploma (or an equivalency certificate); and

"(3) upon completion of the duty or service described in clause (1) of this subsection—

"(A) is discharged with an honorable discharge, is placed on the retired list, or is transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service; or

"(B) is ordered to or continues to serve on active duty or enters or continues to serve in the Selected Reserve.

"(b) For the purposes of clause (1) of subsection (a) of this section, the continuity of service of a member in the Selected Reserve shall not be considered to be broken—

"(1) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member if unable to locate a unit of a Selected Reserve that such member is eligible to join that has a vacancy;

"(2) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned under regulations such Secretary shall prescribe) during which the member is not assigned to a unit of a Selected Reserve and which the Secretary concerned, pursuant to regulations which such Secretary shall prescribe, determines should not be considered for the purpose of ensuring continuity of service; or

"(3) by any period of time during which such member serves on active duty.

"(c) An individual who receives a commission as an officer in the Armed Forces upon graduation from one of the service academies or upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section.

"(d) For the purposes of subsections (a)(3)(A) and (e) of this section, an individual who, upon completion of such individual's full period of obligated service or upon such individual's discharge under section 1173 of title 10, has received a general discharge shall be deemed to have been discharged with an honorable discharge if the Administrator determines that such individual's discharge was under conditions other than dishonorable.

"(e) Subject to subsection (b) of this section and except as provided in subsection (c) of this section, an individual who has not yet become entitled to basic educational assistance under this chapter by virtue of subsection (a) of this section and who—

"(1) after the effective date serves two years of continuous active duty in the Armed Forces or two years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned, or serves any combination of such types of service and the combined service equals at least two years of continuous service;

"(2) before completion of such two years of service has received a secondary school diploma (or an equivalency certificate); and

"(3) following completion of such two years of service has not been discharged or released from such service with a discharge other than honorable discharge or a characterization of such service by the Secretary concerned as other than honorable service, shall be entitled to basic educational assistance under this chapter while such individual continues to serve either (A) on active duty, or (B) on continuous duty in the Selected Reserve, during which the individual participates satisfactorily in training as required by the Secretary concerned.

"§ 1413. Duration of basic educational assistance

"(a) Subject to section 1795 of this title and subsection (b) of this section, each individual entitled to basic educational assistance under this chapter is entitled to (1) one month of educational assistance benefits under this chapter for each month of active duty served by such individual after the effective date, and (2) one month of educational assistance benefits under this chapter for each three months served by such individual in the Selected Reserve after the effective date.

"(b) An individual may not receive basic educational assistance benefits under this chapter for a period in excess of thirty-six months (or the equivalent thereof in part-time educational assistance).

"§ 1414. Payment of basic educational assistance allowance

"(a) The Administrator shall pay to each individual entitled to basic educational assistance under this chapter who is pursuing an approved program of education under this chapter a basic educational assistance allowance pursuant to this section to help meet, in part, the cost of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational expenses.

"(b) A basic educational assistance allowance under this subchapter shall be paid—

"(1) at the monthly rate of $300 for an approved program of education pursued on a full-time basis; or

"(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

"Subchapter III—Supplemental Educational Assistance

"§ 1421. Entitlement to supplemental educational assistance

"An individual who has established entitlement to basic educational assistance under subchapter II of this chapter by completing three years of continuous active duty after the effective date shall be entitled to supplemental educational assistance under this subchapter if such individual—

"(1) has been determined by the Secretary concerned to be serving in a category of personnel designated under section 1422 of this title;

"(2) has completed an additional three years of continuous active duty in such category; and

"(3)(i) has been honorably discharged or released therefrom, or (ii) is serving on active duty.

"§ 1422. Determinations of designated personnel categories

"In order to obtain or retain the services of sufficent numbers of personnel in specified skills, the Secretary concerned may designate, in accordance with regulations which the Secretary of Defense shall prescribe, categories of personnel for the purposes of section 1421(2) of this title.

"§ 1423. Payment of supplemental educational assistance allowance

"(a) The Administrator shall pay to each individual entitled to supplemental educational assistance under this chapter who is pursuing an approved program of education under this chapter supplemental educational assistance pursuant to this section to help meet, in part, the costs of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational expenses.

"(b) A supplemental educational assistance allowance under this subchapter shall be paid to an individual entitled thereto—

"(1) concurrently with the payment of the basic educational assistance allowance paid to such individual under subchapter II of this chapter; and

"(2)(A) at the monthly rate of $300 for an approved program of education pursued on a full-time basis, or (B) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

"Subchapter IV—Additional Recruitment and Retention Incentives

"§ 1431. Additional amounts of assistance

"Subject to the availability of funds appropriated specifically for the purposes of this section, the Secretary concerned may, in accordance with regulations which the Secretary of Defense may prescribe to implement this section, increase the rate or rates of basic or supplemental educational assistance allowance, or both such allowances, payable to an individual on account of active duty service performed in a category of personnel designated under section 1422 of this title if (1) the Secretary concerend determines such action is necessary and appropriate in order to obtain or retain the services of sufficient numbers of qualified active duty personnel in such designated category of personnel, and (2) such action is approved by the Secretary of Defense. In no event may the amount by which such rates are increased under this section exceed $300 a month in the case of any individual.

"Subchapter V—General and Administrative Provisions

"§ 1441. Expiration of periods during which entitlement may be used

"(a) Except as provided in subsections (b) and (c) of this section, the period during which an individual may use such individual's entitlement to educational assistance under this chapter expires at the end of the ten-year period beginning on the later of—

"(1) the date of such individual's last discharge or release from active duty; or

"(2) the last date on which such individual becomes entitled to any such assistance.

"(b) In the case of an individual who, subsequent to such individual's last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, the ten-year period described in subsection (a) of this section shall not run (1) while such individual is so detained, or (2) during any period immediately following such individual's release from such detention during which such individual is hospitalized.

"(c)(1) In the case of any individual—

"(A) who was prevented from pursuing such individual's chosen program of education prior to the expiration of the ten-year period described in subsection (a) of this section because of a physical or mental disability (not including a condition described in paragraph (2)(A) of this section) which was not the result of such individual's own willful misconduct; and

"(B) who applies for an extension of such ten-year period within one year after (i) the last day of such period, or (ii) the last day on which such individual was so prevented from pursuing such program, whichever is later.

such ten-year period shall not run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such ten-year period will again begin running on the first day following such individual's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(2)(A) A condition referred to in paragraph (1)(A) of this subsection and in subparagraph (B) of this paragraph is an alcohol or drug dependence or abuse condition of an individual in a case in which it is determined, under regulations which the Administrator shall prescribe that—

"(i) such individual (I) has received recognized treatment for such condition, or II has participated in a program of rehabilitation for such condition; and

"(ii) such condition is sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter.

"(B) In the case of any individual—

"(i) who was prevented from pursuing such individual's chosen program of education prior to the expiration of the ten-year period described in subsection (a) of this section because of a condition described in subparagraph (A) of this paragraph; and

"(ii) who applies for an extension of such ten-year period within one year after (I) the last date of the ten-year period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest,

such ten-year period shall not, subject to subparagraph (C) of this paragraph, run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such ten-year period will again begin running on the first day, following such condition becoming sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such individual to initiate or resume pursuit of a program of education with education assistance under this chapter.

"(C) An extension of the applicable ten-year period because of such condition shall be limited to the period of time the individual was receiving treatment or the period of time the individual was participating in a program of rehabilitation for such condition plus additional length of time as the individual demonstates, to the satisfaction of the Administrator, that the individual was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than four years.

"§ 1442. Suspension of educational assistance

"(a) The Administrator shall suspend the payment of educational assistance allowance under this chapter in the case of any individual who is assigned to a Reserve component of the Armed Forces in connection with establishing entitlement to educational assistance under this chapter and with respect to whom a certification has been received from the Secretary concerned stating that such individual is failing to serve satisfactorily in such Reserve component.

"(b) Unless the individual is no longer entitled to such assistance by reason of a provision of law other than subsection (a) of this section, the payment of such assistance shall be reinstated upon receipt of certification from the Secretary concerned that such individual is serving satisfactorily as a member of such Reserve component.

"§ 1443. Exclusion of certain service for purpose of earning entitlement; bar to duplication of benefits

"(a) For the purposes of this chapter, the term 'active duty' does not include any period during which an individual (1) was assigned full time to the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (2) served as a cadet or midshipman at one of the service academies, or (3) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

"(b) A period of service counted for purposes of repayment under section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note), of an education loan may not also be counted for purposes of entitlement to educational assistance under this chapter.

"(c) An individual entitled to educational assistance under a program established by this chapter who is also eligible for educational assistance under a program under chapter 31, 32, 34, 35, or 36 of this title or under chapter 106 or 107 of title 10 may not receive assistance under both programs concurrently but shall elect (in such form and manner as the Administrator shall prescribe) under which program to receive educational assistance.

"§ 1444. Extension to permit completion of term

"(a) If an individual is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period during which such individual may use such individual's entitlement under this chapter would, under section 1441 of this title, expire during a quarter or semester, such period shall be extended to the termination of such quarter or semester.

"(b) If an individual is enrolled under this chapter in an educational institution not regularly operated on the quarter or semester system and the period during which such individual may use such individual's entitlement under this chapter would, under section 1441 of this title, expire after a major portion of the course is completed, such period shall be extended to the end of the course or for twelve weeks, whichever is the lesser period of extension.

"§ 1445. Program requirements

"Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, and 1683 of this title and the provisions of chapter 36 of this title, with the exception of section 1777, 1780(c), and 1787, shall be applicable to the payment of educational assistance allowances under this chapter.

"§ 1446. Appropriations; administrative expenses; budget function

"(a) Payments of educational assistance allowances under this chapter shall be made from appropriations made to the Department of Defense (in the case of service in a military department) or the Department of Transportation (in the case of service in the Coast Guard) and transferred to the Administrator for such purpose.

"(b) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall also transfer to the Administrator such funds as may be necessary to cover all expenses incurred by the Administrator in administering this chapter.

"(c) Transfers under subsections (a) and (b) of this section shall be made in advance, with necessary adjustments from time to time for overpayment and underpayments.

"(d) Appropriations and expenditures made to carry out this chapter shall be considered for budgetary purposes as appropriations and expenditures made for national defense functions.

"§ 1447. Reporting requirements

"(a) The Secretary of Defense and the Administrator, not later than February 1 of the year beginning one year after the effective date and annually thereafter, shall each submit to the Congress reports on the operation of the programs provided for in this chapter and chapter 30 of this title.

"(b) The Secretary shall include in each report submitted under this section—

"(1) information indicating (A) the extent to which the benefit levels provided under such chapters are adequate to achieve the purposes of inducing individuals to enter and remain on active duty in the Armed Forces and to enter and remain in the Selected Reserve and of providing an adequate level of financial assistance to help meet the costs of pursuing a program of education, and (B) whether it is necessary, for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the

Armed Forces and well-qualified personnel in the Selected Reserve, to continue to offer the opportunity for educational assistance under such chapters to individuals who have not yet entered active-duty service; and

"(2) such recommendations for administrative and legislative changes as the Secretary considers appropriate.

"(c) The Administrator shall include in each report submitted under this section—

"(1) information (A) indicating the extent to which the benefit levels provided under such chapters are providing an adequate level of financial assistance to help meet the cost of pursuing a program of education, and (B) concerning the level of utilization of educational assistance and of expenditures under such chapters; and

"(2) such recommendations for administrative and legislative changes as the Administrator considers appropriate.

"CHAPTER 30—CAREER MEMBERS' CONTRIBUTORY EDUCATIONAL ASSISTANCE PROGRAM

"Subchapter I—Definitions

"Sec.
"1451. Purpose.
"1452. Definitions.

"Subchapter II—Eligibility; Contributions; and Matching Fund

"1461. Eligibility.
"1462. Contributions; matching fund.
"1463. Refunds of contributions.
"1464. Death of participant.
"1465. Discharge or release under conditions which bar the use of benefits.

"Subchapter III—Entitlement, Transfer, and Duration

"1471. Entitlement; payment.
"1472. Transfer of educational benefits.
"1473. Duration; limitations.

"Subchapter IV—Administration

"1481. Requirements.
"1482. Reports; accounts.
"1483. Administrative expenses; budget function.

"Subchapter I—Definitions

"§ 1451. Purposes

"The purposes of this chapter are—

"(1) to establish a contributory educational assistance program to enhance the ability of the Armed Forces to retain on active duty highly qualified men and women; and

"(2) to assist such individuals and their families in obtaining educations that they might not otherwise be able to afford.

"§ 1452. Definitions

"For the purposes of this chapter:

"(1) The term 'active duty' does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

"(2)(A) The term 'eligible person' means any individual who is serving duty in the Armed Forces after completing ten years of such active duty.

"(3) The term 'Fund' means the Career Members' Education Account established pursuant to section 1462(a) of this title.

"(4) The term 'participant' means an eligible person who enrolls in the program and makes contributions to the Fund under section 1462(a) of this title.

"(5) The term 'program' means the educational benefits program established by this chapter.

"(6) The term 'program of education' has the same meaning provided in section 1652(b) of this title.

"Subchapter II—Eligibility; Contributions; and Matching Fund

"§ 1461. Eligibility

"(a)(1) An eligible person is entitled to enroll in the program at any time during such person's service on active duty. Except as provided in paragraph (2) of this subsection, when a person elects to enroll in the program, the person must participate for at least twelve consecutive months before such person may suspend participation in the program or disenroll from the program.

"(2) The provisions of paragraph (1) of this subsection which require at least twelve consecutive months of participation in the program before a participant may suspend participation or disenroll do not apply in the case of any participant who (A) suspends participation or disenrolls because of personal hardship, as defined in regulations issued jointly by the Administrator and the Secretary of Defense, or (B) is discharged or released from active duty.

"(b) A participant shall be permitted to suspend participation or disenroll from the program at the end of any twelve-consecutive-month period of participation. If participation is suspended, the participant shall be eligible to make additional contributions to the program under such terms and conditions as shall be prescribed in regulations issued jointly by the Administrator and the Secretary of Defense.

"(c)(1) Except as provided in paragraph (2) of this subsection, if a participant disenrolls from the program, the participant forfeits any entitlement to benefits under the program. A participant who disenrolls from the program is eligible for a refund of contributions as provided in section 1463 of this title.

"(2) A participant who has disenrolled may be permitted to reenroll in the program under such conditions as shall be prescribed in regulations issued jointly by the Administrator and the Secretary of Defense.

"§ 1462. Contributions; matching fund

"(a) Each eligible person enrolling in the program shall agree to have a monthly deduction made from such person's military pay. Such a monthly deduction shall be in any amount not less than $25 nor more than $100 except that the amount must be divisible by five. Any such amount so contributed by the participant and any amount contributed by the Secretary concerned pursuant to subsections (b) and (c) of this section shall be deposited in a deposit fund account which shall be established in the Treasury and shall be known as the 'Career Members' Education Account.' Contributions made by a participant shall be limited to a maximum of $6,000.

"(b) Except as provided in subsection (c) of this section, the Secretary concerned shall deposit in the Fund to the credit of a participant $2 for each $1 contributed by such participant under subsection (a) of this section. Deposits for the first twenty-four months of participation shall be made in the twenty-fifth month after the date on which the first contribution is made by such participant and periodically thereafter.

"(c) Pursuant to regulations which the Secretary of Defense may prescribe, the Secretary concerned may deposit in the Fund to the credit of a participant such amounts in addition to the matching funds deposited under subsection (b) of this section as the Secretary concerned considers necessary of appropriate to encourage persons to remain on active duty in the Armed Forces.

"§ 1463. Refunds of contributions

"(a) Contributions made to the program by a participant may be refunded only after the participant has disenrolled from the program or as provided in section 1464 of this title.

"(b)(1) If a participant disenrolls from the program before discharge or release from active duty, such participant's contributions shall be refunded not later than sixty days after the date on which the Administrator receives notice from the Secretary concerned of such participant's disenrollment.

"(2) If a participant disenrolls from the program after discharge or release from active duty, the participant's contributions shall be refunded not later than sixty days after the date on which the Administrator receives such participant's application for a refund.

"§ 1464. Death of participant

"In the event of a participant's death, the amount of the unused contributions deposited in the Fund to the credit of such participant under section 1462 of this title shall be paid to the living person or persons first listed below:

"(1) The beneficiary or beneficiaries designated by such participant under the participant's Servicemen's Group Life Insurance policy.

"(2) The surviving spouse of the participant.

"(3) The surviving children of the participant, in equal shares.

"(4) The surviving parent of the participant, in equal shares.

If there is no such person living, such amount shall be paid to the participant's estate.

"§ 1465. Discharge or release under conditions which bar the use of benefits

"If a participant is discharged from active duty with other than an honorable discharge or released from active duty after service on active duty characterized by the Secretary concerned as other than honorable service, the participant is automatically disenrolled from the program and any contributions made by the participant under section 1462(a) of this title shall be refunded to the participant not later than sixty days after the date on which the Administrator receives notice from the Secretary concerned of such discharge or release.

"Subchapter III—Entitlement, Transfer, and Duration

"§ 1471. Entitlement; payment

"(a)(1) A participant shall be paid educational assistance in accordance with the provisions of this subchapter.

"(2) a participant shall be entitled to a maximum of thirty-six monthly educational assistance payments (or their equivalent in part-time payments) in addition to any amounts payable in the case of such participant under chapter 29, 31, 32, 34, 35, or 36 of this title.

"(b) Payment of educational assistance under this chapter shall not be made in the case of a participant who is serving on active

duty until such participant has participated in the program for at least twenty-four months.

"(c)(1) The number of months of a participant's entitlement shall be the lesser of thirty-six or the number equal to the number of months in which the participant made contributions under section 1462(a) of this title.

"(2) The amount of educational assistance to which a participant is entitled under this section in any month is equal to the excess of—

"(A) the sum of all amounts deposited in the Fund to the credit of such participant under section 1462 of this title before such month, over

"(B) the total amount of such benefits paid out of the Fund under this chapter in the case of such participant before such month,

divided by the number of months of unused entitlement remaining in the case of such participant on the day before the date on which the payment of benefits for such month is made.

"(d) Payment of educational assistance under this chapter in the case of any participant may be made only for periods of time during which such participant or transferee under section 1472 of this title is actually enrolled in and pursuing an approved program of education.

"§ 1472. Transfer of educational benefits

"(a) A participant may transfer any portion of such participant's entitlement to educational assistance payments under section 1471 of this title to such participant's spouse or child (in this chapter referred to as a 'transferee'). A participant may revoke a transfer made under this subsection at any time.

"(b) Any transfer or revocation of entitlement under subsection (a) of this section shall be made in accordance with regulations prescribed by the Secretary of Defense.

"(c) Notwithstanding any other provision of this chapter, educational assistance may not be paid under this chapter to a person divorced from the participant on whose service the person's entitlement is based.

"§ 1473. Duration; limitations

"(a) Educational assistance under this chapter may not be paid to or transferred by a participant at any time more than ten years after the date of such participant's last discharge or release from active duty.

"(b) Educational assistance under this chapter may not be paid to a transferee at any time after the later of (1) the date ten years after the date on which benefits were transferred to the transferee, or (2) the date on which the transferee attains twenty-nine years of age.

"(c) In the event that a participant or transferee has not utilized any or all of such participant's entitlement by the end of the applicable period provided for under subsection (a) or (b) of this section, such participant is automatically disenrolled from the program and any contributions made by such participant remaining in the fund shall be refunded to the participant following notice to such participant and an application by such participant for such refund. If no application is received within one year from the date of such notice, it shall be presumed for the purposes of section 1322 of title 31 that the participant's whereabouts are unknown and the funds shall be transferred as directed in subsection (a) of such section.

"Subchapter IV—Administration

"§ 1481. Requirements

"The provisions of section 1663, 1670, 1671, 1673, 1674, 1676, and 1683 of this title and the provisions of chapter 36 of this title with the exception of sections 1777, 1780(c), and 1787, shall be applicable to the payment of educational assistance under this chapter. For the purpose of such provisions, transferees shall be considered to be eligible veterans.

"§ 1482. Reports; accounts

"(a) The Secretary of Defense shall submit to the Administrator a report each month showing the name, service number, and amount of the deduction made from the military pay of each participant enrolling in that month, any contribution made by the Secretary concerned under section 1462(c) of this title, and any change in each participant's enrollment or contribution. The report shall also include any additional information the Administrator and the Secretary of Defense consider necessary for the administration of the program.

"(b) The Administrator shall maintain accounts showing contributions made to the Fund by individual participants and by the Secretary concerned as well as disbursements made from the Fund in the form of payments or contributions withdrawn.

"§ 1483. Administrative expenses; budget function

"(a)(1) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall transfer to the Administrator such funds as may be necessary to cover all expenses incurred by the Administrator in administering this chapter.

"(2) Transfers under paragraph (1) of this subsection shall be made in advance, with necessary adjustments from time to time for overpayments and underpayments.

"(b) Appropriations and expenditures made to carry out this chapter shall be considered for budgetary purposes as appropriations and expenditures made for national defense functions.".

(b) The tables of chapters at the beginning of such title and at the beginning of part III of such title are each amended by inserting before the item relating to chapter 31 the following new items:

"29. Peacetime Veterans' Educational Assistance Program..... 1401
"30. Career Members' Contributory Educational Assistance Program . 1451".

COORDINATION WITH OTHER VETERANS' EDUCATION AND TRAINING PROGRAMS

SEC. 403. (a) Section 1508(f)(1) of title 38, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting "29 or" before "34" the first place it appears; and

(B) by striking out "chapter 34" the second place it appears and inserting in lieu thereof "either chapter 29 or chapter 34"; and

(2) in subparagraph (B), by inserting "29 or" before "34".

(b) Section 1623 of such title is amended by adding at the end the following new subsection:

"(e) If a participant becomes entitled to educational assistance under chapter 29 of this title, the participant may elect to disenroll from the program under this chapter effective on the first day of the month in which the participant becomes entitled to such assistance.".

(c) The third sentence of section 1673(d) of such title is amended by inserting "29," after "chapter" the second time it appears.

(d)(1) Section 1781 of such title is amended—

(A) by inserting "29," after "chapter" the first time it appears;

(B) by striking out "36," and inserting in lieu thereof "36 of this title or chapter 106 or 107 of title 10,"; and

(C) by striking out the comma after "chapter 31". (2) Section 1795(a) of such title is amended—

(A) in clause (4), by inserting "29," after "chapter"; and

(B) by inserting after clause (4) the following new clause:

"(5) chapters 106 and 107 of title 10;".

EDUCATIONAL LEAVE OF ABSENCE FOR ENLISTED MEMBERS OF THE ARMED FORCES

SEC. 404. (a) Chapter 40 of title 10, United States Code, relating to leave, is amended by adding at the end thereof the following new section:

"§ 708. Educational leave of absence

"(a) Under such regulations as the Secretary of Defense shall prescribe after consultation with the Secretary of Transportation and subject to subsection (b), the Secretary concerned may grant to any eligible member (as defined in subsection (e)) a leave of absence for a period of not to exceed two years for the purpose of permitting such member to pursue a program of education.

"(b)(1) A member may not be granted a leave of absence under this section unless—

"(A) in the case of an enlisted member, the member agrees in writing to extend the member's current enlistment after completion (or other termination) of the program of education for which the leave of absence was granted for a period of two months for each month of the period of the leave of absence; and

"(B) in the case of an officer, the member agrees to serve on active duty after completion (or other termination) of the program of education for which the leave of absence was granted for a period (in addition to any other period of obligated service on active duty) of two months for each month of the period of the leave of absence.

"(2) A member may not be granted a leave of absence under this section until such member has completed any extension of enlistment or reenlistment, or any period of obligated service, incurred by reason of any previous leave of absence.

"(c)(1) While on a leave of absence under this section, a member shall be paid basic pay but may not be paid basic allowance for quarters or basic allowance for subsistence or any other pay and allowances to which the member would otherwise be entitled for such period.

"(2) A period during which a member is on a leave of absence under this section shall be counted for the purposes of computing the amount of a member's basic pay, for the purpose of determining the member's eligibility for retired pay, and for the purpose of time in grade for promotion purposes, but may not be counted for the purpose of completion of the term of enlistment of the member (in the case of an enlisted member).

"(d)(1) In time of war, or of national emergency declared by the President or the Congress, the Secretary concerned may cancel any leave of absence granted under this section.

"(2) The Secretary concerned may cancel a leave of absence granted to a member under this section if the Secretary determines that the member is not satisfactorily pursuing the program of education for which the leave was granted.

"(e) In this section, 'eligible member' means a member of the Armed Forces on active duty who is eligible for basic educational assistance under chapter 29 of title 38 and who—

"(1) in the case of an enlisted member, has completed at least one term of enlistment and has reenlisted; and

"(2) in the case of an officer, has completed the officer's initial period of obligated service on active duty.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"708. Educational leave of absence.".

PRESEPARATION COUNSELING

SEC. 405. (a) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1043. Preseparation counseling requirement

"Effective not later than two years after the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act, upon the discharge or release from active duty of a member of the Armed Forces, the Secretary concerned shall provide for individual counseling of that member. That counseling shall include a discussion of the educational assistance benefits to which the member is entitled because of the member's service in the Armed Forces and an explanation of the procedures for and advantages of affiliating with the Selected Reserve. A notation of the provision of such counseling, signed by the member, shall be placed in the service record of each member receiving such counseling.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1043. Preseparation counseling requirement.".

TERMINATION OF RIGHT TO ENROLL IN CHAPTER 32 PROGRAM

SEC. 406. Section 408(a) of the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94-502, 90 Stat. 2383, 2397) is amended—

(1) by (A) striking out "(1)" and

(2) striking out all after "Act) after" and inserting in lieu thereof "the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act".

SEC. 407. (a) The amendments made by section 406 shall take effect on October 1, 1984.

(b)(1) Except as provided in paragraph (2), the amendments made by sections 402 through 405 shall take effect on September 30, 1985.

(2)(A)(i) Such amendments shall take effect on October 1, 1986, if the President—

(I) upon the recommendation of the Secretary of Defense, makes a determination in accordance with subparagraph (B) that it is in the national interest of the United States for the effective date of such amendments to be postponed until such date; and

(II) not less than ninety days prior to such date, has submitted to the Committees on Armed Services, on Veterans' Affairs, and on Appropriations of the House of Representatives and the Senate written notice of the President's determination, together with a report explaining the justification for it.

(ii) Such amendments shall take effect on October 1, 1987, if—

(I) the effective date of such amendments was postponed pursuant to division (i) of this subparagraph;

(II) the President, upon the recommendation of the Secretary of Defense, makes a determination in accordance with subparagraph (B) that it is in the national interest of the United States for the effective date of such amendments to be postponed until such date; and

(III) the President, not less than ninety days prior to such date, has submitted to the Committees on Armed Services, on Veterans' Affairs, and on Appropriations of the House of Representatives and the Senate written notice of the President's determination, together with a report explaining the justification for it.

(B) In making a determination pursuant to subparagraph (A), the President shall take into account—

(i) the projected costs of carrying out the programs of educational assistance for men and women in the Armed Forces that would be established under chapters 29 and 30 of title 38, United States Code (as added by section 402(a)),

(ii) the Armed Forces' recruitment and retention experiences in the preceding fiscal year and projected recruitment and retention performances for the fiscal year in which such determination is made and the next four fiscal years, and

(iii) other alternatives and their projected costs to enhance such recruitment and retention.

(C) Prior to making a recommendation under subparagraph (A), the Secretary of Defense shall consult with the Administrator of Veterans' Affairs and obtain and review the recommendations of the Secretaries of the military departments in terms of the considerations specified in subparagraph (B).

FUNDING

SEC. 408. (a) During the first fiscal year in which payments of educational assistance are to be made under chapter 29 of title 38, United States Code (as added by section 2(a)), such payments shall be made from funds in the Veterans' Administration readjustment benefits accounts to the extent that funds sufficient for making such payments are not available for transfer to the Administrator of Veterans' Affairs pursuant to section 1446(a) of such title (as so added).

(b) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall transfer to the Administrator of Veterans' Affairs for deposit in such account funds sufficient to reimburse the Administrator for payments made from such account pursuant to paragraph (1).

Mr. BAKER. Madam President, will the Senator yield to me?

Mr. ARMSTRONG. I am happy to yield to the leader.

Mr. BAKER. Madam President, this morning, when we convened, I indicated that today would be a late day and I would confer with the distinguished chairman of the committee to get an estimate on how long we might be in session. He reports to me that he expects to be in until at least midnight tonight. I wish to convey that happy information to all my colleagues. I suggest they make their plans to be in very late, at least until midnight, maybe longer than that. Senator GOLDWATER says that is good.

Madam President, I thank the Senator from Colorado.

Mr. ARMSTRONG. Madam President, on that cherry note, if the Senate will be in order, I shall begin to present the GI bill.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Colorado.

Mr. ARMSTRONG. Madam President, just to get all the administrative matters taken care of, I ask for the yeas and nays on the amendment.

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

The yeas and nays were ordered.

Mr. ARMSTRONG. Madam President, Congress is caught between a rock and a hard place. We are facing large and mounting budget deficits that demand that we hold spending down. At the same time, every Member of this body wants and, indeed, insists upon providing the level of national defense which is needed to assure the security and safety of this country. As we try to stretch too few dollars to cover too many needs, I believe it is particularly appropriate that we are now considering reinstating a program which will not only strengthen this Nation's defense but will save us money in the process—the GI bill.

Madam President, Congress passes hundreds of bills every session. Some of this legislation has done a great deal of good; some of it has proven to be mediocre. Some of it, of course, has proven to be positively harmful and counterproductive. But as we look back over the whole history of this country, over 200 years of legislation and Federal action in various aspects of American life, I believe there are only a handful of programs that stand out—indeed, that tower above the legislative landscape as the most outstanding and successful programs of all time.

I think, for example, of the great land grant university program—that is certainly a towering success of the Federal Government; the great hydroelectric projects of the 1930's; and the Interstate Highway programs of the 1950's, 1960's, and 1970's. Programs like these have succeeded not only in fulfilling their intended purpose, but indeed have conferred benefits generation after generation as an investment in the future of this country.

Madam President, if you started out to make a list of the programs that have really succeeded, that have been cost-efficient and scandal-free, which have accomplished their intended purpose, which have spun off benefits to one generation after another, I think that list, even if it were only the top half dozen programs of all time, would have to include the GI bill.

The World War II and successor GI bills put college education within the reach of millions who would not otherwise have been able to go to college,

fueled the postwar economic recovery and boom, and, according to some estimates, will ultimately return to the Treasury from three to six times its cost in higher revenues.

The GI bill has also proven to be the most effective and the most cost-effective recruiting device that the Armed Forces ever had. It is especially attractive and has proven historically to be especially appealing to the high-aptitude, highly motivated young men and women which our armed services need so badly as our military capability becomes increasingly technology-oriented.

The decision of Congress to terminate the GI bill in December of 1976, in my judgment, has proven to be one of the worst decisions ever made by the Congress of the United States. The Army warned us in advance what was likely to happen. In September of 1974, the Army conducted a survey of 11,336 recruits at Armed Forces examining stations throughout the United States. Twenty-four percent of those who were interviewed said flatly they would not have enlisted in the service if it were not for the GI bill. An additional 36 percent said they were not sure whether they would have enlisted if they had not been made eligible for education benefits. After factoring out those who seemed to be indecisive, the Army concluded and predicted that termination of the GI bill could depress the pool of potential recruits by as much as 36.7 percent right off the top.

That was not all. In its report to the Secretary of Defense, the Army said that terminating the GI bill would require a 17-percent increase in annual accessions just to offset increased losses due to attrition; that is, service members administratively discharged prior to completing their term of obligated service.

In addition, it was predicted prior to the termination of the GI bill in 1976 that the result would be a shift from more capable service recruits to less capable, literally resulting in a disproportionate number of recruits from the lower mental categories. That was the prediction. I say to my friends, the actual result of terminating the GI bill program has been even worse than was feared by the Army in 1976. By the 1980 fiscal year, the number of Army recruits scoring in the highest mental category had plunged by two-thirds and the number of volunteers in the second highest category had dropped by more than half. The attrition rate had climbed to nearly 40 percent, more than double the 18-percent rate of the Army predicted would be totally unacceptable by Congress.

Although the Army suffered most, recruiting for other services was severely impaired by the cancellation of the GI bill. In the Air Force, the proportion of recruits scoring in the two highest categories on the Armed Forces Qualification Test dropped from 53.8 percent in fiscal year 1977 to 40.2 percent by fiscal year 1979, nearly a 25-percent drop in high aptitude recruits in just 2 years.

A Center for Naval Analysis study indicated that cancellation of the GI bill reduced the pool of recruits willing to enlist in the Marine Corps by 17 percent and reduced the number of high school graduates willing to become marines by 24 percent. In the Navy, the percentage of recruits scoring in the two highest mental categories declined from 43 percent in fiscal year 1976 to 35 percent in 1979 and the percentage of recruits in the lowest category quadrupled from 5 percent to 21 percent.

Ladies and gentlemen of the Senate, we have received solid proof of what a powerful recruiting tool of the GI bill was in the 3 months preceding the termination of the post-Korean GI bill in December of 1976. In the fourth quarter of that year, which is usually the poorest recruiting period for the Armed Forces, we had record numbers of young men and women come forward to join the armed services, and cancellation of the GI bill was clearly a major contributor to the military manpower crisis which followed.

In 1979 and 1980, we reached a point where the Army Chief of Staff, General Meyer, said his was "a hollow Army." And how many in this Chamber recall that at about that same period of time the Secretary of the Navy was actually forced to beach ships because we did not have enough qualified sailors to run them, despite the fact that the number of warships in the Navy had dropped from more than 1,000 to less than 500. Even with this reduced naval strength, we did not have enough qualified sailors to keep our reduced naval forces afloat.

Well, that has turned around to some extent, thanks in part to long overdue increases in military compensation voted by Members of the Congress in 1980 and 1981 and also in part to a severe recession which sent unemployment into the double digit range, the highest since the Great Depression, I might note. Recruiting has improved. It has improved markedly. Fiscal year 1981 was the best recruiting year since cancellation of the GI bill and fiscal year 1982 was even better, but even in these otherwise excellent recruiting years there were ominous signs. Despite recruit pay which had been increased 59 percent since the cancellation of the GI bill program, the initial enlistment bonus, which in the case of a nuclear submariner could exceed $25,000 and a youth employment rate nearly double that of the population at large, despite all of these factors, the percentage of the recruits in the two highest mental categories in fiscal 1982, a good year for recruiting, still trailed the proportion of recruits in these mental categories in the last year preceding the termination of the GI bill.

My friends, we do not need a crystal ball to see what is looming in the future. All we have to do is project the demographic trends which are already evident to see that disaster is ahead. We are in the midst of a recovery, and good economic times have traditionally meant hard times for military recruiters. The recovery, moreover, is coinciding with a period in the life of our country when there will be and is a sharp decline in the number of young people in military age brackets. The 18-year-old population will decline a full 20 percent, by 1.3 million, between fiscal year 1982 and 1987. Let me say that again. There is going to be a 20-percent decline in the number of young people in the age group from which we expect to draw most of our new recruits and that will occur in just 5 years, between 1982 and 1987, and will decline still further in the 1990's.

If we make no serious effort to recruit the upward mobile, college-bound young people who are so much needed in the armed services today, we are going to face a problem of gradually mounting proportions which will again reach the crisis point.

Well, is the GI bill the answer to this recruitment problem? I want to stress we are not talking about recruiting numbers of new service men and women. We are talking about quality. We are talking about what are the incentives which appeal most to the upward young people, the young men and women who are coming out of high school who want to improve themselves, who are looking for a step on the ladder. We are not just trying to hire people to do a job but literally appealing to that group of people who want to raise their own standard because that is what we need in the services.

Today you will have a corporal or a sergeant driving a tank which is vastly more complex technologically than the aircraft of World War II ever turned out to be despite the fact that in World War II we thought you had to be a college graduate to fly one of those airplanes, and yet today, junior enlisted men are responsible for tasks of technological complexity that far exceed those of pilots in World War II. So we need these people, but the question remains, Is the GI bill the proper recruiting tool?

Well, survey after survey has made it plain that educational incentives are the only effective means of recruiting voluntarily the high aptitude young people the Armed Forces need the most. Typical are the findings of the most recent comprehensive study conducted by the Army Research Institute at Army reception centers

throughout the country from May through August 1982. Overall, money for college ranked second of the 11 reasons cited as the most important consideration for enlisting, trailing behind—and this is significant—the category labeled "To get trained for a skill." Money for college ranked far ahead of such categories as "Earning more money" or "I was unemployed." Among recruits in the two highest mental categories, however, money for college was the most important reason cited for enlistment, being mentioned by 36.3 percent of the recruits interviewed in this period. This compared with just 7.8 percent who said they joined the Army because they could not find a job elsewhere and 3.3 percent who said they joined the Army to obtain higher pay. Although the Army believes that the educational incentive programs it has at the present are its most effective recruiting devices, and we do have some educational programs at present and they have done some good, senior Army commanders are convinced that a new GI bill would be more effective.

Gen. Maxwell Thurman, the Vice Chief of Staff and formerly the Army's top recruiter, has told Congress flatly:

> The Army must have an educational pull mechanism permanently authorized in law which is not subject to the vagaries of year-to-year change. The education benefits about which we are speaking do two things at once. They are recruiting incentives for us and they are rewards for service to the Nation.

General Thurman is right, and he makes a very important point because, on the one hand, we are talking about improving the quality, the ability, the skills of young people coming into the service, but we are also talking about reestablishing the traditional link between something that you get from your country and serving your country. I think that is a very significant aspect of this whole GI bill notion—earning your college education, earning the opportunity to improve your education and your life.

Manpower experts for other services are equally blunt.

Lt. Gen. C.G. Cooper, Deputy Chief of Staff for Manpower for the Marine Corps said:

> I think the GI bill is a must for the future. I have been in the recruiting business, and I can look down the pike and know that the talent market is going to be much more competitive, much smaller, and it is going to become much more intense with industry and other means looking for the quality of youngsters we want, and I think a good education bill in the future will be of great assistance.

In addition, Maj. Gen. Kenneth Peek, Deputy Chief of Staff for Manpower and Personnel of the Air Force, stated:

> There is no question about it: A new GI bill will help recruitment, retention and society, and I think it is especially important as we look down the road and see a recovering economy and a declining pool of eligible youth to service the country, and some programmed growth in the Air Force.

Madam President, before I turn to some of the other issues on the GI bill, particularly the aspects of how it makes a permanent investment in the lives of the young people who are affected and its cost-benefit ratio for the armed services, I should like to pause at this point to yield to my colleague from Hawaii, who has been a leader in this effort.

The GI bill amendment which we bring up today does not arise for the first time in 1984, nor did it arise first in 1983, when he and I and some others first brought it to the floor. In fact, the effort to restore the GI bill and other benefits for servicemen is something that Senator MATSUNAGA has been interested in for a long time. Not only has he been passively interested; he has been a fighter; he has been an effective leader in this cause, to the great betterment of servicemen and women around the world, and he has made an important contribution to the national defense in so doing.

Madam President, I wish to turn to focus on some issues that have as yet not been explored and that is the question of costs. Obviously, if you are going to grant to servicemen and women educational benefits, it costs something and it is only reasonable to ask, how do the benefits which a GI bill benefit program would provide compare with the potential cost of providing those benefits?

There is no question, I think it is obvious from the testimony that has been submitted by the service chiefs, from the testimony of noncommissioned and commissioned officers in the field as recruiters, from the statement of the Senator from Hawaii and others that have been made, that it is our intent to draw qualified, talented, upward bound men and women into the services. But what about the costs? Well, the GI bill has inherent cost advantages over any kind of less effective, across-the-board pay increase measures, such as pay raises and bonuses.

Now, I am not against pay raises for the troops. In fact, Senators may recall that the Senator from Hawaii and I, with the help of others, led the fight in this Chamber a few years ago to give a long-overdue pay raise to the Nation's airmen, soldiers, and sailors. We did the right thing. We should have given them a pay raise. It was well deserved.

But we should not confuse pay raises with the kind of incentives that are inherent in the concept of a GI bill.

The first advantage, from a cost standpoint, of a GI bill is that you get the Government service up front and the cost to the taxpayers is deferred. Let us just spell that out. You attract somebody to go into the Army, Navy, or Air Force today, but you pay nothing toward the cost of the GI bill benefits until and unless that new service member completes 2 years of honorable service.

Now, is that a trivial consideration? It is not, because, at the present time, we are paying large bonuses, in some cases huge bonuses, up front to induce people to enter the service and a fairly high percentage of them do not end up completing their term of enlistment. So the idea of deferring the cost makes real sense.

A more important advantage is this surety of performance. By paying bonuses up front, we may encourage a young man or woman to come into the service and buy a new car and head off for their military destination, but that does not keep them interested. That does not keep them on the job throughout their term of enlistment. In fact, I regret to inform you that quite a large number of people who sign up as enlistees in fact do not complete that term of enlistment.

Madam President, the GI bill is also uniquely capable of generating countervailing savings within the Department of Defense. We are talking now about attracting high aptitude recruits. These recruits cost less to train than less capable recruits. It is obvious on the face of it, yet I would ask my colleagues to reflect upon what we have been through in the last few years as the weapons have grown more and more complex and we have literally seen an effort to rewrite Army training manuals downward to the seventh and eighth grade reading levels because the new recruits were not able to cope with the tech manuals. Aside from that fact at some point you get a capsized effect, you literally end up with a situation where the recruits simply cannot handle the weapons. And the cost of providing training is noticeably less to these more capable high school graduates.

The largest area in which countervailing savings are likely to occur, however, is in the area of attrition. The General Accounting Office estimated in 1980 that each serviceman who attrites cost the taxpayers $12,000. High school graduates attrite at less than half the rate of nongraduates. College eligible high school graduates attrite at a still lower rate.

Now, the maximum benefit that is specified in our proposed bill is less than the cost of attrition. So if you look at it in that sense there is a countervailing savings which we have not attempted to quantify or take credit for in our legislation, but it is simply built in as a matter of fact.

Madam President, I also want to emphasize that while my initial interest in the GI bill arose because I believe

so strongly that it is a way of bringing into the service the kind of young people we need, not just those who cannot find a job elsewhere, but young people who literally are on their way up, future leaders of our country, and that they are needed in the armed services, but there is another aspect of it which I would be remiss if I failed to emphasize.

We are talking about making an important investment in the lives of these young people and, in turn, in the future of our country. Because it is not just the service that will benefit, it is the individuals and their families and their communities who will benefit from the college education made available to young people who, in many instances, would have never had a chance to go to college otherwise.

In the 1965 hearings conducted on the proposed enactment of the GI bill at that time, Senator Ralph Yarborough of Texas, chairman of the Senate Subcommittee on Veterans' Affairs, credited the Internal Revenue Service with an analysis of the World War II and Korean GI bill that stated that the Government was "accruing a profit of over $1 billion a year."

Statistics maintained by the Census Bureau indicate a very high correlation between lifetime income and education level. Using the 1972 census data as the baseline, the Census Bureau estimates a typical high school graduate's lifetime income at $416,000, while a typical college graduate's income soars to $609,000. If the college graduate paid taxes in the low percentage bracket, he or she would pay $38,600 more in taxes than a high school graduate during his or her working lifetime. That is about triple the cost of the GI bill.

Now, am I literally saying that we are going to get more than our money back in taxes for the cost of the GI bill? The answer is yes, I am saying exactly that, because the people we are talking about who will be the GI bill beneficiaries in most instances will be precisely the young men and women who would not get to go to college otherwise.

Here is something interesting. I cannot quote the statistics precisely, although I shall attempt to do so before the afternoon is over, but I was advised this morning by a representative of a higher education association that the proportion of young people graduating from high school who are going to college is dropping in this country today, is actually declining. Now that is a very significant trend in this country of ours.

We are talking about, in this legislation, affording an opportunity to young people who, in practically every instance, would simply not get to college. The most important thing about that is what it will do for their lives, for their perspective, the enrichment that that means to them, to their families and their communities. But in dollars and cents terms, aside from all the human aspects of it, there is good reason to believe that the Federal Government will double and probably triple its investment in increased tax revenues arising from this investment in college education. Obviously, the GI bill would also benefit in many ways that cannot be measured in money.

Madam President, I believe we made a terrible mistake in 1976 when we terminated the then existing GI bill. I think the evidence is in.

When I last raised this issue, it was defeated by a handful of votes and somebody said, "Well, under the circumstances, let's have a hearing." Well, we did have a hearing. In fact, we have had several hearings since then. The evidence, the massive preponderance of the evidence is that we need a new GI bill.

I want to send to the desk at this time and ask to have printed in the RECORD at this point just a sprinkling, just two pages of quotes of what people are saying about the GI bill.

I am not going to take time now to read the comments of Gen. R.H. Barrow, Commandant of the Marine Corps; or Gen. E.C. Meyer of the U.S. Army; or Vice Adm. Lando Zech, Deputy Chief of Naval Operations; or Lt. Gen. C.G. Cooper, Deputy Chief of Staff for Manpower of the Marine Corps; or Maj. Gen. Kenneth Peek, Deputy Chief of Staff for Manpower and Personnel of the Air Force.

But I hope my colleagues will reflect upon these. And, as my colleagues come to the floor from wherever they may be, I intend to hand a copy of these comments to each of those who are willing to take a look before they vote on this issue. Also, I hope my colleagues will reflect seriously upon the observations of such organizations as the Veterans of Foreign Wars. Here is what James N. Magill says speaking for the VFW:

> The VFW supports the concept of a peacetime GI bill and has testified so on previous occasions. We recognize the undeniable need of the military to attract and retain qualified, high-caliber personnel.

G. Michael Schlee, director of the National Security Commission of the American Legion said:

> The GI bill model for recruitment and retention is perferable to a contributory educational program.

And many others have come forward.

This legislation, Madam President, is supported not only by recruiters, but by distinguished thoughtful military sociologists from the academic sector, and by service chiefs. It is also backed by the Non Commissioned Officers Association; National Association of Uniformed Services; Reserve Officers Association; Association of the U.S. Army; National Guard Association; Fleet Reserve Association; Naval Reserve Association; and, Air Force Sergeants Association.

I ask unanimous consent that these two pages of comments appear in the RECORD at this point.

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

The comments ordered to be printed in the RECORD, are as follows:

WHAT THEY SAY ABOUT THE GI BILL

"I will ask Congress to reinstate the G.I. Bill, a program which was directly responsible for the most rapid advance ever in the educational level of our population."—Ronald Reagan, Televised Address to the Nation, October 19, 1980.

"I would like to point out that in addition to the incentive that an educational assistance program would provide to encourage enlistment and retention, there is another benefit that may be even more significant. Many of the great advances in the arts and sciences, in business and industry, in research and applied sciences that have occurred in this nation since World War II have been accomplished by Americans who took advantage of their G.I. Bill benefits to go on to higher education. It has been an immensely successful investment, and I am confident that a new G.I. Bill will be equally valuable."—Gen. R.H. Barrow, Commandant of the Marine Corp (ret), July 15, 1983.

"By everyone's analysis educational benefits, particularly the G.I. Bill, have proven effective attractors for college bound youth who would not have elected Army service without the availability of an educational benefits program. These quality youth are the key to a better Army because they are more easily trained, are more disciplined, are more motivated, and as such, promote enhanced readiness and esprit."—Gen. E. C. Meyer, U.S. Army, (ret), November 3, 1983.

Below are excerpts from the testimony at earlier hearings that have been held on the G.I. Bill during the last three Congresses, this one before the House Veterans Affairs Committee on April 12, 1983:

"No Americans are more deserving of educational assistance than those who serve our Nation in the military services. I believe their service and their sacrifice should be rewarded. Although the individual services would benefit greatly by a G.I. Bill, I believe in the long run our country benefits even more."—Vice Adm. Lando Zech, USN, Deputy Chief of Naval Operations.

"I think the G.I. Bill is a must for the future. I have been in the recruiting business, and I can look down the pike and know that the talent market is going to become much smaller, competition is going to become much more intense with industry and other means looking for the quality of youngsters we want, and I think that a good education bill in the future will be of great assistance."—Lt. Gen. C. G. Cooper, USMC, Deputy Chief of Staff for Manpower.

"There is no question about it: A new G.I. Bill will help recruitment, retention and society, and I think it is especially important as we look down the road and see a recovering economy, a declining pool of eligible youth to serve the country, and some programmed growth in the Air Force. A new G.I. Bill would help us attract and retain the kinds of people that we need in the increasingly complex and high technology Air Force that we have today."—Maj. Gen. Ken-

neth Peek, USAF, Deputy Chief of Staff for Manpower & Personnel.

"The VFW supports the concept of a peacetime G.I. Bill and has testified so on previous occasions. We recognize the undeniable need of the military to attract and retain qualified, high-caliber personnel."—James N. Magill, Special Asst., Natl Leg Service, Veterans of Foreign Wars.

"The G.I. Bill model for recruitment and retention is preferable to a contributory educational program."—G. Michael Schlee, Director, Natl Security Commission, American Legion.

"The sacrifices which military service exacts, especially in terms of years away from that period of life usually devoted to education are just as real for the peacetime veteran as for his wartime comrade. The crucial need for armed forces of the highest caliber is greater now than at any time in our history, including periods of hostilities. AMVETS believes that it is high time that the dignity of military service during this age of peril be recognized at least to the same degree that wartime service has been recognized in the past."—LTC David Passamaneck, USA (ret), Legislative Director, AMVETS.

"We believe that recruiting and retention in the Armed Forces in the future will become more difficult and that consideration supports the creation of a G.I. Bill. But we have also said . . . that we believe the creation of a G.I. Bill is something that should not be done specifically for the purpose of recruiting and retaining people in the Armed Forces, but also for the good that it has on the Nation's economy and for its positive effect on veterans."—Richard W. Johnson, National Legislation Director, NonCommissioned Officers Assn.

"A new G.I. Bill should not be considered as an expenditure of funds; rather, it should be considered as an investment of funds. . . . An investment in the youth of America is one of the best, for it returns the highest dividends."—Max Bielke, Legislative Counsel, Natl. Assn. of Uniformed Services.

"An educational assistance program is a proven, highly effective recruiting incentive. Not only is it a strong magnet among bright, motivated youngsters; it also is attractive to their parents."—Col. Erik Johnson, USA, Director of Legislative Affairs, Association of the U.S. Army.

SERVICE ORGANIZATIONS SUPPORTING THE GI BILL

Non-Commissioned Officers Association.
National Association of Uniformed Services.
Reserve Officers Association.
Association of the U.S. Army.
National Guard Association.
Fleet Reserve Association.
Naval Reserve Association.
Air Force Sergeants Association.

Mr. ARMSTRONG. Mr. President, I want to turn from the general to the specific, and outline with precision exactly what is in the amendment which I have sent to the desk which is now pending as an amendment to the Glenn amendment. It is a perfecting amendment of course, but it is in spirit, if not in a parliamentary form, a substitute. It is an alternative. I want to tell you what is in our amendment, and why it is preferable to the proposal which has been brought forward by the Senator from Ohio.

Our proposal will establish two new programs of educational assistance to veterans of peacetime service designed to assist armed forces in recruiting, and retaining highly qualified men and women. It would close the post-Vietnam era educational assistance program to new participants. That is the so-called VEAP program—I am going to come back to that in a moment—and would repeal the termination date of the Vietnam era GI bill. Our proposal provides a basic benefit level of $300 a month to be funded by the Defense Department to service members who complete 2 or more years of honorable service starting September 30, 1985, with the provision that the President may postpone the effective date by 1 year increments to no later than October 1, 1987. Benefits vest at the rate of 1 month of benefits for each month of service to a maximum of 36 months.

For the Reserves—for the National Guard—may I point out that this is a terribly significant provision at a time when we are trying to beef up the Reserve component of our national defense. For Reserves, or the National Guard, benefits would vest at the rate of 1 month of benefits for every 3 months of service. The service Secretaries would be permitted to supplement the basic benefits to encourage enlistments in the combat arms, and in MOS—military occupational specialties—where critical skills are required.

Our bill would also establish a career member supplementary educational assistance program through which service members with 10 or more years of honorable service would be permitted to contribute from $25 to $100 a month, to a maximum of $6,000, to a special fund. After a 2-year vesting period the service member's contribution would be matched two-for-one by the Defense Department. These funds could be used either by the service member, or by his spouse or dependent child.

A third provision of our bill would permit career service members to utilize their GI bill benefits full time without interrupting or abandoning their military careers. In their discretion, the service Secretaries would be permitted to offer an educational leave of absence up to 12 months. Service members granted education leave would be required to extend their term of obligated service by 2 months for each month of education leave. Service members on education leave would continue to draw their basic pay but would not be permitted to draw both allowances and the GI bill benefits.

Mr. President, this legislation is aimed just like a rifle shot at the exact recruiting concerns which have emerged from surveys of recruits and potential recruits, and from the advice and testimony of people in the field who know the most about this problem. There are several reasons why this legislation should be enacted.

First, while the economy is very strong at the present time, with unemployment at the lowest level in 3½ years, that means it is relatively speaking easy to recruit people for the armed services. We know that good times do not last forever. At some point, unemployment may again be a problem in this country. We ought to provide in advance the kind of incentives we need to attract highly qualified young men and women to the service.

Second, the proportion of young people in the age bracket from which we must expect to draw new recruits to the Army, Air Force, and Navy is declining, and will decline by a full 20 percent—by 1.3 million men and women in a very brief period of time, from 1982 to 1987. So the pinch is really going to be going on.

Third, the GI bill is a cost-effective incentive to attract qualified personnel. The testimony on that is crystal clear. It is not only a desirable feature, but it is very cost effective.

Fourth, the current program, the Veterans' Educational Assistance Program, is a flop. The services do not like it. The service men and women do not like it. The participation rates are low. I think my colleague from Hawaii has explained adequately why continuation of this program is not a desirable alternative to a true GI bill.

It is my belief that the Senator from California, Mr. CRANSTON, will also have something to say on this subject. So I do not want to dwell on it. But let me make it plain that the VEAP program, which we replace and phase out, is not gaining large participation. Even among those who contribute to it initially, and get into it, most end up cashing out their benefits. They do not end up using it for educational purposes.

Mr. COHEN. Mr. President, will the Senator yield?

Mr. ARMSTRONG. Yes. I would be happy to yield.

Mr. COHEN. I would point out that last year the VA paid out almost 2½ times as much in VEAP refund as it did in VEAP benefits. If that is any indication of what is happening to those people going in and getting out, it seems to me the statistics of paying out 2½ times more in refunds than benefits is a story of the lack of success of the VEAP program.

Mr. ARMSTRONG. I thank the Senator for pointing that out. I hope every one of our colleagues will listen closely to what he said because it not only bears on the VEAP program, but in a moment I will turn my attention to the alternative GI bill proposal suggested by the Senator from Ohio

which is a form of a super-VEAP, I guess you would have to call it. And, in view of the really failure of the existing VEAP program, it is difficult for me to see why we would want to now saddle ourselves with something which combines the worst features of the prepayment with some new ideas which I think put it greatly at hazard for its success. But before I get to that, let me mention two more reasons why our concept of the GI bill ought to be passed.

A new GI bill will be, according to the testimony, in my judgment, clearly more cost effective than across-the-board pay increases in the future, or the enlistment bonuses which pay at the front end for service to be performed later; service which in many instances does not finally end up being performed.

Finally, let me just summarize my overall feeling as I began; that there are some programs which once tried you never want to go back to. There are some Federal programs which have proven to be so counterproductive that they have been allowed to expire, and even some have been repealed. But there are a handful of programs which have proven to be towering successes, and the GI bill is one of them in every way. In terms of what it has done for recruiting and retention, bringing in high-quality people, in the investment it has made in the lives of young people, in its payback to the taxpayers of the country, by every standard it has been an extraordinary success, one of the finest, perhaps one of the half-dozen or dozen true success stories of all time in Federal legislation—the GI bill.

So it just seems to me that the evidence is overwhelming. In fact, I cannot help recalling what Victor Hugo said about an idea whose time has come. Greater than the tread of a mighty army is an idea whose time has come, and I think the GI bill idea has come again, and so do quite a number of my colleagues.

When I sent this to the desk a few moments ago, I did so with the sponsorship of Senator COHEN, Senator MATSUNAGA, Senator HOLLINGS, and Senator CRANSTON. I now ask unanimous consent that the following Senators be added as cosponsors of this amendment: The Senator from Massachusetts, Mr. KENNEDY, Senator HUDDLESTON, Senator PRESSLER, Senator INOUYE, Senator FORD, Senator KASTEN, Senator BRADLEY, Senator HAWKINS, Senator HART, Senator TRIBLE, Senator DECONCINI, Senator BOSCHWITZ, Senator BAUCUS, Senator MITCHELL, Senator EVANS, Senator LAUTENBERG, Senator BOREN, Senator JOHNSTON, Senator SPECTER, and Senator DURENBERGER.

Mr. President, before I yield the floor, I would just like to explain again for the benefit of those who may have tuned in late the parliamentary situation we find ourselves in. The pending question is the amendment of my colleagues and I to the Glenn amendment. It is in parliamentary form a perfecting amendment. But it is in spirit and in substance a substitute.

If you are for the new GI bill, we hope you will vote for this amendment to the Glenn amendment. If you do not favor our approach, then presumably you would vote against our amendment and proceed to take final action on the Glenn amendment.

I urge that all of my colleagues now listen carefully to the statements which I anticipate will be made by the Senator from Maine, the Senator from Washington, the Senator from California, and others who will be coming to the floor to explain why this is such an important piece of legislation.

Mr. President, I yield at this time to the Senator from Hawaii (Mr. MATSUNAGA).

Mr. MATSUNAGA. Mr. President, I thank the Senator from Colorado for yielding, and I thank him for his kind words. I commend him for the leadership he has demonstrated in this body.

As a cosponsor of the original bill, with Representative Steiger, who is now deceased, to create a voluntary military force, I feel privileged to work with the Senator from Colorado in cosponsoring his amendment.

Mr. President, I rise to voice my opposition to the amendment offered by the Senator from Ohio [Mr. GLENN], and my strong support for the Armstrong - Cohen - Matsunaga - Cranston-Hollings GI bill amendment.

At the outset, I want to say that after listening to the Senator from Ohio and reading his "dear colleague" letter on his amendment, I believe that we, the sponsors of the GI bill amendment, share his basic objective, which is, as I understand it, to improve the ability of the military services to attract high quality young men and women. We also fully share his view that the only way to accomplish this goal is through providing enhanced educational benefits in exchange for military service.

Unfortunately, where we do not agree with the Senator from Ohio is in what fashion these educational benefits should be offered by the military. We are very concerned, frankly, that the program which would be established by the Senator's amendment would not be much more than a modification of the current Veterans Educational Assistance Program, better known as VEAP. That program, because of its extremely low participation rate and high drop-out rate, has been considered a disaster by virtually every military manpower expert, from the military and civilian sectors, who has testified on it before the House and Senate Veterans' Affairs Committees. It has not been a successful educational benefit program; it was not designed to be a recruiting and retention incentive. Only when the Congress authorized the military to augment the basic VEAP Program with so-called kickers did the program begin to attract greater numbers of high scoring school graduate recruits. It is important to note that it took kickers of $8,000 to $12,000 to actually make a significant difference in high quality recruiting. The point is that solid educational benefits are necessary to attract the highly intelligent high school graduates that the military services need. Anything less will just not do the job, and the program that is being proposed in the Glenn amendment would, by any measure, provide far less than a GI bill.

Under the Glenn amendment, service members electing to participate in the program would make a contribution of $250 per month to an educational benefits fund, which would come out his or her active duty pay, and forego cash payments for subsistence or quarters. Based on the low participation rate of the VEAP Program, under which service members may contribute from as low as $25 to as high as $120, I cannot see how a program which requires an even greater contribution and, at the same time, takes away cash for quarters or subsistence, will be any greater attraction for high quality recruits. The success of the Army college fund, under which service members are provided the basic VEAP plus $8,000 to $12,000 for which they have to make no contribution, proves very conclusively that the more noncontributory the educational program is, the greater its attractiveness to the high quality recruit.

Mr. President, the fact of the matter is that there is simply no evidence to suggest that the program created by the Glenn amendment will encourage any more high quality young people to join the military.

On the other hand, there is ample evidence to suggest that a noncontributory GI bill educational assistance program designed specifically for the All-Volunteer Force will make the difference in the recruitment of high quality personnel in the difficult recruiting years ahead.

Mr. President, the argument that is most often made against the enactment of a new GI bill—it was made last year on the floor when we offered this amendment and it is being made again this year—is that it is not needed now; that over the past 2 years the services have been having unprecedented success recruiting quality personnel. That is true. The sponsors of the GI bill amendment do not dispute that recruiting has been very successful. It should be noted, however, that the manpower chiefs of each of the military services, in testimony before

the Veterans' Affairs Committees of both the Senate and House of Representatives have forecast the onset of serious recruiting difficulties for their services in the mid to late 1980's and beyond. Independent analyses done by the Congressional Budget Office and the Government Accounting Office have also confirmed the very real possibility of recruiting shortfalls, particularly in high quality personnel, in the not too distant future.

The House Armed Services Committee, in its report on its version of the Defense Department authorization bill, expressed its concern that the military services' current recruiting success may not continue if the economy continues to improve or if a number of other factors currently favorable to recruiting change adversely. According to the House Committee, these factors include:

First, the impending decline in the youth population over the next decade;

Second, the increased competition from colleges and from private industry for the shrinking pool of high quality young people;

Third, the military services' need for an increasing number of highly intelligent personnel to operate and maintain the high technology equipment of the modern battlefield.

Mr. President, it should be emphasized that in recent testimony before the House and Senate Armed Services Committees, Army Chief of Staff Gen. John Wickham indicated that the Army has recently experienced a 22-percent decline in the number of young people coming into Army recruiting stations to take the military entrance exam. General Wickham suggested that this 22-percent reduction "may be a harbinger of an upturn in employment opportunities" for young people. The fact of the matter is that many top military officials believe that we are seeing the first signs of the recruiting difficulties that the military services will surely face in the coming months and years, especially if the economy and unemployment continue to improve at a faster rate than expected.

Mr. President, there should be no misunderstanding about the reason for the great recruiting success of the military over the last 2 or 3 years; our country was in a deep recession which caused employment opportunities to dry up and which once again made military service an attractive alternative for young people unable to find work or pay for college. Our efforts to restore military pay to levels comparable with the private sector can also be considered a factor in the improvement of recruiting. However, the state of the economy has to be considered the driving force behind the recruiting success. In the absence of a poor economy, it is doubtful that the services would have been able to meet their quality recruiting goals without additional incentives. For this reason, the manpower chiefs of the military services are unanimous in their support of a new GI bill. They see the need for the services to expand their penetration of the high quality recruiting market, and they are convinced that only a noncontributory GI Bill Program would have the attractiveness to accomplish this.

Let me turn for a moment to the testimony provided to the Senate Veterans' Affairs Committee earlier this year by the Vice Chief of Staff of the Army, Gen. Maxwell Thurman. General Thurman, who was the head of the U.S. Army Recruiting Command and Deputy Chief of Staff of the Army for Personnel, is recognized as one of the military's foremost manpower experts. His testimony before our committee in support of the enactment of a GI bill was both convincing and compelling.

The main point of General Thurman's testimony was that the military's high quality recruiting market must be viewed as a dual-track affair—the first track being high school graduates that are "employment-oriented," that is, they have a propensity to go directly to work after school, and the second track being high school graduates who are "college-oriented," that is, those who have a propensity to go directly to college after high school. According to General Thurman, the military services have been recruiting heavily from the "employment-oriented" group for a number of years. Indications are that recruiting from that group, which responds primarily to cash bonuses for enlistment, cannot be expanded to any further degree. "There is not much more we can get from the employment-oriented group," General Thurman said, "especially in an improving economy."

On the other hand, the college-oriented group responds primarily to money for college and, according to General Thurman, "the market can still be expanded for the college-oriented group by a well-designed, noncontributory GI Bill Program."

In responding to a question which I posed concerning whether or not the GI bill could be a cost-effective recruiting tool, General Thurman provided a detailed response which, in my judgment, fully and completely refutes any criticism or question of the recruiting effectiveness or the cost-effectiveness of the GI Bill Program we are proposing.

The general first made the point that without the inducement provided by GI bill educational benefits, the services will not be able to recruit adequate numbers of quality recruits. Recruiters will just not be able to expand recruitment in the college-oriented market. "We have," said General Thurman, "penetrated the employment—oriented market to the point that sensitivity to bonuses is less than sensitivity to education benefits among the bright young men and women we wish to attract."

Second, General Thurman made a convincing case about the effectiveness of educational benefits as an enlistment inducement for college-oriented youth. Let me read from General Thurman's testimony:

> The effectiveness of education benefits has been demonstrated. The RAND study, "Enlistment Effects of Military Educational Benefits," February 1982 notes that ". . . educational benefits can produce significant increases in high quality enlistment." Kaplan and Harris of the Rumson Corporation, in "The Measurement of High School Students' Attitudes Toward Recruiting Incentives" states". . . financial assistance for post-high school education appears to be of primary interest to Mental Categories I and II students" and "Mental Categories IIIA, IIIB, and IVA clearly show greater interest in the magnitude of enlistment bonuses than in the size of the educational assistance portions of the packages." In its 1983 Recruit Survey, the Army Research Institute finds that over 32% of the mental category I and II enlistees place college money as the most important reason for enlisting. Over 23 percent of the people in these categories say they would not have enlisted without money for college. Clearly, these individuals are influenced by education benefits more than by bonuses. Clearly, education benefits expand the market by attracting bright young men and women intent on a college education.

Mr. President, General Thurman also pointed out three other reasons why the costs of a GI bill would not be as high as frequently predicted. First, he stressed that historical GI bill use is only 42.5 percent. While it was somewhat higher during the Vietnam-era GI bill, use of the benefits under the new GI bill would probably not exceed that which was attained during Vietnam. This, of course, will yield significant savings with respect to the cost of a GI bill. Second, General Thurman expressed the Army's view that smart soldiers require considerably less training time to master the skills they will need on the battlefield, thereby producing significant savings in training costs. Third, General Thurman indicated that high school graduate recruits complete their terms of service at a much higher rate than do non-high-school graduates, again yielding considerable savings in attrition costs.

Mr. President, when these savings are taken into account, and when the enormous benefit to the Nation that GI bill educational benefits provide in terms of better educated, better rounded individuals who contribute a great deal to society, the GI bill looks better and better.

Mr. President, I do not believe there is a need for me to further stress the importance of the opinion of the Army's top recruiter and manpower

specialist. The Army is the service which needs the most high quality recruits and traditionally has the hardest time getting them. When recruiting shortfalls begin, they usually impact on the Army first. The Army, therefore, has the most at stake if another manpower crisis is allowed to happen. It is for this reason, and the fact that the Army is determined to keep its manpower quality high in order to keep force readiness up, that the Army is so strongly in favor of a new GI Bill Program.

Third, General Thurman addressed the criticism that is so often made of our GI bill proposal, that it would be prohibitively costly. Let me again refer to General Thurman's testimony:

As to their cost, education benefits are not as expensive as they appear. The basic benefit for all servicemembers need not be very high if a second level of benefits—such as the "kickers" in VEAP—are provided. We must have such a feature to attract soldiers with specific skills and into certain jobs such as the Combat Arms in the Army. Since the smart soldiers respond to education benefits more than do the low scoring ones, the "kickers" can provide the primary attraction and distribution tool. Concurrently, it expands the market for all Services as previously stated. The lower-scoring soldiers will still be eligible for the basic amount—but these are the people least interested in taking advantage of them. In fact data from the Vietnam era GI Bill even shows that the historical GI Bill use is 42.5 percent of eligibility.

The CBO's concern, then, that a GI Bill is not sufficiently targetable and would be throwing money at people who we do not want to target is not well founded. Even if it were, the United States is still generous with grants for education—over $2 billion in 1984. This amount carries no national commitment. I suggest that the men and women who have devoted two to thirty years to defense of our nation by serving in one of its Armed Services have earned an opportunity to use a part of that generosity.

Mr. President, another argument that has been made against the GI bill is that such a program, by definition, will have an adverse effect on retention of trained personnel because servicemembers will want to leave the service to use their benefits.

During our hearings on the GI bill, I posed this question to General Thurman. The Vice Chief of Staff indicated that the provision of GI bill educational benefits need not affect recruiting adversely. Here is what General Thurman had to say about the retention argument:

Provision of education benefits need not affect retention adversely. First, the Army does not need or want to retain all soldiers who enlist. The understanding and maturity that a former soldier takes with him when he returns to college or to the civilian community strengthens the nation. Many enter college ROTC programs and return to the Army as superb junior officers. Others grow to serve in leadership positions throughout American society, imbued with the values and ethics of service.

Second, provisions can be made to aid retention of soldiers who want to stay in the military and who we want to be the leaders of today and tomorrow. Foremost among the possibilities is transferability. If a soldier sees that the education of his children is provided for, he and his spouse are more likely to stay, accepting often arduous assignments but gratified by the service they perform.

The fact is, Mr. President, that our bill includes the transferability feature to which General Thurman referred. We have also included in the bill a provision which will facilitate and expand in-service use of GI bill benefits. We strongly believe, as does the Army, that the inclusion of these features, in conjunction with the double tier benefit structure of the GI bill, will more than compensate for any decrease in retention that the program might cause.

In the final analysis, we need this GI bill in place now to head off what will inevitably be serious recruiting problems in the near future as improving economic conditions combine with the shrinking pool of eligible recruits to create a highly competitive recruiting market. We must not be shortsighted where our military manpower is concerned. We did that during the late 1970's, and we found ourselves faced with a manpower readiness crisis that caused the then Chief of Staff of the Army, Gen. Edward C. Meyer, to call his force "a hollow Army." If Congress fails to learn the lessons of just a few short years ago and allows the services to once again experience recruiting shortfalls, I doubt that we will be able to stop the momentum toward the abandonment of the volunteer system and a return to the peacetime draft.

What we are proposing in our amendment is to give the military services what they say they need to continue to attract adequate numbers of high quality recruits, and that is a full GI bill program. What we are proposing is not alien to our military system as some opponents would have us believe. What we are proposing is not anywhere near as costly as some would have us believe. What we are proposing will not do any unintended harm to recruiting or retention that some would have us believe.

What our GI bill proposal will do is provide the All-Volunteer Force with the recruiting incentive it needs to expand the high quality recruiting market and bring in more bright young men and women who would have gone to college instead. It is as simple as that, Mr. President. Nothing else will bring in these high quality recruits—not bonuses, not pay raises, not other cash inducements, not a modified VEAP program as proposed in the Glenn amendment. Only a GI bill will do the job, and that conclusion is suported by the manpower chiefs of each of the military services. In my estimation, there is no greater argument for the proposal than that.

Mr. President, I hope that my colleagues will not be tempted by substitute programs that advertise lesser costs and equal benefit. There is no substitute for the GI bill. The House of Representatives recognized this by adopting a GI bill program very similar to the one embodied in our amendment. This may be our best chance ever to get this program enacted. I hope my colleagues will vote for the Armstrong-Cohen-Matsunaga-Cranston-Hollings amendment and make the peacetime GI bill a reality.

Mr. ARMSTRONG. Mr. President, I very much thank my colleague from Hawaii for his statement. Before he leaves the Chamber, I wish to acknowledge again the leadership he has shown on this.

When I decided some years ago that I really wanted to make an effort to do something about the GI bill, the first Member of this body I went to talk about it was SPARK MATSUNAGA, because he has shown over and over again not only his understanding of these national defense and military issues but the fact that he is willing to fight. When SPARK MATSUNAGA signs on to get something done, he is ready to carry the battle forward. He is ready to state his side of the case with the kind of forcefulness which I believe is going to carry us to victory.

I do not know if we are going to win today. Frankly, I think there is a good chance we will. Whether we win the battle today, 6 months from now, or a year from now, whenever it is, when the GI bill is restored, and it will be restored, in large measure, the credit for that goes to the distinguished Senator from Hawaii.

I am proud to be associated with him in this effort.

Mr. MATSUNAGA. I thank the Senator from Colorado for his kind remarks and I return the compliments because he has indeed displayed the leadership that is necessary for success.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER (Mr. HUMPHREY). The Senator from Maine.

Mr. COHEN. Mr. President, first let me congratulate the Senator from Colorado for his strong statement today, but more importantly for his dedicated effort. In 1979, I believe, when the first effort was made to reestablish the GI bill, Senator ARMSTRONG was, in fact, the first to offer this measure. I was pleased to join him then in 1979 and pleased to do so now.

Let me also say that I rise with some regret today in opposition to the amendment of the Senator from Ohio [Mr. GLENN], though his amendment was, in fact, amended by the Senator from Texas [Senator TOWER]. I admire Senator GLENN a great deal. I particu-

larly admire the trial by ordeal or torture that he has just passed through during the spring months and the way in which he conducted himself during the course of that very long battle that he waged, even if unsuccessfully, I thought with a great deal of vitality.

I continue to admire Senator GLENN for his contribution to the committees on which I serve with him.

Mr. President, I pass over for the moment my admiration for Senator TOWER, which I could take perhaps the next 2 or 3 hours to talk about, the role he has had in the shaping of our defense forces for the past 20 years or so that he has served in this body.

Having said that, I would like to express why I believe the Glenn-Tower amendment, if it is adopted, will, at best, have only a negligible impact and, at worst, could seriously hamper the ability of recruiters to attract the high-quality, educationally motivated young men and women that we need in today's Armed Forces.

The citizen-soldier GI bill, as the Glenn amendment is called, in my judgment, is anything but a GI bill. Those who wish for a GI bill should not vote for the Glenn amendment, but should vote for the Armstrong-Cohen-Matsunaga, et al., amendment with the 25 cosponsors that we now have. That, in fact, is the only true GI bill that will be on the floor today.

If they should support the Glenn approach, what they will be supporting is an unattractive version of one of the least effective and most unpopular Federal programs ever established, the Veterans' Educational Assistance Program, otherwise known as VEAP.

VEAP was established as a replacement to the GI bill when Congress terminated the GI bill in 1976. A contributory program, it asked service personnel to pay in monthly increments up to a maximum of $2,700, with the Government matching their contribution on a 2-for-1 basis. The initial contribution level was $50 to $75 monthly.

The Glenn proposal is also, in effect, contributory. Service members would have to agree to a reduction of active duty pay by $250 per month and also would lose their basic allowance for subsistence or quarters. Their total contribution of $6,000 over 2 years would be matched on a 2-for-1 basis by the Government.

The Citizen-Soldier Program proposed by Senator GLENN and Senator TOWER would require service personnel to forego between a third and two-fifths of their already low wages, in addition to their BAS and BAQ, in order to receive the deferred educational benefit.

The unattractiveness of this option is obvious. And the experience under VEAP only confirms the lack of appeal of this approach.

Mr. GLENN. Mr. President, will the Senator yield for one comment?

Mr. COHEN. I yield.

Mr. GLENN. On the question of subsistence and quarters, there has been reference to that several times this morning. I would like to correct any misunderstanding. What this amendment would supply is normal base housing. We would leave it up to the service in this amendment as to whether, if a person is assigned to a remote site where there were no barracks or subsistence available, the person would be given subsistence and quarters allowance at that site. Obviously, the general rule would apply to everybody else. They would not get off-base quarters and subsistence. In other words, we are not trying to attract the high school married group. We are trying to attract that group that is trying to go to college and trying to move on. They would normally be quartered on the base and would have normal base subsistence like anyone else.

Mr. COHEN. I thank the Senator. To continue with my comments:

We need look no further than the first study conducted to examine the VEAP Program. That study concluded that a $50 minimum—let alone a minimum of $250—discouraged some members from enrolling. It recommended a lower minimum monthly contribution in order to "allow many service members who cannot afford the current $50 minimum to enroll in the program."

In response to that study, the minimum was reduced to the present $25 level, and service members were also permitted to contribute up to $100 if they so desired. Still, until the Army established its Ultra-VEAP With Kickers Program, the participation rate was low and the dropout rate high under VEAP that it has rendered VEAP, for all practical purposes, unworkable. A study a few years ago found that only about 25 percent of those who had the choice decided to participate in VEAP and that 60 percent of those who had participated were no longer doing so.

Earlier, I pointed out that the VA had paid out 2½ times as much in refunds as in benefits.

With this awareness of the problems associated with a contributory program of educational benefits, it is hard to understand why we would want to approve a new contributory program which would place such burdensome financial demands on those who would consider participating in it.

If this program were intended to replace VEAP, it could actually make the job of military recruiters more difficult. If it were meant to augment VEAP, it would, in effect, be a nonfactor. Why would smart, educationally motivated young men and women sign up for a program requiring them to give up more than a third of their already low wage for an educational benefit lower than that which they could receive under the Ultra-VEAP With Kickers Program? The answer is, they would not. There would simply be no incentive to do so.

If the Glenn amendment is approved today, we will be doing a great disservice to potential recruits, to the military services, and to the Nation. Calling something a GI bill does not make it one. And voting for a proposal such as the one before us may only delay the time at which we, in fact, provide the kind of program which military recruiters say they so badly need.

The program is the one embodied in the proposal which Senators ARMSTRONG, CRANSTON, MATSUNAGA, HOLLINGS, and I offered earlier this afternoon. Our amendment, which lost narrowly last year on a procedural motion, has been the subject of hearings in the Veterans' Affairs Committee, and it has received the endorsement of such recognized manpower experts as former Chief of Staff of the Army Edward "Shy" Meyer and the Army's present Vice Chief of Staff, Gen. Maxwell Thurman.

Last Monday, I had the occasion to read from General Thurman's remarks. I shall not take the Senate's time this afternoon to repeat or, indeed, expand on them. But they reflected quite clearly his strong personal belief that a new GI bill of the short embodied in our amendment is essential if the Army is going to meet its manpower requirements.

General Meyer, in a letter to my colleague [Mr. ARMSTRONG] also pointed out, I thought rather forcefully:

> The current DOD position which supports VEAP in the near term risks repeating lessons already learned from the past where lean recruiting years yielded lower quality enlistees who are expensive to replace and become the basis for a hollow Army. This is a price the Army can ill afford to pay again. . . . In my view, a G.I. Bill containing the features (contained in the Armstrong proposal) would be an extremely critical piece of legislation the Congress could enact in the interest of promoting the long term combat readiness of the military services.

Mr. President, how many times have we stood on this floor and listened to Members criticize the state of readiness of our Armed Forces? How many times did we have to hear, back in the early 1980's, about the poor quality of the people who are in the services? How many times did we have to keep invoking Admiral Hayward's words, "We have a hemorrhage in the Navy. Our top quality people are leaving. They are leaving in hundreds, they are leaving in thousands."

What was the reason for that? It had to do with a host of reasons, but most importantly, it had to do with lack of adequate pay, had to do with quality of life. The professional sol-

diers and sailors who came before us said there was a very important recruiting device that we were passing up. That was the GI bill. They called for it.

I mentioned this on Monday. We hear a lot about campaign promises. President Reagan made a very strong campaign promise. He said he was going to call for the reintroduction of a GI bill.

Cap Weinberger, during his first year as Secretary of Defense, said he wanted a GI bill. Unfortunately, every time we would come to a GI bill proposal, they would say, "Well, not right now; we cannot really afford it right now; let us try again maybe next year." So every time, we have waited until next year. We waited from 1979 to 1980, we waited from 1980 to 1981 and from 1981 to 1982, then we waited until 1983. Then last year, we took this measure up. I think we were even accused at that time of acting politically. The statement was made, I know you people are all concerned about something that is politically attractive, as I recall those words; that is why it is being introduced during an election year—everybody trying to pick up some votes.

I do not know what we do in this body. We listen to our professional military witnesses, the Chiefs of Staff, the Vice Chiefs of Staff; we listen to retired admirals, who can speak even more freely than they could while they were in the service themselves. Every one of them to a person says we need the GI bill. They are not looking for votes; they are looking out for the best interests of this country. They want to make sure we do not repeat the mistakes of the past, as we did back in the seventies.

So if the Glenn amendment is not defeated and if the Armstrong amendment is not passed, as I mentioned before, we are only going to postpone the implementation of an effective GI bill of the sort which General Meyer and General Thurman say is so badly needed. We will open ourselves to justified criticism when service recruiters encounter problems in attracting top quality individuals to join the military.

I went through this back in 1979 and 1980. When they started looking at all the mental categories, the 4's and the 3's, we started looking at the kind of attrition rates we had at that time, started looking at the quality, they said, "My God, look at this Army, it's filled with all kinds of poor, uneducated people, not motivated and not very bright." The cry they had at that time was, we have to have a draft. Somebody said, wait a minute, a draft is not necessary at this time. What we need is something to make service life attractive so they will stay.

You can run a draft tomorrow and run all the 18- and 19-year-old males—and females to the extent they want to volunteer—through a military program and they would leave at the end of 2 years. Are you more militarily ready at the end of that 2-year period of time? I submit the answer is clearly no.

The people we were losing were the ones who had 12, 13, 14 years in service, midlevel, midcareer personnel leaving in droves because they said it is simply not worth staying in anymore; I can do a lot better outside and be home every night for dinner.

So somebody said, let us see if we cannot improve the quality of life for people we are asking to give their lives to the service of this country. That means better pay, better quality of life, better environmental circumstances, reform the way we attract quality people to serve our country. When we took that action, there was a dramatic reversal in the quality of people coming in and the retention of those who wanted to stay. Now that we are up there and meeting our recruiting goals, we are ignoring the warning signs on the horizon.

The warning signs, as outlined by my colleague from Colorado [Mr. ARMSTRONG], are that the economy is improving. That is going to have a negative impact on the types of people we want to come into our services. The warning signs are we are going to have fewer young people going into the services. We have fewer people now available. The warning signs are that we are cutting back on the quality of life in the service, that we are capping pay again, just as we did back in the 1970's: "We promise you 5 percent next year, we shall cap you 3 or 4 percent this year." Next year we shall say, "Well, we did promise 5, but the economic times are tough so we are going to get you around 4 again, but don't worry; we still have you in mind."

That is what we have done in the past and it has led to near disaster. That is what we are trying to avoid now. We have an opportunity to put something in place which will, for the first time in almost a decade, really make a significant difference in the ability of our recruiters to attract high-quality, highly motivated young men and women.

We simply cannot afford to play games with military manpower policy. Those who wish to thwart efforts to provide fair compensation and necessary incentives for military service must bear the responsibility for their actions.

What we have today is a choice between a program which has a proven record of success; namely, the GI bill, the approach embodied in the proposal we are offering, and one about which little is known, but one thing is clear: It will not be an attractive incentive to bring potential recruits.

Approval of such a program will only compound the difficulties already being felt by recruiters. Approval of our approach, on the other hand, if we are given the fair chance of presenting it, will give those recruiters the tool they say they most need to appeal to the top quality young people we hope to attract and, indeed, we must attract, into military service.

Mr. President, I join my colleague Mr. ARMSTRONG in calling upon our colleagues to support the Armstrong GI bill proposal and to reject that of Senator GLENN and Senator TOWER.

Mr. President, I yield the floor.

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

Mr. COHEN. Certainly, Mr. President.

Mr. TOWER. One of my concerns is the retention. How do you deal with the problem of retention if someone comes in and gets benefits after a time and gets out who otherwise might stay in? As a matter of fact, retention is as big a problem as initial acquisition.

Mr. COHEN. Retention is a problem right now. What this would do is no guarantee they would have to leave at the end of 3 years. They can postpone or defer that benefit until such time as they decide they want to go into education or a career or whatever they say they want. They know this is money in the bank they can take out at some future time.

By the same token, I say to my friend, I think he knows that educational benefits are the greatest incentive the recruiters say they have to get these high-quality people into the service. I think we have to balance that against what the Senator is suggesting, that they will leave at the end of 2 or 3 years. I think the evidence has been to the contrary in the past.

Mr. TOWER. According to the CBO estimates, what we are paying is about $200,000 for each additional high-quality recruit. It gets to be a very expensive program. We would be better advised to give them bonuses for signing up.

That is a pretty high premium to pay for whatever we would get in the way of additional high-quality recruits.

Mr. COHEN. I submit to my friend from Texas in terms of the high price that has to be paid for high-quality personnel, we get a pretty good deal. If you want to ask the Members of this body to start supporting procurement requests, M-1 tanks, if you want to ask the Members to start supporting requests for all of these very exotic, new, complicated weapons systems, you better have the kind of people who are going to be attracted to come in to man those systems.

I would suggest also to my colleague that his proposal would really require the person to leave the service in order

to take advantage of it at the end of 2 years.

Mr. TOWER. It is a targeted program. It is designed for specific effect.

Let me say to the Senator from Maine that I know that people who advocate this program feel it is a good way to hedge against the possibility we may have to have a draft. What I am telling the Senator is with restraints on military spending and with annual assaults being made on the Presidential spending requests for defense, and with annually the Congress funding at well below the DOD request, personnel costs are a very high percentage of military spending. With the GI bill, I think you are going to add more to personnel costs than what you are going to realize in the way of additional recruitment, and the more costly you make personnel the more likely you are to hasten the day when the Congress may give some serious consideration to going back to a draft.

Now, I think there are a lot of things worse than a draft. When I think of the generation of Americans who were drafted in the service, it turned out pretty good. JOHN GLENN was not drafted; he volunteered, but he would have been drafted if he had not volunteered. I volunteered, but I know I would have been drafted if I had not volunteered. There is probably no greater incentive for people volunteering for the service than the draft. Let me just warn the Senator from Maine that he is initiating a costly program.

Mr. COHEN. Let me make two points. Let me cite the Secretary of the Navy, who, when faced with a choice of whether or not he would rather have more money for ships or more money for quality personnel, came out in favor of the manpower. I do not know that anyone has disputed that in the Senate Armed Services Committee, including the chairman himself.

Second, let me read what General Thurman has said in response to the kind of objection that the Senator has offered. He said:

> Provision of education benefits need not affect retention adversely. First, the Army does not need or want to retain all soldiers who enlist. The understanding and maturity that a former soldier takes with him when he returns to college or to the civilian community strengthens the nation. Many enter college ROTC programs and return to the Army as superb junior officers. Others grow to serve in leadership positions throughout American society, embued with the values and ethics of service.
>
> Second, provisions can be made to aid retention of soldiers who want to stay in the military and who we want to be the leaders of today and tomorrow. Foremost among the possibilities is transferability. If a soldier sees that the education of his children is provided for, he and his spouse are more likely to stay, accepting often arduous assignments but gratified by the service they perform.

So here we have one of the leading spokesmen within the military itself giving two very good reasons as to why we should support the GI bill.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. EVANS. Mr. President, I rise to join the Senator from Colorado and my other colleagues as a supporter of this GI bill amendment. I do so with an interesting three-way relationship with the GI bill over past years. First, I was a beneficiary of the GI bill from World War II, and I saw and studied and succeeded in college with my colleagues who represented that first wave of returning veterans from World War II who through their studies and subsequent successes have done much for this country. I recognize that as one of the great investments we made at that time. But I also speak as one who served the last 7 years as a college president and also who served for 12 years as Governor of the State of Washington. In both cases I had close association with the end results of the GI bill or, conversely, the results of the educational failure.

First, as a college president, we still many years after the end of the Vietnam war had many students who were the beneficiaries of the GI bill. Some 10 percent of our student body was still studying under that program. Many of them were students who simply could not have carried on their education without it. All of the other financial assistance programs available, the Pell grants and student loans and other elements, are collectively insufficient to take care of the financial requirements of today's college and university students. Tuitions necessarily have escalated far more rapidly than the cost of living. It is exceedingly difficult today, especially in private institutions, to finance the total cost of education. But I did see students—most of them older; most of them married, most of them working, most of them making unusual sacrifices in order to finish an education and become a more productive and contributing member of society—who were only able to make it because the GI bill filled the gap between what they could get elsewhere in benefits and what they could earn on their own, and the cost of their education.

We should feel fortunate that these men and women, most of them older than the typical student, were able to come back and finish an education and contribute to the high technology society we are rapidly becoming.

Let me turn now to the demographics of the rest of this decade and the rest of this century. At the risk of repeating what the Senator from Colorado has said, we are facing an unusual period during the next 10 years and perhaps some time beyond. We will see a drop of about 20 percent in the number of 18-year-olds. Mr. President, if you do not think that is an ominous figure to one who has served as a college or university president, you are just not thinking. But it is also an ominous figure to those who seek recruits for the military and will also be an ominous figure to those who seek young people to fill the needs of our industrial society. One of the most remarkable events of the last decade was that we were able to assimilate the number of new entrants into our work force, without unemployment growing faster than it did. We had a huge number of war babies come into the work force. Most of them are working and effectively contributing, and at the same time we expanded markedly the number of women who were full-time participants in the work force. We have built a society, we have built job requirements, and we have built an industrial base which depends on a certain number of new people coming into that work force. And so, the next few years are going to be years of high competition, and rather than facing problems of youth unemployment, except in certain restricted areas, we will be facing a time of severe competition for those young, new entrants to the labor force. Competition from those who would seek to advance their education by encouraging them to go to college, university, or advanced training beyond high school; competition from the work force which would like hire them and effectively participating; and competition, of course, from the military which has continuing manpower requirements.

I do not think this should be viewed just as an expenditure relating to our military. it is much broader than that. The GI bill has consequences which go far beyond military preparedness, although that may well be one of the most important initial benefits.

We have over the years, since World War II, developed a comprehensive network of community colleges, of colleges and universities, of vocational and technical programs, many of which serve on-base students today.

We have considerable relationships with the military and the various GI bill educational programs which have been established over the years. The educational establishment is uniquely prepared to continue to carry on what we have built so well over the last quarter of a century or more.

I think it is important to consider also the long-term nature of what this amendment would do. It is important to give to our military establishment some long-term recruiting strategy, to not have to go to potential new recruits and say, "Well, we have a new program, but we cannot depend on its

continuing for very long because it is experimental and has a cutoff date."

Especially at this time, with what we are facing in terms of the decrease in the manpower pool, we ought to give our military what they have been asking for—long-term recruitment policies which are dependable and which will work.

I said that it was more important than just this relationship to the military. I think this concept is a splendid one for other service opportunities, not that it should be considered today, but it may well be considered at some time in the future.

I have served for the last 7 years on the Carnegie Foundation for the Advancement of Teaching, and during that time I participated as a member of their Council on Policy Studies in Higher Education, under Clark Kerr. One of the major studies of that era was a study on American youth—not just youth as related to education, but youth generally and their potential and alternative opportunities. Among those alternative opportunities were suggestions that, for some, a youth conservation corps or similar programs might well be an alternative of value. A national volunteer service, not mandatory, but voluntary, might also be a potential alternative for our youth.

In fact, in the State of Washington, some 10 years ago, we embarked on just such a program, which proved to be remarkably cost effective, remarkably popular, and one which I believe could well be emulated elsewhere in the country.

The suggestion of the Carnegie Foundation was that programs of this nature might also benefit from those participants gaining educational credits in much the same way military participants would gain educational credits toward the GI bill. That is why I believe it has potential ramifications which go far beyond the military and could be of considerable benefit to almost any young man or woman.

I suppose one of the fundamental questions that could be asked is, "Why vote for this relatively large expenditure just after we have concluded 5 weeks of debate and a vote on a deficit reduction package?" We make expenditures in Congress and we make expenditures in this country. We make them because we want to or because we have to. But we also make investments. There is sometimes a considerable difference between an expenditure and an investment.

Here is where my responsibility and experience as Governor, I think, bear on this GI bill. To the degree that, through education, we can reduce future failures, we have a chance to reduce the governmental costs which are associated with those failures. I have seen far too many younger people who otherwise could be effectively employed who are on welfare because they are simply incapable of working. They are in corrective and expensive job programs because they have failed to get educational benefits earlier. Some are in prison and almost all those in prison are uneducated. They have seen some failure in their educational opportunity in the past, and most of them are young. As Governor, I had to finance the cost of failure, as did all the Governors throughout this country, and as we do at the national level.

It seems to me that it is a good investment, for a few thousand dollars per year, to give someone an opportunity for further education, and to be an effective participant in our society, than it is to spend from $10,000 to $50,000 a year to incarcerate someone in a prison, to keep them on welfare, or to engage them in a corrective and sometimes not very effective jobs program. I think this could well be one of the most important investments, for the amount of money involved, in the future of this Nation.

We are concerned and recently have read much about the quality of our education. We are on our way, with the benefits of recent reports and the fact that we have raised educational quality to a high position on our domestic agenda, to do something about that. But education quality is only one-half of education. The other is those who can and will participate in education. We provide the opportunity; now we need to provide the access.

We will need all of the educated and trained people we can get for the rest of this century to provide the skills necessary for our country and the skills necessary for our military. We build the success of this Nation in its post-World War II progress fundamentally on the strength and the success of the GI bill of World War II, Korea, and Vietnam. I think it is time now to extend that success so that we can continue the strength and success of this country for the remainder of this century.

Mr. HOLLINGS. Mr. President, I am moved by the eloquence and commonsense of our distinguished colleague from Washington, Senator EVANS. He talks from a position of experience; and if our colleagues would listen, we would have no difficulty in passing this particular amendment.

My support for the GI bill comes from my experience of having opposed the Volunteer Army. Back in 1971 and 1972, you could look at the casualty figures of the war in Vietnam, and see that it was being fought by the black, the poor, and the disadvantaged. I argued at the time, on the floor of the U.S. Senate, that that is what we would end up with—a Volunteer Army of the black, the poor, and the disadvantaged. The events since then have verified my earlier position.

In sponsoring a GI bill, I would like to have been proved wrong. I would like the Volunteer Army to work. That is one of the big reasons why I not only have been sponsoring a draft, which I think will be necessary for us to return to, but also to make one last college try for success of this Volunteer Army. I think nothing could help it more at this time than a GI bill.

The GI bill worked, as Senator EVANS has pointed out. It worked extremely well. I happen to be another beneficiary who came back from the war and went through law school on the GI bill. I still have some eligibility, and if we can stop some of these night sessions, maybe I can go to American University and use the rest of it at night classes.

Mr. TOWER. Mr. President, if the Senator will yield, I believe his eligibility has expired if he did not claim it.

Mr. HOLLINGS. It has expired.

Mr. TOWER. It has expired. If he seeks additional education, he will have to pay for it himself.

Mr. GLENN. He needs another amendment.

Mr. HOLLINGS. I need another amendment. I see that.

Mr. President, I am pleased to cosponsor the reinstitution of the GI bill program.

I say this with a strong conviction.

We need the GI bill.

In 1984, spending for our national defense will be $265 billion.

The 1985 budget for defense will be $290 to $300 billion or double the $145 billion provided for defense in 1980.

About half the defense budget goes toward weapons R&D and procurement and operations and maintenance—for the readiness and sustainability of our troops.

The remaining 50 percent is spent on our manpower needs.

The DOD says that we are getting the high quality, trainable personnel through the All-Volunteer Force [AVF] that are needed to operate our new and advanced technology systems.

Everywhere one turns are heard wondrous stories of how the DOD is more than meeting its recruiting objectives.

We hear that the "military is back."

It is respectable. We are over the "Vietnam syndrome."

I do not believe that.

I do not feel that any member of this committee or of the U.S. Senate believes that.

Check the polls and see how your average American feels about troops in Central America.

No, we are not over Vietnam when it comes to American involvement.

There's one reason and only one reason why the military is meeting its recruitment objectives.

There are no jobs for the young 17- to 25-year-old citizens.

The success of the AVF does not come from an enlightened citizenry that feels a duty to serve its nation.

It comes only from the hard times that all our young citizens are facing and from the sobering fact that for them there is no job market.

Teenage unemployment is 20 percent; for black teenagers, unemployment is 50 percent.

The Reagan administration promises an economic revival while our young people grow desperate for work.

But the DOD incredibly boasts that it is successful in meeting personnel goals.

They hide the truth that their success comes only from the pains of idleness and unemployment resulting from callous policies that favor the wealthy at the deprivation of all others.

And now we are confronted with the prospect of thousands of college graduates unable to find employment in the Reagan depression.

Their only hope lies in our Armed Forces.

This is not a commitment for national duty—but the path of last resort.

Out on the recent campaign, and our distinguished colleague from Ohio was there also, I thought maybe I could get my friend, the Reverend Jesse Jackson to help me talk about the draft and minorities in the services. So in one of the debates I asked him questions on this issue. Reverend Jackson had visited the front in Europe last September and he met with quite a number of minority groups primarily black soldiers at the front lines.

As Senators well know, there is a disproportionate amount of blacks in the Armed Forces in relationship to the overall population.

In trying to ask questions which would suggest a favorable answer on that relative to a draft, asking about the disproportionate numbers and whether we should have a draft, Reverend Jackson turned and made this statement, and I remember writing it down at the particular time. He said:

> They are not over there to defend their country; they are over there to have a job.

That is a sad commentary. That is a sad commentary in today's America.

I thought that the best single bargaining chip we could have given our President on his recent visit to Europe in talking to the leaders of the free world who, generally speaking have universal draft systems in their countries, was to demonstrate America's willingness to support its Armed Forces. Instead, we focus on money, on matters such as MX or B-1 or some of these other sophisticated pieces of weaponry. More than a demonstration of military power, we need a demonstration of will power. Everyone needs to be committed to our national defense. But since we do not have a cross section of the population in the services we lack a cross section of support.

I think the GI bill presently in front of us would go a long way to repair that particular defect.

The administration's view of success ignores, when they talk about the success of the Volunteer Army, the broadening need that we have for the highest quality and educated recruit for today's Army. The percentage of recruits that score in category I and category II in the Armed Forces qualification test is much lower today than the percent of draftees scoring in the same category in 1964, the last prewar year before Vietnam; 33.7 percent of our draftees scored in these highest categories in 1964; recent complete figures available from 1981 show that only 23.6 percent scored in categories I and II.

With the recent depression and the influx of unemployed high school graduates into the Armed Forces has caused some improvement in 1982 and 1983 figures.

When we look at the demographics of the changing male population and if we exclude the college graduates, and there are not many college graduates enlisting in the services, we will have a very difficult recruiting period ahead of us. If the projected male college population is excluded from the potential of Department of Defense recruits it will be necessary in the early 1990's to recruit more than 1 out of every 2 males, where in 1980 we are calling on 1 in 5. We won't be able to reach such goals unless we start moving as strongly as we possibly can, making every possible effort for the success of the Volunteer Army.

I would like to discuss the cost of the GI bill. The CBO estimate shows that there will be relatively little cost at all.

In 1985, 1986, and 1987, for the first 3 years there would be zero cost. By 1988 and 1989, it will be $250 million to $300 million, and that does not go up dramatically. By the year 2000 it will be $877 million.

That is a nominal cost for when one considers the costs of weapons systems in the multibillions and billions of dollars. When you consider in 1980 we had a $145 billion defense bill and by next year we are going to have double that to almost $300 billion. Fifty percent of that, of course, is going to equipment procurement, R&D, and the other 50 percent has gone to our manpower needs, and these continue to go up in order to maintain the numbers much less the quality that has been lacking.

So I think this is really a nominal savings of what will be the cost in trying to continue on with a Volunteer Army, and I solicit our colleagues to look at it closely and consider the testimony of many defense exports and President Reagan in support of the GI bill.

Mr. President, I ask unanimous consent to have printed in the RECORD the informal CBO estimate.

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

GI bill—Informal CBO estimate

Fiscal year:	*Millions*
1985	0
1986	0
1987	0
1988	$250.5
1989	328.5
1990	401.0
1991	468.5
1992	569.0
1993	640.0
1994	693.5
1995	719.0
1996	768.0
1997	804.0
1998	838.0
1999	867.0
2000	877.0

Does not include offset for reduction of recruiting costs due to anticipated increases resulting from GI bill.

Includes offset for termination of VEAP as presently constituted (with kickers).

Mr. HOLLINGS. Mr. President, we must upgrade the quality of the Armed Forces and reward those that sacrifice for our national security.

A new GI bill is the most effective, and cost-effective step we can take to improve the quality of recruits for our Armed Forces.

To meet this goal, I am pleased to introduce—along with my distinguished colleagues, Senators ARMSTRONG, MATSUNAGA, COHEN, and CRANSTON—a new GI bill program for our Armed Forces.

We must recruit more high-quality, highly motivated young men and women.

The manning problems of our Armed Forces will become quite severe in future years when the pool of young, service-age people is diminished and if our economy improves.

Demographic forecasts show that young males age 19 will diminish over the next decade by 25 percent.

The educational benefits provided by a new GI bill should attract increased numbers of high school graduates into the services and will assist them in retaining the career middle-grade noncommissioned officers needed to train and lead our fighting men.

Under the provisions of the new GI bill, veterans could receive education assistance payments of up to $300 per month for up to a total of 36 months while attending an approved educational institution.

Eligibility for benefits at this level would be attained through a number of active duty and Reserve service options.

For example, a young man could enlist for 2 years of active duty and agree to serve 4 years in the Reserves to become eligible for the maximum benefits commencing at the time he is

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honorably discharged from active duty.

A longer period of active duty would reduce the Reserve obligation.

Military personnel who perform in critical skill and combat arms jobs as designated by a service Secretary could be eligible for up to a $600 a month benefit.

A unique feature of the bill is that it also provides educational benefits for persons who serve in the Reserve Forces without having served on active duty.

While the benefits for eligible reservists are roughly one-third of what is provided to active service veterans, they are still substantial and should prove to be an attractive recruitment incentive.

The Reserves are experiencing even greater difficulties in filling their ranks with quality people than the Active Forces.

I believe that this bill can go a long way toward providing the needed incentives to draw young men and women into the Reserve Forces.

A second unique feature of the bill which should have the greatest appeal to our career military people is a provision which provides for transferability of benefits.

As written, the bill would enable a person eligible for education benefits to transfer these benefits to one or more of his dependents—but not to exceed the 36-month/$300 level.

This requires a contribution from the military member that is matched on a 2-for-1 basis by the DOD.

Thus, for every $1,000 contributed by the serviceman, DOD will kick in $2,000.

I believe that this will provide an extremely valuable retention incentive for many of the very important middle-grade noncommissioned officers.

An alarmingly large number of these small unit leaders are presently leaving the services because they cannot afford to send their children to college on the military pay they receive.

This bill can provide them the assistance they need to educate their children while continuing in a career that most of them prefer.

Support for the GI bill starts at the White House. President Reagan indicated he would reinstitute the GI bill as a campaign promise that is yet unfilled. Nonetheless, I would like to provide the following quotations from the many supporters of the GI bill program:

"I will ask Congress to reinstate the G.I. Bill, a program which was directly responsible for the most rapid advance ever in the educational level of our population."—Ronald Reagan, Televised Address to Nation, October 19, 1980.

President Reagan is far from alone in his appreciation of the benefits to the Armed Forces and to the country of a new G.I. Bill. Below are excerpts from the testimony at the most recent of the 24 hearings that have been held on the G.I. Bill during the last three Congresses, this one before the House Veterans Affairs Committee on April 12, 1983:

"The Army must have an educational pull mechanism permanently authorized in law which is not subject to the vagaries of year to year change. . . . The education benefits about which we are speaking do two things at once. They are recruitment incentives for us, and they are rewards for service to the Nation."—LTG Maxwell Thurman, USA, Deputy Chief of Staff for Personnel.

"No Americans are more deserving of educational assistance than those who serve our Nation in the military services. I believe their service and their sacrifice should be rewarded. Although the individual services would benefit greatly by a G.I. Bill, I believe in the long run our country benefits even more."—Vice Adm Lando Zech, USN, Deputy Chief of Naval Operations.

"I think the G.I Bill is a must for the future. I have been in the recruiting business, and I can look down the pike and know that the talent market is going to become much smaller, competition is going to become much more intense with industry and other means looking for the quality of youngsters we want, and I think that a good education bill in the future will be of great assistance."—LtGen C. G. Cooper, USMC, Deputy Chief of Staff for Manpower.

"There is no question about it: A new G.I. Bill will help recruitment, retention and society, and I think it is especially important as we look down the road and see a recovering economy, a declining pool of eligible youth to serve the country, and some programmed growth in the Air Force. A new G.I. Bill would help us attract and retain the kinds of people that we need in the increasingly complex and high technology Air Force that we have today."—Maj. Gen. Kenneth Peek, USAF, Deputy Chief of Staff for Manpower & Personnel.

"The VFW supports the concept of a peacetime G.I. Bill and has testified so on previous occasions. We recognize the undeniable need of the military to attract and retain qualified, high-caliber personnel.—James N. Magill, Special Asst., Natl Leg Service, Veterans of Foreign Wars.

"The G.I. Bill model for recruitment and retention is preferable to a contributory educational program."—G. Michael Schlee, Director, Natl Security Commission, American Legion.

"AMVETS, which was born with the original G.I. Bill, believes that the traditional hard distinctions between wartime and peacetime veterans, which has formed the matrix for much of our veterans' legislation, is becoming increasingly irrelevant in this age of constant, increasingly dangerous and expensive struggle with the forces of totalitarian communism throughout the world. . . . The sacrifices which military service exacts, especially in terms of years away from that period of life usually devoted to education are just as real for the peacetime veteran as for his wartime comrade. The crucial need for armed forces of the highest caliber is greater now than at any time in our history, including periods of hostilities. AMVETS believes that it is high time that the dignity of military service during this age of peril be recognized at least to the same degree that wartime service has been recognized in the past."—LTC David Passamaneck, USA (ret), Legislative Director, AMVETS.

"We believe that recruiting and retention in the Armed Forces in the future will become more difficult and that consideration supports the creation of a G.I. Bill. But we have also said . . . that we believe the creation of a G.I. Bill is something that should not be done specifically for the purpose of recruiting and retaining people in the Armed Forces, but also for the good that it has on the Nation's economy and for its positive effect on veterans."—Richard W. Johnson, National Legislation Director, NonCommissioned Officers Assn.

"A new G.I. Bill should not be considered as an expenditure of funds; rather, it should be considered as an investment of funds. . . . An investment in the youth of America is one of the best, for it returns the highest dividends."—Max Bielke, Legislative Counsel, National Association for Uniformed Services.

"An educational assistance is a proven, highly effective recruiting incentive. Not only is it a strong magnet among bright, motivated youngsters; it also is attractive to their parents."—Col. Erik Johnson, USA, Director of Legislative Affairs, Association of the U.S. Army.

"The Fleet Reserve Association, in cooperation with U.S. Rep. Duncan Hunter, held a public G.I. Bill Forum in San Diego. Thirty-nine active duty witnesses, ranging from pay grades E-3 with three years of service to E-9 with 30 years of service, presented the views of over 200,000 active duty personnel. Amazingly enough, the views of all personnel, those in the Tidewater area, Boston and San Diego, were the same: a peacetime G.I. Bill was needed and all felt such a program would attract and retain Service personnel."—Robert W. Nolan, Natl Executive Secretary, Fleet Reserve Assn.

I ask my colleagues to look at particular quotes from the various authorities such as Lt. Gen. Maxwell Thurman, the Deputy Chief of Staff of Personnel in the Army; Adm. Lando Zech, from the Navy; and Lt. Gen. C. G. Cooper, the Marine Corps Deputy Chief of Staff for Manpower.

But more than anything else here is one particular commitment—I say to the Senator from Virginia, who did such a splendid job yesterday in the Chamber, for which I commend him—and it was made in October 1980 by President Reagan. He said, "I will ask Congress to reinstate the GI bill, a program which was directly responsible for the most rapid advance ever in the educational level of our population."

The GI bill is one particular promise or commitment that can be carried out without busting the budget. We have had billions and billions for weapons as we have pointed out. We have doubled the defense budget. This amendment is one that would really strengthen our defenses, strengthen the All-Volunteer Force, strengthen the Reserves. We are 200,000 shy in the Reserves and Guard in our country right today.

With this amendment we can begin to strengthen the Reserve Force and when you strengthen it, again you get a cross section of support in our socie-

ty for the national defense and for the Nation's defenses.

So I thank my colleagues for their attention and strongly support the amendment of the Senators from Colorado, Maine, Hawaii, and California, and the others who are now sponsoring this particular measure that I introduced some 3 years ago.

I hope we can pass it now and not delay this very critical requirement.

In closing, let me state that Congress has moved decisively in recent years to provide our military forces with the modern, high-technology equipment they need to at least keep abreast of the Soviets from a weapon systems standpoint. But, as we all know, we are now at a point where we must significantly improve the quality of our military manpower. I believe that we must now move resolutely to remedy this problem if the security of this Nation is to be assured. I believe a new GI bill can be a step in that direction. I am very pleased to join with my colleagues in introducing this vital legislation.

I gladly yield the floor.

Mr. WARNER. Mr. President, I first wish to acknowledge with appreciation the kind remarks of the distinguished Senator from South Carolina with respect to the floor action yesterday.

I also wish to repeat a conversation the two of us had earlier today that probably neither of us would be in the Senate today were it not for the GI bill.

Mr. HOLLINGS. That is right.

Mr. WARNER. Indeed, I profited from it greatly following World War II service and again in active service in the Marines following the Korean War I went back to law school on the GI bill. So I feel a heavy debt to this type of legislation.

But I must say that my views rest with the distinguished Senator from Ohio and I regret that I cannot join the distinguished Senator from South Carolina on his proposal.

Mr. President, I yield to the distinguished Senator.

Mr. BOSCHWITZ. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from South Carolina and also with the remarks of the Senator from Washington, to which I listened with great interest.

I am particularly pleased that the Senator from South Carolina spoke about the Reserves. As we build the All-Volunteer Force and improve the educational caliber of our troops we must insure that we do the same thing for the Reserves. They are vital to our Nation's security and it would be our hope that many of those who come voluntarily to the service of their country will continue on with the Reserves at the termination of their active service.

It is interesting to note, Mr. President, that for each defense dollar we spend, about 55 percent is spent for the pay, housing, clothing, and feeding, of the young men and women who serve in the Armed Forces of the United States. Considering the fact that such a large portion of our defense spending is for personnel, it seems most appropriate to take a step that would increase the intellectual caliber of those people and that would draw to the active services the most qualified people that we possibly can find. This is not only in the interest of our defenses, but it is also in the interest of the performance of the duties of the individual services.

It is particularly appropriate now. I know that the Senator from Colorado has introduced this amendment a number of times. I have supported it a number of times in the last 3 or 4 years, and I am pleased to support and be a cosponsor of it again.

I identify myself once again with the remarks made by the Senator from Washington and the Senator from South Carolina, particularly those remarks which referred to the nature of the men and women who served in Vietnam. It was an Army that was not fully representative of the American people. I state also that in this time, as full employment comes nearer and nearer, that it is important that we take a step like this to make the armed services of the United States as attractive as possible to the most qualified and the highest caliber people possible in the interest of our Nation as a whole.

I yield the floor.

(Mr. RUDMAN assumed the chair.)

Mr. GLENN. Mr. President, I have listened for the last couple of hours to all of the comments here in the Chamber by my distinguished colleagues. I must say I agree with them in almost every respect. The GI bill was a tremendous bill. It was brought in at the end of World War II, of course, and more at that time as sort of a thanks for a job well done for many millions of Americans who had served and many who served and did not come back. It was a grateful nation saying thank you to the young people who had served.

I do not disagree with all of these figures about the educational advantages and the fact, as the distinguished Senator from Colorado pointed out, that some estimates are of a 6-to-1 advantage in revenues back to the Government from every dollar spent on the GI bill just by the increased incomes and businesses and so on that resulted from all that training.

But I also am very much aware that in this particular time period in which we are operating right now, we have very, very serious budgetary restraints. So when we put together this alternative, we had that very much in mind.

And not much has been said yet this afternoon about the cost of the two programs. The costs of the program that is being proposed this afternoon by the GI bill advocates; Senator ARMSTRONG's bill, the CBO estimates would go up steadily until, when it was in full blossom after about a 10-year period, it would be costing $775 million a year, three-quarters of a billion dollars a year. It goes up to that over a 10-year period.

But the amendment that I have this afternoon would cost nothing in the first year and second year, and the third year cost would be $80 million maximum and the fourth year $160 million maximum, and the cost would remain not above that level just by the way we designed this amendment. So that is the major consideration.

I do not argue with anyone about the advantages of the GI bill. I was in during World War II also. I chose to remain in the service and was in the Marine Corps for some 23 years. So I completed my education without having to go on the GI bill, completed it while I was in the service.

But I am familiar with all the advantages that accrued from that GI bill and the advantages that would accrue if we could take our whole population in this Nation and say, yes, we will take every young person in this country and we will say that just by being American we will in fact guarantee that you have the opportunity to get a college education. That, too, would be very advantageous and I would like to see that if we could afford it. But the facts are we would break the bank right now and we have very serious, tremendously serious, economic problems in this country.

No one has a better record in this whole Senate or in the Congress, as a matter of fact, in voting for matters dealing with the military personnel, because I feel a particular kinship with them, having spent as much time in the Marine Corps as I did. But, in addition to the budgetary constraints, I am also aware of the point that was made by the distinguished Senator from Texas, Mr. TOWER, who is floor managing the bill. He said, "How do we solve the problem of retention? Are we not working at cross-purposes with ourselves here when we give tremendous advantages to people that get in and they reap those advantages by getting out as fast as they can so they can take advantage of the advantages we just gave them." I think he made a very good point.

When you are talking about retention in the Navy and other matters that came up earlier in debate here, you are talking about a lot of other problems besides education. I think had we listened just to the debate today we would think all we have to do is pass a GI bill and we have solved all

of our problems and the Navy is going to be happy to stay at sea and the Marine Corps is going to be happy to have their people overseas without dependents and if we are going to cut out commissaries, nobody will care, and if we are going to cut out all benefits nobody really will care and that has nothing to do with keeping people in the service. That is nonsense, of course.

Just giving a GI bill does not solve all of our problems, I would submit. The distinguished Senator from Colorado pointed out earlier some of the difficulties in recruiting that went on following the lapse or the ending of the GI bill in 1976, and no one can deny that those changes did occur at that time. But I would submit that recruiting people in at the lower grade levels in the military is far more affected by the economic conditions of this Nation than by whether the people have a GI bill that is enticing them to get out instead of stay in.

I am in favor of the GI bill—and I would like to be able to vote for it. I would like to have not a $775 million bill, I would like to gold-plate it more and make it a $1.5 billion or $2 billion bill. Let us include some civilians in this, and if we get this 6-to-1 advantage out of this, great. I am all for it. But we cannot afford it right now. That is the problem.

What I have done is try to draft a measure that addresses the major problems that the military has right now in attracting people in, and that is primarily into the Army. A lot of top Army people we have talked to over in the Pentagon prefer my bill because they think it more specifically addresses the problem that they face; that is, getting high quality recruits into the Army. The Navy, Air Force, and Marine Corps have had an easier time of recruiting in the past years. That has been historically true.

So what we do with my bill is apply it to all the different services, of course, but the Army in particular likes it because it addresses their very specific problems. We say that you require a high school education to get in and qualify for this program. That means right off the bat that they have a higher level recruit than they normally get. So we say then that, if they are getting in on that basis and they are going to take advantage of this educational program, they must also make a contribution. They forgo $250 a month of their pay because they are motivated. They are highly motivated, the young people, upwardly mobile is what I believe the Senator from Colorado said in some of his remarks. That is the kind of people we want—I agree with him 100 percent—high aptitude recruits, those people who have a high mental category. Much comparison was made here earlier this morning about the amendment I proposed, and comparing it with the VEAP program. But I do not think it compares at all with either the VEAP program or the ultra-VEAP program. There has been very little participation in that VEAP program. It is not similar to the one that I am proposing because the benefits that I propose on this are considerably greater than either VEAP or ultra-VEAP.

I would add regarding the ultra-VEAP program that by limiting it to only those top mental categories based on the armed services qualification tests we limit that to mental categories 1, 2, or 3A, which means that 52 percent of the people do not even qualify for ultra-VEAP. We have eliminated half of them, and we often say it is a nonsuccess program. It has not really worked, and no wonder it does not work.

We put the qualifications for it up to the point where a large number of recruits cannot qualify. Fifty-two percent of the people cannot even qualify for it. There is no wonder the thing has not worked. How do we correct that? We say before they get in they have to be high school graduates. We say then that if they want to elect this program, that for every $250 they forego, we will see later on they get benefits worth $750. After their 2 years of service, it means that they will have enough saved up, or they will have enough credits that they can then have money enough for 36 months, 4 years of college. That is a big attraction in getting high-quality recruits into the Army, which is the greatest need.

I agree wholeheartedly also for the need for these high quality recruits. Much was made of that a little bit earlier on also. We need people who know how to work the radar, who know how to work the fire control systems. Just being what they used to be called in World War I, "doughboy," and in World War II, "dog face," and so on through the years, whatever nickname you want to give that infantryman out there who bears the brunt of battle is no longer enough. Just to be able to carry a 50- or 70-pound base plate on your back or a knapsack, as it was in earlier time periods, and be able to be agile, get around, duck in and out of foxholes—no. We have complex equipment now on the battlefield. It is very complex equipment. We need a high grade recruit to work it. Even if that person is only in for 2 years, and can be trained to work it, give him some benefit for being willing to take that position.

Along with it we have something else, too. I am not one who thinks the young people of this Nation are not without their patriotic feelings toward our Nation. I believe our young people, given the proper motivation, are willing to serve in this Nation; serve in the Armed Forces, to serve their country, and be proud of it. Our 17- and 18-year-olds who are getting out of high school are the people who we have this amendment targeted toward. Bring them in. Their concern is not just the money they are going to get. They are in to serve their country. They are proud of it. They are willing to build up these credits. They are willing to forego some of their money, and make it a contributory program if we will help them a couple times—three times over that amount, as a matter of fact—when it comes time for them to get out and go on to college. They are the young. They have already had a high school education. They are motivated. They want to get a good life. They want to break out of the mold. Perhaps they might have been limited without the opportunity for a higher education, and in return for that, they are willing to serve their country for 2 years, put their talents, and their already developed mental capacities to work for the Army, Navy, Marine Corps, or Air Force, and be proud of that service.

The Nation could then be proud of them, and help them go on to get a decent education in return for their service without going to the full GI bill that addresses the total population of the armed services. This is a targeted program.

We have heard repeated statements here this morning that VEAP is no good, and we will tie this up as though it is another VEAP program. It is not just that, as I point out. It is a program that I think would be attractive to young people. There might be some who, once they were in the middle of that 2-year period, decide they like the service, and they want to stay in. At that point we take care of that. We say OK, you have money to put money into this program. It has been there. You are foregoing that. If you opt not to continue with the program, fine, you get that money back. That pay is restored. It is not that they do not get the benefit one way or another. Something happens to them. If they are deceased, or if they die, that money would go to their estate.

In one of the dear colleague letters it was said that we had hastily written some of this because some of it had been handwritten when the original amendment was submitted. What we were doing was correcting that particular item.

It was a point we overlooked in this, I must admit. It was concerned with what happens if someone dies in the service. What happens to this money they have foregone? We had not covered that. That is the reason that handwritten addition was in there. We corrected that deficiency. Along with that, the other thing we corrected with that handwritten addition was the fact that in the original bill, the

people signing up under this arrangement would not get quarters and subsistence allowance off base. It is what we intend. We corrected it so it would not be misunderstood. It is correct; they do not get quarters and subsistence allowance off base, nor do I think those are the people we want coming in out of high school. People who would be in for this period of time would normally not have subsistence off base. We want them to stay in the barracks. We want them on base, unless they were off at a remote site someplace where there were no barracks available, and no subsistence available for them. At that point, it would be up to the service head of their particular service to declare that that was the situation, go ahead, and pay them subsistence and quarters allowance, as would normally be the case in such a situation.

Mr. President, I think this targets the needs, and it does it at a cheaper cost. That to me is a very important function, and a very important factor. I too wish I could say we would have a $2 billion, $3 billion, or $4 billion program; we make it not only a GI bill; we would make it a citizens bill also, and just say by the fact you graduated from a high school in the United States of America that you have a right to go onto college. Maybe sometime we will have an economy that is recovered enough, and in good enough shape that perhaps we can start doing that. I do not know. I want to see every young person in this Nation develop their talents and capabilities to the maximum extent possible. But we cannot do that. In this time of budgetary constraint, what I have tried to do with this is target it to the specific needs of the Army, and specific needs for those qualified recruits to man that sophisticated equipment which we have in the military now, whether on the battlefield, aircraft, on ships at sea, or wherever. I think we have done a good job in crafting that. It is not a complex bill at all. But one of the most notable parts of it is, instead of ramping up to costs three-quarters of a billion dollars a year, it levels off at $160 million a year maximum. You cannot go above that. We limit it to that. So budgetarily, economically speaking for the country, to me it is a far more responsible approach, even though I wish we could go on with the more expensive bill.

I wish we could make certain that every young person in this country has a good education. I want to reap that 6-to-1 benefit which the distinguished Senator from Colorado pointed out. I think that is great. It is a good benefit. I do not quarrel with that at all. But what I am saying is in light of our economic constraints, and our budgetary constraints, that now I have tried to bring this down to a more acceptable level for my colleagues and for the people of this country and say, "Yes, we will use this as an enticement for people to get in." It is going to be a maximum of $160 million a year after the program is fully into effect. And we would use that as an enticement to get good people in the armed services. They would provide the high-quality recruit that we need, particularly in the Army. That to me makes cost-benefit sense, and common sense. That is the reason I have submitted this particular legislation.

I see the distinguished Senator from Texas, the floor manager of the bill, has returned. I would yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from California.

NEED FOR A TRUE PEACETIME GI BILL

Mr. CRANSTON. Mr. President, I rise to speak in very strong support of the pending amendment that I join in offering with the distinguished Senator from Colorado [Mr. ARMSTRONG], and Senators COHEN, MATSUNAGA, and HOLLINGS. Joining with us in this very broad bipartisan coalition are Senators BRADLEY, DECONCINI, FORD, HART, HAWKINS, HUDDLESTON, INOUYE, KASTEN, KENNEDY, PRESSLER, TRIBLE, BOSCHWITZ, BAUCUS, MITCHELL, EVANS, BOREN, LAUTENBERG, JOHNSTON, SPECTER DURENBERGER, GARN, and HELMS.

This amendment, which is essentially identical to S. 1747, is designed to establish two new programs of educational assistance in order to assist the Armed Forces in recruiting and retaining highly qualified men and women.

On Monday, Mr. President, when the underlying amendment by Senator GLENN was called up and briefly debated, I presented a detailed statement on the merits of, and the need for, our alternative amendment. Those remarks appear at pages 15638 through 15642 of Monday's RECORD. I do not intend to reiterate that statement at this time. Instead, I want to take this opportunity to comment on a number of issues.

First, Mr. President, I want to address the concerns of my colleagues who are wary of our amendment in light of the projected costs it could entail.

Let me begin by assuring the Senate that I, too, am deeply concerned about rising budget deficits and the need to control Government spending. However, I believe that, when viewed in a real-world context, the costs of this measure are reasonable and prudent and that it is a cost-effective measure. Above and beyond that, these costs and the dollars invested in a GI bill are dollars invested in people—dollars invested in human futures, for individuals and their families. As under prior GI bills, these investments are returned to the Treasury manifold in the form of better educated workers, increased taxes, and a healthy economy.

To focus for a moment on the informal CBO cost estimate of our amendment: For the first 3 years, there are no costs to the Federal Government—no costs in fiscal years 1985, 1986, and 1987. Indeed, the projected cost of the amendment does not reach $500 million until fiscal year 1992 and stays below $700 million until fiscal year 1997. In fiscal year 2000, the projected costs of the amendment are around $806 million.

Mr. President, the President's budget for defense in fiscal year 1985 estimates outlays of $272 billion. The average cost per year in the first 10 years of spending—fiscal years 1988 through 1997—in which our amendment could be effective is $507.5 million. That is less than two-tenths of 1 percent of the amount of the President's projected outlays in the upcoming fiscal year—two-tenths of 1 percent.

To me that is a small—very small—price to pay to ensure that this Nation's All Volunteer Force remains effective, efficient, and strong.

From a slightly different perspective, Mr. President, in fiscal year 1985, the Department of Defense will pay out more than $760 million in enlistment, reenlistment, and anniversary benefits. Those are benefits—cold cash—paid out to get people in the service and to keep them there. How much of that $760 million, when in the hands of an 18-year-old enlistee, goes to pay for a car or an expensive vacation and how much is invested in a quality education? I think the answer is clear.

Compare this, Mr. President, to the fact that it is not until fiscal year 1998—1998—that the annual costs of our amendment would exceed the costs of the pay bonuses that will be paid next year. And then only by $8 million. Ten years from now, under this amendment we would still be paying less to establish an effective recruitment and retention tool than we are paying now for incentive bonuses.

Mr. President, it is important to stress that the Armed Forces are not now faced with the extremely difficult recruiting situation that is certain to come when beginning in 1989 the military will have to attract more than one in every three available 18- and 19-year-olds in order to maintain its viability. Imagine, if you will, what we will need to pay in bonuses when that time comes if we do not have a GI bill in place.

I think the report of the House Armed Services Committee on its version of the Defense Authorization Act put it quite simply: "Demographics by the late 1980's will pose a difficult challenge for maintaining high-quality recruiting and retention * * *." I think

we could add to that: "To say the least."

Indeed, Mr. President, the House committee's report is replete with signposts of what is to come. For example, at page 227 of its report, it states:

> The committee must once again caution that the favorable recruiting story of fiscal years 1981 to 1983 and its continued success in fiscal year 1984 may not be maintained easily in future years, especially if the economy continues to experience an upturn.

In addition. Mr. President, despite the fact that recruiting and retention goals are generally being met, shortfalls and problem areas remain in each of the service branches. The Army needs more persons in armor, military intelligence, and electronic warfare. The Navy has a shortfall in midgrade surface warfare, submarine, and aviation unrestricted line officer categories. In the Marine Corps, some enlistment skill specialties remain critically short. Imagine, if jobs become more readily available in many more private industries, how we will be seeing these shortfalls exacerbated.

Mr. President, the House committee report sums it all up in a way that I believe is most accurate:

> In summary, * * * readiness has increased over the past 4 years. However, this improvement is no reason for complacency. Readiness is an extremely perishable asset * * *. The experience of the past decade shows conclusively that readiness is easy to degrade but extremely difficult to improve when eroded from neglect and indifference.

The committee concludes with the hope that we will not have to relearn this lesson in the future.

That is a hope that I fully share and why we offer this amendment. We are fully cognizant of the fact that the armed services are doing reasonably well—some might say, very well—at the present time. But even though I do not wish to be the pessimist, that record cannot and will not continue if we stand pat. There are very real, very critical problems that will soon be at hand.

We must ready for them. We cannot sit back and say that, well, when they develop—and when we are really sure we have a problem—then we will see what we can do. We must not have to relearn our lesson. We already know that when recruitment and retention drop, quality and readiness suffer. And the journey back from that point is much, much harder and longer than the journey forward.

That, Mr. President, is the underlying basis for our amendment.

Mr. President, the need for this amendment is also readily apparent and fully documented in volume upon volume of testimony before Senate and House committees. My good friends from Hawaii [Mr. MATSUNAGA] and Colorado [Mr. ARMSTRONG] have cited extensively from testimony relating to the need for this amendment.

But, what we do not need is another test—especially a test as ill-designed and hastily conceived as the underlying amendment by Senator GLENN represents. At best, as Senator COHEN and I noted in our "Dear Colleague" letter to Senators yesterday, the underlying Glenn amendment is a poor cousin to the existing program that attempts to meet the needs of the Armed Forces today.

That program—the Veterans' Educational Assistance Program, called VEAP—was itself begun in 1977 as a test. In 1980, when it was clear that the test had failed, we enacted additional programs of educational incentives and added authority for kickers to the VEAP authority. We patched and mended the VEAP authority by raising the maximum contribution and lowering the minimum. We prodded the services to push the program and to use it as a tool. We did everything we could to save the test. And we were relatively successful in establishing a program that may be working today. But it will not work in the future.

From my perspective as former chairman and now as ranking minority member of the Veterans' Affairs Committee, I believe I can speak with some authority about what is wrong with another test and with the merits of the underlying Citizen-Soldier Program [CSP] proposed by Senator GLENN.

First, $250 a month is simply much, too much for a servicemember to give up—especially a young man or woman just out of high school or a young person with some college who wants to serve this country or a young parent with a family to support. We knew that in 1980 when we amended VEAP. We knew that, for many members, even $50 was too much a month to forgo. We lowered the VEAP minimum contribution to $25.

I believe that $250 a month is too much to ask anyone to give up. I know of very few people who would willingly say, "OK, take $250 a month from my pay for the next 2 years." They simply cannot afford it. Let me just ask if any of my colleagues here in the Senate would agree to have their pay reduced by $250 a month? Would any of their staff? I think not. And we and our staffs are earning a bit more than the average $670 a month that an enlistee is paid.

But this unrealistic test proposal does not end there. It goes on: Not only will we take $250 a month from your pay—and you cannot get it back until you complete this program no matter what, and then only if you reenlist—but we are also not going to pay you any allowance for quarters or subsistence even though your duty station assignment is one at which housing is not provided. We are, in essence, going to make you work off every penny of any benefit you will earn through actual reductions in pay and through the hardships these reductions produce. That is a real incentive alright, but it is not an incentive to enlist.

Second, each dollar contributed under VEAP up to a maximum of $2,700 is already matched on a 2-for-1 basis. No better match would be provided under the CSP.

Third, under VEAP, in order to assist in critical skill areas, the service branches enhance the basic program by offering kickers. The Army already does that in a big way. The Glenn proposal really amounts to mandating that a kicker be provided to pay the $500-a-month benefit level while requiring an additional contribution by the service member as well. The present Army ultra-VEAP Program already provides approximately the same total benefit level.

Fourth, under VEAP and under our amendment, a service member can begin to use his or her entitlement to benefits while on active duty. CSP would permit a service member to use the benefits only following discharge, thus creating a real incentive to leave the service after only 2 years.

Fifth, neither VEAP nor CSP deals with the need to enhance recruitment and retention in the Selected Reserve, a critical problem which our amendment would address effectively.

By pointing out how VEAP is already more flexible and attractive than Senator GLENN's program would be, I am not in any way suggesting that the current VEAP Program will be an adequate mechanism for meeting the very critical recruitment and retention needs of the All Volunteer Force in the future. It will not be. During the late 1970's, when recruiting and retention were at record low levels, there was no evidence that VEAP made any significant difference. It was only when the economy deteriorated, unemployment rates rose to record highs, levels of pay were substantially increased, and the use of bonuses was expanded that the situation turned around. Last year, for example, the VA paid out almost 2½ times as much in VEAP refunds as it did in VEAP benefits.

With the advent of the declining pool of young men and women and the increased competition for those in the eligible pool, VEAP will simply not meet our armed services personnel needs. Likewise, its poor cousin—CSP—would not do the job. If the economy continues to improve and unemployment rates continue to drop, it is very likely that we would quickly see a revival of the poor recruitment/retention performance of the late seventies.

Mr. President, the Glenn amendment was, as I noted, hastily conceived and drafted: three pages were hand-

written. Unlike our proposal, made a year ago, on which hearings have been held in this session—with an extensive hearing record compiled before two committees in the House on the counterpart, similar measure, H.R. 1400, authored by Representative "SONNY" MONTGOMERY—the Glenn proposal has been subjected to no careful scrutiny or analysis.

But from what I have seen, CSP would be far less attractive than VEAP and assist far fewer people. What its enactment would do principally—and that is the true reason for its warm embrace by those who so staunchly oppose our proposal—is to delay further the enactment of an effective program of educational benefits to aid recruitment and retention.

That really is the basic question. Do we need an effective education benefits program for that purpose?

We say the answer is yes and that our amendment would provide for just a program.

To those who share our conviction that a program of educational incentives, properly designed and implemented, can be an effective recruitment and retention tool for the military and a sound investment in the future of our Nation, we urge you to join with us in this grand venture. Support our amendment and reject the amendment it would replace—a proposal which will really produce no action.

I want to close with one quote from Gen. Maxwell Thurman, Vice Chief of Staff of the Army, in response to a question from the distinguished Senator from Hawaii [Mr. MATSUNAGA] at the hearing of the Veterans' Affairs Committee last April:

> We must have a good educational incentive program. The GI bill is recognized nationally and associated with military service in a most positive way. We have found that educational benefits attract smart young men and women whose goals include college education and the opportunities which education open to them * * *. The soldiers themselves profit not only by the money for education but by the extra maturity and understanding about our Nation's purpose and position in the world that comes with 2 or more years of service * * *. A new GI bill should be noncontributory, should provide additional benefits to service members with particular skills, should be transferable to a soldier's family members and should include within the same legislation comparable provisions for the reserve components.

Mr. President, that is precisely what our amendment does. I stongly urge my colleagues to join with us in supporting it.

Mr. President, I am delighted to note a new cosponsor we have just been notified about, the Senator from West Virginia [Mr. RANDOLPH]. He is the only Member of the Senate who participated in the debate creating the original bill in 1944. I ask unanimous consent that Senator RANDOLPH be added as a cosponsor.

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

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

Mr. DIXON. Mr. President, I wonder if the manager of the bill, the distinguished chairman of the Armed Services Committee [Mr. TOWER], would yield to me for a question or two?

Mr. TOWER. I would be delighted to respond to the Senator from Illinois.

Mr. DIXON. I want to tell the chairman that last year, the last time this matter was before us, I supported the Senator from Colorado in his attempt to pass a GI bill here. Since that time, I have become a member of the Armed Services Committee. As the chairman of that committee knows, I am ranking member on the Subcommittee on Manpower and Personnel, which would be the subcommittee which would most likely address itself to this question. So I have reservations about going forward now without sufficient hearings.

I wonder if the chairman of the committee could assure this member of the Armed Services Committee that he would support the effort to have the GI bill jointly referred to the Armed Services Committee and the Committee on Veterans' Affairs in the event that this matter is not successfully considered here, today, for hearings in the next session of Congress?

Mr. TOWER. Mr. President, in response to the Senator from Illinois, let me say that, in fact, our committee does not have original jurisdiction over this legislation. I would certainly consult with the chairman of the Veterans' Affairs Committee, who, I see, is on the floor. He has always indicated a disposition to be very cooperative with our committee. I think we would, as a matter of fact, like to have a look at the bill from the standpoint of its impact on both recruitment and retention.

I suspect it would have an adverse effect on retention and retention is a greater problem than initial acquisition at this point. I think it would be a disincentive to reenlist, myself. It is enormously costly and I would respond to the question of the Senator from Illinois in the affirmative. I would be glad to ask for joint referral of a GI bill and we shall hold hearings on it.

The point has been raised that our committee has not held hearings on it, which is correct, because I do not like to preempt the jurisdiction of other committees.

Mr. COHEN. Will the Senator yield?

Mr. TOWER. Before I yield to my distinguished friend, may I inquire of the distinguished chairman of the Committee on Veterans' Affairs if he would be amenable to the idea of joint referral of such a bill?

Mr. SIMPSON. Mr. President, I have been quite amenable to almost anything with regard to this bill. I have now listened to the debate as if it were a return to nostalgia.

What an extraordinary debate. It is as if you are not for this, you are against the GI bill. I swear, I do not know how we got to this position, because it is a rich transition.

That is not what we are talking about at all. I have held hearings on it. I shall hold more hearings on it. I guess the expression is used from time to time that we have not held hearings because they did not turn up what we want to hear. The DOD scraps against it, VA scraps against it, other professional people scrap against it and say, if this is a recruitment device, you are missing the point.

Furthermore, it is the first peacetime GI bill we have ever had. We have never had one of those before, ever. This has always been for readjustment for veterans after a conflict. We have never ventured into this area. So I can tell Senators that I would certainly be agreeable to any kind of joint referral.

I have in my particular work with the Veterans' Affairs Committee learned very quickly not to join any turf battles because all you have to do is bring up the word "veteran" or "GI bill" or "agent orange" and the roof crashes and the walls smash into the hearing Chamber. So I have to deal continually in this area with this rich, rich array, this miasma of guilt, fear, and emotion that goes along with anything in connection with "veterans." And if you walked up to a guy on the street and said, "What should we do for the veterans of this country?" he would say, "Anything it takes." And yet there are millions of veterans who have never served more than 6 months, never left the United States and have never been involved in any kind of combat activity who draw every single benefit that a combat veteran draws. There are hundreds of thousands who mashed their toe in the turret at Newport during their summer cruise who have been drawing a green check. There are hundreds of thousands who may have been looking for a case of lemon extract in the mess tent to finish off a 3-day pass who mashed their big toe and have been drawing a green check for 30 years. That is the kind of arena in which I get to play.

Let me just say kind of swiftly that as chairman of the Veterans' Affairs Committee, I am up to some things. I am going to help the service-connected disabled veteran and give that person anything he wants. That is for sure. We are going to help the veteran who participated anywhere in any combat theater. But we are going to have to look into eligibility, and when you come to an absolute GI bill like this is supposedly called—and as I say, it is a

rich etching of where we all were. I went to school on the GI bill. I wish I could have given my pitch when everybody else was giving it. I went to school on the GI bill, thank heaven. There were times when they nearly took the check back. Those were the days when I thought beer was food and it was very difficult to go to school under those circumstances.

So here we are now with the memories of the GI bill. I am a lifetime member of the VFW and a member of the American Legion and AMVETS. I love it. I admire those people. I work with them. I know them. I work with the national commanders. They have been patient with me. They have taught me some tricks and done a lesson or two on me, and I deserved it because there were times when I have made some pretty smart aleck statements, and they will probably have that visit on me one more time after today. But the issue is that this is an entitlement program. You can call it anything you want. It really startles me to see some of my colleagues who voted for freezes, and budget this and budget that, and who are probably the most responsible people in this Chamber, coming up with really what is in effect an entitlement program. And not only that, you have not just $300 a month but with the kickers that are in this proposal, it comes to $900 a month, and it starts in 1985.

Guess what I would do if this bill passes and I was waiting to go into the service. If you think this is going to help recruitment/retention, I would think I would wait until September 1985 before I would join anything because that is when the bucks start. There are no bucks until then if this bill passes. You effectively will hamper recruitment in every day. It is not an enhancement.

And then, as I mentioned the other day, if anybody really believes that the Department of Defense is going to keep this in their budget, they are really wrong because this is going to end up in the Veterans' Administration budget and it is going to come out of some existing veterans' benefit.

I hope everybody is hearing that clearly. I have oversight over a committee that spends $27.2 billion of your money, and if you believe somehow that we do not do things for the veterans of the United States, that is an absolutely atrocious misstatement. I can cite book page, and hymn number of what we have done this year for the veterans of the United States, and it is an extraordinary array of benefits. I am going to enter in the RECORD what they are.

That is where we are with this particular issue which rides along on a tide of absolute ancient history of what the GI bill did. We have never done it before. This is an entirely new adventure.

I think Senator JOHN GLENN is on the right track. If you want to do something to improve the quality of the voluntary service—and it is of good quality now; people are attracted to it, the educational level has never been higher. It is working. It is working—then Senator GLENN has the right idea with the targeted approach to the skills that need to be developed in the armed services.

The Armstrong-Cranston-Cohen proposal, with oak leaf clusters on the cosponsorship, is a very interesting approach, but it is an entitlement. It will deter recruitment, and it will also get people out of the service. People will leave the service to take advantage of their GI benefit. Anybody who is missing that is missing part of this argument. No one is going to stay in the service if they are going to receive something in the form of $900 a month with the various benefits, plus the ability to pass those benefits on to their children, a departure totally unknown in any veterans benefit.

I guess I will conclude and say I know what happens in these issues. If you support the Armstrong-Cranston proposal, then I want you to know you are going to dilute the benefits of the Veterans' Administration by some figure. Whatever you have to spend on this is going to come out of the $27.2 billion that we provide for the veterans of this country, the most generous and extraordinary benefits is a direct health care system that is the envy of the world, which I have supported and will continue to support.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois continues to hold the floor.

Mr. ARMSTRONG. Mr. President, will the Senator yield to me briefly?

Mr. DIXON. I will yield to the Senator from Colorado if he will yield back to me, and this is all ensuing from a question I had asked of my distinguished friend, the manager of the bill, the chairman of the Armed Services Committee.

Mr. TOWER. If I may——

Mr. COHEN. Could the Senator repeat the question? I did not hear the question.

Mr. TOWER. Well, the question is of the Senator from Wyoming.

Mr. COHEN. Sequential referral?

Mr. DIXON. No; a joint referral.

Mr. COHEN. Joint referral.

Mr. TOWER. If the Senator will withhold, I will sort this matter out. Now, again, let me inquire of the Senator from Wyoming, it is my understanding that in the course of his very edifying and enlightening discourse he did indicate he would be amenable to joint referral to the Armed Services Committee of the GI bill?

Mr. SIMPSON. Mr. President, the answer is "yes."

Mr. TOWER. I thank the Senator very much.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. I would like to, if the Senator from Colorado will indulge me, make some very brief remarks.

Mr. ARMSTRONG. Could we dispose of the referral question before the Senator moves to another topic, I ask the Senator?

Mr. DIXON. I would be inclined to adopt that approach.

Mr. ARMSTRONG. Mr. President, this will only take a moment. There are several things that have been said by the Senator from Wyoming and the Senator from Texas that I will comment on another time, but while we are on the specific point of hearings, I think the Senator from Texas inadvertently stated that the advocates of this legislation were complaining about the lack of hearings.

Nothing could be further from the truth. I think he said something to the effect that the advocates of this amendment complained of no hearings and then, when hearings were held, complained that there still were no hearings, evidently because we did not get the results we wanted.

Now, I just want to point this out to the Senator. The fact is that there have been extensive hearings, exhaustive hearings, and the Senator from Wyoming has not only been willing to have hearings in the future, he had hearings last year; he had hearings the year before that. The House Veterans' Affairs Committee had hearings and the House Armed Services Committee had hearings. As far as a joint referral or a sequential referral, I myself have on another similar occasion to this took the floor to introduce a bill and asked for the consent which is necessary to get the bill referred to the Armed Services Committee, and that was denied to me. But the reality of this is that the bill has been pending, in fact, if not in parliamentary substance, before the Armed Services Committee. This is exactly the same measure as one adopted last fall, which was voted on, very close to the identical substance, several times before that. So it is not new.

We are not asking hearings. We think plenty of hearings have been held.

I say to the Senator from Illinois that I previously entered into the RECORD some brief excerpts of volumes of testimony that support our position. It is a very extensive record.

Mr. DIXON. Mr. President, I thank the Senator from Colorado for expressing his point of view about the question of hearings.

If everyone will indulge me to briefly express my point of view, I say this about the question: On the last occa-

sion that the question of a GI bill came before this body, I supported the Senator from Colorado, as the RECORD will show, because I do support a GI bill of rights. That was prior to the time I had been appointed to the Armed Services Committee and prior to the time I had served a complete session of the U.S. Senate as a member of that committee and as the ranking member of the Subcommittee on Manpower and Personnel.

I remind my colleagues that the amendment being considered here is an amendment to the DOD authorization bill. The bill would be paid for by the Department of Defense. As my colleague from Ohio has pointed out, the cost is going to be about three-quarters of a billion dollars a year in the very short outyears.

Later this afternoon, I am going to offer a motion to rerefer the DOD authorization bill back to the Armed Services Committee, to mark up at a figure of $293.7 billion, which is 5 percent real growth this year for the DOD authorization bill. I am sure that motion will not be agreed to, but I am sure it will have substantial support.

However, the point I want to make is this: No matter what price you might put on the cost of our operation of our military programs in the country, no matter what number you put in the DOD authorization bill, there are a great many ways you can spend more. This is one of those ways.

If we are going to obligate the country and the taxpayers to pay for this, then I think a committee that understands the question ought to look at it very closely. I have never looked at it in the Armed Services Committee. I have talked to my colleagues, and neither have they.

The chairman and the ranking minority member of the committee have indicated that they would be delighted if this question would be referred jointly to the Armed Services Committee in the next session, for substantial hearings.

I would work for a markup of such a bill that was carefully crafted, to work within the confines of what we can afford in a logical way to induce people to enter the service, in the first instance, and to stay there once they get there.

A lot has been said today about inducing people into the service. I was on the subcommittee that had the hearings this year. We filled our quotas this year. I am not saying that we will do it every year, but we are doing it now.

The probability is pretty good that, in the long run, we will consider something like this, but I do not think we should consider it this year without hearings in the jurisdictional committee that has a good deal of authority over what the Department of Defense does.

So I simply suggest this: I think the GI bill is an idea whose time has once again come. I have no quarrel with the distinguished Senator from Colorado when he makes that statement. But let us craft a bill in the Armed Services Committee, among members of that committee who understand the problem and understand the goals we are trying to seek, both toward inducing folks to enter the service and encouraging them to stay in there for substantial periods of time once they get there.

Let us do it in a careful way. Let us craft a bill that makes sense. Let us craft a bill that does not cost too much money, the price of which is taken into account in the whole number we bring up as a final number on the DOD authorization bill when it comes to the floor of the U.S. Senate next year.

I just want to say this, in conclusion: The chairman of the committee has been a very fair man. He has given us an opportunity for full hearings on everything we wanted to discuss. I have not always agreed with him, but I have found him to be entirely fair in his chairmanship of that committee. He has given me his assurance, and the ranking minority member, who I admire greatly, has given me his assurance that this matter would be welcomed in the committee, that hearings would be held. I think that is the appropriate and proper way to deal with this problem.

If everybody who had a massive piece of legislation of this kind brought it to the floor as an amendment on major legislation and all 100 Members would vote on everything of that kind out of emotion only, without true knowledge of the circumstances, the country would be in a lot of trouble.

I think the Senator from Colorado and the Senator from Maine have a solid idea. I believe there is a future for the idea. This Senator wants to support the idea, but I think it should be done in a careful, thoughtful, intelligent manner, in a jurisdictional committee with sound responsibility for the ultimate idea that comes to the floor of the U.S. Senate, so that when we have a law, it is a law that every one of us can be proud of and a law that does the job for the servicemen and women in this country and advances their educational opportunities while advancing the opportunity to bring people voluntarily into our Armed Forces, people who will ultimately make a career of their time in the armed services.

Mr. TOWER. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Executive Office of the President, Office of Management and Budget, signed by Mr. David Stockman, dated June 6, in strong opposition to the measure offered by the distinguished Senator from Colorado.

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

EXECUTIVE OFFICE
OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 6, 1984.

Hon. JOHN TOWER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am concerned that a new educational benefit program for military personnel may be offered on the Senate floor as an amendment to the FY1985 DoD Authorization Bill. The Administration has expressed its opposition to such a program several times in the past. As Secretary Weinberger pointed out in his letter to you of May 14, 1984, the cost of the proposed educational benefits could exceed $1 billion within 10 years. The current Veterans' Educational Assistance Program is working very well, and we get most of the full impact of the proposed G.I. Bill at far less cost. As of now, recruiting and retention remain very good. In light of our other priorities and our limited resources, a costly new program cannot be justified by defense needs at this time.

We continue to support the current Veterans' Educational Assistance Program, along with supplemental benefits targeted to selected shortage skills in the Army, and the current program in the reserves. These programs target significant educational incentives where they are needed most. Together the cost of these educational incentives, in the steady-state, is under $300 million. This is less than one-third of the steady-state outlay cost of most of the new educational benefit programs being proposed. We also support the repeal of the 1989 termination date for the use of Vietnam-era GI Bill benefits, which is included in the Authorization Bill passed by your committee.

This Administration supports educational benefits. However, our current program appears to be meeting our needs, and there is no compelling rationale for replacing it with an expensive new program at the present time.

Although there is not a pressing need for new recruitment and retention tools at present, we recognize that conditions may change and that additional incentives may become desirable.

In order to assure an adequate assessment of the services' recruitment needs before enacting a costly new GI Bill, we would recommend passage of S. 1873 sponsored by Senator Simpson. This measure would require the President to report to Congress by July 1, 1987, concerning the need for a new educational assistance program for service members to assist in the recruitment and retention of qualified personnel, and to provide for the expeditious consideration of proposed legislation establishing such a program.

Sincerely,

DAVID A. STOCKMAN,
Director.

Mr. TOWER. Mr. President, I also wish to enter into the RECORD a second letter from him, dated June 13, addressed to the situation we have at the moment, which I shall read:

DEAR MR. CHAIRMAN: I understand that the Senate is considering a number of proposals on educational benefits for military

personnel. As I stated in my letter of June 6, there is no need at this time for a new educational benefits program for military personnel. The current Veterans Educational Assistance Program is adequate, and recruiting and retention remains very good.

We continue to believe that the appropriate course of action is to study educational benefits as proposed in Senator Simpson's bill, S. 1873. However, if the Congress believes that action on military educational benefits is essential at this time, then the Administration would strongly prefer a test program, as proposed in the Tower-Nunn amendment to the proposal advanced by Senator Glenn, as opposed to a permanent and more expansive program.

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

Mr. TOWER. I yield.

Mr. COHEN. I heard the Senator from Illinois say that what we should do is turn to the experts for their advice. Are you suggesting that David Stockman and the Office of Management and Budget are the kind of expert advice we are going to turn to in making a determination on this bill? Is that the kind of expert advice we are going to turn to?

Mr. TOWER. If I may respond to the Senator from Maine, I had not expected to invite Mr. Stockman to testify. Our interest would be primarily on the impact of recruitment and retention, and that is the proper aspect of our jurisdiction. As Senator SIMPSON pointed out, this is the first peacetime GI bill ever.

Mr. ARMSTRONG. No, no. We had a peacetime GI bill in this country until December 1976.

Mr. TOWER. Yes; but that was for the Vietnam era.

Mr. ARMSTRONG. I do not want to belabor the point——

Mr. TOWER. And the primary benefit was to combat veterans.

Mr. ARMSTRONG. That was a peacetime GI bill, and it worked. When we terminated it, the prediction was that we would encounter great difficulty in achieving our recruitment goals for quality, and that is the way it turned out.

Mr. TOWER. Recruitment and retention are good now, and "if it ain't broke, don't fix it."

I think there are some very serious implications in this bill for retention. This is an attractive bill. It is an election year. You get 30 cosponsors any day.

Mr. COHEN. There you go again.

Mr. TOWER. I am not saying that is your motivation. I am saying it is attractive in an election year.

Mr. COHEN. The Senator has been saying that since 1979.

Mr. TOWER. I know the Senator from Maine is honestly motivated. Anyone who sits under the lovely trees and on the seashores in Maine, who writes the beautiful poetry the Senator from Maine does, cannot ever be accused of being dishonestly motivated. He is a man of spirit, heart, and deep conviction. I know him to be that. I would never impugn his motives, nor those of the distinguished Senator from Colorado who is well known for all his public-spirited, charitable work.

But the fact is this is an election year, and that is why a lot of people will not vote on this bill on the merits. It is that simple.

Mr. COHEN. Mr. President, if the Senator will yield further, I have listened to the Senator from Illinois call for hearings. It is like a giant oasis out there. It is a mirage. We keep thinking we see water, and every time we approach it, it turns to dust. We have to have hearings. Last year, the last time we had this measure, the same issue, the Senate defeated it on the basis that the Veterans' Affairs Committee did not have any hearings.

Lo and behold! They hold hearings. They come back and say, "Just a minute, we have not had hearings in the Armed Services Committee."

How many times is the Senate going to put this off into the future, giving as the reason that we have not had enough testimony on the issue, that we are going to call on David Stockman, on the Office of Management and Budget, to tell us that we really do not need the measure now?

How about listening to military experts who come in and testify?

Mr. TOWER. I did not call on Mr. Stockman. He volunteered.

Mr. COHEN. I am sorry. He volunteered for what?

Mr. TOWER. He volunteered the information.

Mr. COHEN. What?

Mr. TOWER. He volunteered the information.

Mr. COHEN. The Senator is talking about the letter. He confused me for a moment.

Mr. TOWER. I have no intention of calling Mr. Stockman as a witness. I believe I have made that point.

Mr. COHEN. OK. I would not want the Senator from Texas, and I know he would not dare or even attempt, to compare OMB's expert testimony in this field with those of General Meyer, or General Thurman, or any of the other experts who have testifed at length on this subject matter as to what they feel they need in order to get high-quality recruits.

Mr. TOWER. General Meyer is no longer Chief of Staff of the Army.

Mr. COHEN. The Senator from Texas is not going to be chairman of the Armed Services Committee next year.

Mr. TOWER. I am sure there will be joy in the streets in that event.

Mr. COHEN. It may be.

The point is, every time, since 1979, the first year I introduced this measure in this body, the cry has always been, wait until next year, give the committees a chance for hearings. Then we go to the Veterans' Affairs Committee, and they have their hearing. Now we are told we have to go to the Armed Services Committee for yet another hearing.

The Senator from Illinois has been a valuable member for 1 year on the Armed Services Committee and the Manpower Subcommittee. I have been there 6 years and worked with Senator NUNN on a thing called DOPMA. He is holding his head right now, and I doubt if 10 people in this entire body would spend the length of time we did on DOPMA.

I will tell the Senator from Texas and the Senator from Illinois that we have looked at this in 10 different ways. We have considered this testimony. We have listened to the generals. We have listened to the experts. In a moment I will yield to the Senator from Wyoming for more of his comments.

But the fact is that virtually all military manpower officers who have testified said they need a GI bill to insure high quality that we are looking for.

Let me take a few moments to read some of the statements that have been made.

I take issue with the suggestion that somehow we cannot have a GI bill in peacetime. How can anyone suggest that those people who were subjecting their lives to danger in Lebanon somehow are not entitled to a GI bill as opposed to someone who was washing dishes at Fort Dix back during the Second World War or the Korean war.

Let me read to the Senate what Gen. Maxwell Thurman has said on this:

> In the years following termination of the GI Bill and before the Army College Fund took effect * * * the Army recruited only 89.3% of the quantity of soldiers we needed. * * * [The] percentage of high school graduates dropped to 54.3% in 1980 [and] test category IV, the lowest category accepted into the Army, was 52% of accessions. * * *

More than half of all the people who come into the Army were category IV's. That is the problem we had back in 1980.

> We have a requirement to have no more than 10% category IV and to have at least 90% high school graduates.

On Monday I pointed out what happened with the 80-percent degradation of tanks commanded by category IV's as compared to those commanded by category II's.

So the emphasis has been that we need to get more qualified people into our military.

Let me read a portion of a letter from General Meyer.

Mr. GLENN. Mr. President, will the Senator yield for a comment?

Mr. COHEN. I yield to the Senator from Ohio.

Mr. GLENN. That is exactly what I am targeting. It is those high school graduates who we want to get into the Army. That is exactly the focal point

of my amendment. That is what we targeted it to. We do not try to go to the total population.

That is the reason my amendment costs $160 million a year at max, and the one that the Senator from Colorado is proposing goes to $775 million and going up. In fact, I think the Senator from Wyoming will have some figures in a few moments that go even higher than that.

But the exact problem the Senator is addressing is what I targeted with this amendment. I tried to make it cost effective and keep the budget under control.

Mr. COHEN. I thank the Senator for his comments.

Let me just read from a letter addressed by the former Chief of Staff, General Meyer. I do not know what happens when one becomes a former Chief of Staff. I assume his credibility goes higher, rather than lower. But nonetheless let us listen to the words of a former member of the Joint Chiefs. He talks about:

During this time, participation in VEAP (an indicator of the program's unattractiveness) was only 26 percent of all eligibles. This rate only began to improve with the Army's introduction of additional benefits ("kickers"), which were used to increase the basic benefit level. During FY 1979 "kickers" ranging from $2,000 (2-year enlistees) to $6,000 (4-year enlistees) were tested to ascertain whether these increased amounts would prove attractive enough to penetrate the higher scoring high school diploma graduate market. Results were marginally successful and the participation rate improved 2-3 percent. Finally, during the congressionally mandated FY 1981 Educational Assistance Test Program, the Army tested $8,000 and $12,000 "kickers" which have since proven to be the key to an Army "equalizer" among the Services in the quality recruiting market—

I go to the second page of General Meyer's letter to Senator Armstrong:

During testimony prior to passage of the VEAP legislation, the Assistant Secretary of Defense for Manpower and Reserve Affairs made comments pertinent to the current need for a return to the GI Bill. At that time he likened the Army's efforts to recruit high-quality personnel to a service station TV commercial where the station manager says, "You can pay me now or you can pay me later." The Army is currently "paying" for the lower mental category enlistment cohorts experienced subsequent to the termination of the GI Bill. During these early years, the lowest mental categories entered the force in increasing numbers until the renaissance in recruiting that the Army began experiencing in FY 1981.

Here are the key words:

Unfortunately, the future does not look as promising as the past years and the return to a non-contributory GI Bill is imperative. This program should contain the following features:

Basic benefits adequate enough to compete equally with non-military federal loans and grants,

Supplementary benefits for use in targeting selected recruits; and skills

Transferability of benefits to dependents to act as a retention incentive; and

Inclusion of the Selected Reserve to compensate the Total Army.

Those are precisely the elements that are currently in the amendment the Senator from Colorado and I have offered.

Let me conclude in not so poetic terms. My friend from Texas seems to diminish the significance of a phrase, be it lyrical or prosaic. But I simply suggest that this bill is not, as was implied, politically motivated.

I heard that charge last year and the year before. Frankly, I resent it. I resent it because it flies in the face of the experience of this particular bill, the legislative history or nonhistory, I should say, of this particular measure. It was introduced back in 1979 when this Senator certainly was not facing reelection, in 1980, 1981, 1982, 1983, and now in 1984.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. COHEN. I can assure the Senator from Texas and my other Member who questions the motivation of the Senator from Colorado and the motivation of the Senator from Maine that our motivations are to see to it that we do not repeat the errors of the past.

Mr. TOWER. Mr. President, if the Senator will yield, I made the RECORD very clear on that point, that I would never suggest that either of the cosponsors of this measure were politically motivated. It has been something that has been recurring year after year that they have sponsored it in political or nonpolitical years. So I know their continued and steadfast dedication to the idea. That does not vitiate the fact that this is a politically attractive measure in an election year regardless of motivation.

Mr. SIMPSON addressed the Chair.

Mr. COHEN. Of all issues——

Mr. TOWER. One might be honestly motivated in offering an amendment endorsing regular attendance at Sunday school. Now, despite the motivation, it is a politically attractive idea that I doubt if anyone would vote against.

Mr. COHEN. I think the President has offered a number of politically attractive ideas which do not have merit, I might suggest.

What we have tried to do is offer something that has substantive merit, a program which will benefit not only the people coming into the service, but our military services and the country as well.

So maybe I did not understand, because of the Senator's accent, the words in which he phrased his praise of the Senator from Maine and perhaps his implied meaning was missed by the Senator.

(Mr. COCHRAN assumed the chair).

Mr. TOWER. I apologize for my thick Texan accent which cannot be easily understood by my Yankee friends.

Mr. SIMPSON. Will the Senator yield?

Mr. TOWER. Mr. President, I yield to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, having known the two who have just participated here in this particular dialog, and knowing them quite well, they are enjoying this down deep. I see that. And I hope people realize that their friendship is one of the richest in this body.

But you have just all handled it very nicely because finally you are keeping your eye on the rabbit. Why not wait and have hearings as is suggested, because this bill does not even go into effect until fiscal year 1986? What an extraordinary adventure in something out there. When have we ever done a bill like this which is just out in the vapors? There is no reason for this whatsoever.

No wonder I have puzzled about it. I hold hearings and hold them again and again, and the date always appears out there—October 1, 1986, trying to pull it down to 1985 now. If they are going to do something, get it down to 1984 and get with it. But because it will not work that way, it is always out there.

Not one person in this debate has admitted that this is necessary now. I heard Senator ARMSTRONG say this bill is not presently necessary. I heard Senator COHEN say that. I heard Senator CRANSTON say that. Any one of the proponents of this measure has said it is not necessary now; it is for another time out there.

And I proposed, and maybe at some course in the debate today or tomorrow or tonight, I might throw in a proposal I made which says if it ever becomes critical to have this, then we have an accelerated procedure to do it—30 days, 45 days, 90 days to the President's desk. But not one person in this debate has said this is necessary today, June 1984. And, if that is the case—and that certainly is the case of every proponent, that is what they have said, that is the record—then let us hold these hearings, concurrent hearings. Because I can say to you, and I know it does not appear now, but the DOD is taking on this obligation that we will put to them by statute, $770 million. And our figures show—and we have no reason to question them—that with indexing—and we do that with everything else; we do that with the cost-of-living allowances, with every veterans' program; that is part of the trouble with the deficit, part of the problem with the oversight I deal with—some of them hold them without the cost-of-living benefit and make us do that every year. I do not know whether people are aware of that. It is like taking it when it is in a

heavy year of inflation, but when it is not you can come to Congress. And it is an awesome, awesome political force. I have learned that; I have, indeed.

So here we are now going to deal with something which is going to cost us $1.8 billion by the year 2000 if we index it for inflation. And no one has yet refuted those figures—$1.8 billion by the year 2000 if indexed for inflation.

So it would seem to me rather logical that we do have the hearings and that we do have perhaps a joint referral.

I will again extend myself in every way I can to these gentlemen on both sides of the aisle. Senator AL CRANSTON was chairman of this committee when I came here. There is no more compassionate man in the U.S. Senate or more generous. I have worked with him. He held hearings on this, and I have held hearings on this. We both know what the costs are.

I must say that again I mention some of the things that always enter my arena as I dabble in veterans' affairs. And we have hit upon another one that Senator COHEN has thrown into the debate, and that is David Stockman. The name "David Stockman" is always destined to arouse the animal passion in the veteran community because he did not serve in the Vietnam conflict, and the thought was that he perhaps may have avoided it. And it makes for a wretched other part of the emotional arena to play in when the name David Stockman enters the budget discussion. It does not help at all; makes it a little ragged, tough. But I get used to that. That is why I used to weigh 260 and now I am down to 190.

We always hear somehow the myth that we have never done anything for the Vietnam veteran. That is the truest myth abounding in the land: that somehow this veteran has been just left. We have done more for the Vietnam veteran than any veteran in our history.

The Senator who enters the Chamber at this time, Senator ALAN CRANSTON, was chairman of the committee at that time. I wish you could see the legislative accomplishments that he put on the books; and when I got here, I tried to do that.

But the myth goes on because the men who write the docudramas and produce them are all about 34 to 35 years old, too, and many of them sat out the Vietnam conflict and are now trying to expiate their guilt and anguish as they write them up and put them on the tube, and docu this and docu that, to make the Vietnam veteran look like some crazed beast. They ought to be tired of that image.

And the people who are doing it are the people who sat it out. I have asked some of them, "Where were you during the Vietnam conflict?" They say, "That is none of your business." I say, "Yes, it is. Where were you?" They say, "Well, I was at a little school somewhere." I say, "Yes, where? What were you doing?" They say, "Expressing myself under the first amendment." "What were you doing?" "Well, I might have been carrying a Vietcong flag."

And now that they have got gastrointestinal pains and heartburn; they are trying to make it right for themselves by trying to make it look like we have never produced for the Vietnam veteran in this country. And we have always produced for veterans, and we always will. So let us get that myth put away. That is one I have to grapple with in the fun and games in the Veterans' Affairs Committee.

So here we are. The maximum cost of Senator JOHN GLENN's proposal is $12,000 per recruit. The cost of Senator ARMSTRONG's proposal is approximately $200,000 per recruit. And that is the issue—you can pay for a GI bill now or you can pay for it later.

I hear Senator ARMSTRONG speaking that his bill is $300 a month. I wish that were true. But when I read it—may I do that for you so that you hear the full proposal? This proposal calls for a basic noncontributory educational benefit entitlement of $10,800, which is $300 a month for 36 months for all high school graduate service members satisfactorily completing 3 years of active service for 2 years and 4 years of selective reserve.

It also adds kickers—that is the phrase; we use that in the VEAP program—additional funds of another $300 a month for 36 months for active duty personnel who served in hard-to-fill skills, such as Army combat teams. And then it provides additional benefits of up to $10,800, $300 a month for 36 months, for active duty personnel who serve 3 or more years in hard-to-fill skills beyond the service required to qualify for the basic entitlement.

Plus, as I say, a most extraordinary adventure into benefit land, which is benefits for the survivors or children—the children, not survivors. The phrase is for the benefit of dependents; the benefit could be transferred to them. We have never done that before.

I guess what troubles me about the whole debate is when it started the Senator from Colorado said that this was a battle that somehow had to be won. How did we ever get to a position where this was a battle that we hoped to win? I do not ever look on it that way. I am a very accessible chairman. I listen to the Members of this body. How do we get to that? That is wholly out of proportion to what we are trying to do here.

We are not at a time of conscription in this country. We are not at a time of ending a war. And, God forbid, if we ever have another one, how will you ever sweeten the pot? And, God knows, we all hope desparately to avoid that, and it is our duty in here to do that, and we will because we are all men of good conscience.

But if the All-Volunteer Force is in trouble, then let us examine all the reasons why; except it "ain't" in trouble, so let us examine it. Let us hold some hearings later on this issue, and let us deal with it in the context of everything we do with regard to recruitment and retention.

Mr. President, I speak against the amendment offered by my distinguished colleague from Colorado and others, to establish a new Educational Assistance Program for members of the Armed Forces to take effect September 30, 1985, or September 30, 1987, at the latest, if the President determines it is not needed before that time.

Mr. President, the sponsors of this amendment have always recognized that the Armed Forces presently are enjoying unprecedented success in recruiting and retaining quality personnel. It is only because they believe that future manpower problems are inevitable that they recommend that we adopt a "preventive approach" to these as yet unknown problems by enacting a very expensive Educational Assistance Program. I think that is unwise.

Mr. President, I certainly recognize that there is a possibility that recruiting and retention shortfalls may occur in the future, although I do not in any way believe that they are inevitable. Those shortfalls, however, if they do occur, will not arise momentarily and Congress will have amply opportunity to address them in a proper manner. Meanwhile, the Department of Defense, which opposes this legislation, has many other effective incentives available to it, including the Post-Vietnam-era Educational Assistance Program known as "VEAP." Also available to the Department of Defense are "kickers"—extra benefits to sweeten the pot—which can be combined with VEAP to attract quality personnel to particular occupations. "VEAP With Kickers" is currently doing an excellent job of attracting high quality enlistees to the Army's combat arms. The Army is not the only service authorized to use Ultra-VEAP, but is the only one which has needed to use this effective option. Year after year we increase pay and allowances as well.

If VEAP is left intact and the Glenn amendment as amended is adopted, the Department of Defense will certainly have multiple attractive incentives to offer to future enlistees to avoid any critical skill shortfalls.

Strong evidence was presented in February of this past year by the Congressional Budget Office in testimony

before the Senate Veterans' Affairs Committee that broad based, generally available educational assistance programs are neither the most cost effective nor efficient means of addressing recruiting and retention problems. It is essential to point out that recruitment and retention difficulties in the past have varied from service to service, grade to grade, and occupation to occupation, and there has never been an "across-the-board" problem—one that might call for an across-the-board solution such as the one proposed by this amendment. What clearly is needed, as the amended Glenn proposal recognizes, is first, identification of specific manpower problems or needs; second, a solution that is applied only to the problem and not to areas where there is no problem; and third, a solution that is the most cost effective one available. This simply cannot be done in advance by enactment of this untargeted educational assistance amendment offered by my good colleagues, Senators ARMSTRONG, COHEN, CRANSTON, MATSUNAGA, and HOLLINGS have cosponsored.

I am especially concerned with the cost of the programs authorized by this amendment. A close look at the cost figures, together with the likely results on recruiting and retention of quality personnel shows that it will yield very little benefits for the taxpayer's dollar. The Congressional Budget Office has unofficially projected that in the late 1990's when this proposed program would be in full swing, outlays would run in the range of $800 million per fiscal year. Those figures do not even assume that Congress will adjust these benefits for inflation as has been the consistent congressional practice with previous GI bills. If similar cost-of-living adjustments are made with this bill, CBO estimates that the net cost will approach $2 billion annually by the late 1990's.

Additionally, CBO projects that enactment of this amendment without adjustments for inflation will not result in a very large increase of new quality military personnel by fiscal year 1990; only about 3,000 persons a year. Thus, the cost per additional quality recruit is truly exorbitant.

Mr. President, the service of today's volunteers is invaluable to this Nation indeed and it should not be rated as somehow second class because they were not drafted or did not serve during wartime. However, the fact remains that throughout the array of services and benefits provided to veterans, distinctions have been drawn between wartime and peacetime service. Congress has, on numerous occasions, deemed it appropriate to provide higher rewards, including the various GI bill benefits, for wartime service. In considering the programs offered today, we must keep in mind that in the future, should it become necessary to return to conscription, or God forbid, should we become involved in war, we will be asked, and indeed we may feel compelled, to increase existing benefits to compensate for that service. If we accept the very expensive amendment offered today, how will we then later "up the ante" for any wartime service? I believe that the answer to this question involves severe budgetary considerations.

This amendment proposes today to add not one, but two new entitlement programs which have been estimated by CBO to cost some $5 billion in the first decade they incur costs. And I would hasten to point out that this cost estimate does not include periodic cost-of-living adjustments such as has been the custom of Congress in its dealing with every previous GI bill ever passed. If COLA's then are included, the cost will nearly double, to over $8 billion through fiscal year 1997.

Let us bear in mind at the same time the uncertainty of these figures. Because of the uncontrollable nature of these programs, it is impossible to predict with any certainty or reliability what the actual cost will be. It all depends on how many people sign up for the programs, and on future inflation rates as a factor in granting appropriate COLA's. The actual cost could be double—or triple—the presently estimated cost. That's why the Tower-Nunn amendment to the Glenn proposal is important—it limits the number of participants while we study the effects of the program in its first 4 years of operation.

I would point out that these proposed programs would grant a very attractive and costly array of benefits—up to $900 per month in educational assistance for the service member, as well as up to $18,000 in educational benefits which could be transferred to the service member's children which has never been done before. Little effort is made in the proposed amendment to target only those veterans most in need, or to impose some final termination date for the programs which would be comparable to the 1989 termination date presently in effect for the Vietnam-era GI bill. The end result is that for every person who is actually induced to sign up for military service as a result of these programs, a great many more will be receiving benefits who would have signed up for service in any event.

Let me just make a few additional points, Mr. President, on a few specific aspects of the amendment. In some important ways, the programs that would be established by this amendment work against themselves—a bit like driving a car with the brake locked on. Although the declared purpose is to provide incentives for recruitment and retention, certain provisions would clearly operate as disincentives. For example, the fiscal year 1986 effective date for this very generous program would unquestionably chill recruitment efforts in the interim. Any potential recruit with the flexibility to enlist either now or to wait until fiscal year 1986 would have considerable incentive to wait, in order to partake of the full range of these benefits. Two other significant disincentives have been mentioned in a letter, sent on July 8, 1983, from Alice Rivlin of CBO to the Senator from Colorado [Mr. ARMSTRONG]. She states:

> However, termination of VEAP and the successful "Ultra-VEAP" program used by the Army, as provided in S. 691, (the 1983 version of this Armstrong amendment) would offset nearly half of the gain in recruiting. Further, the availability of additional educational benefits under S. 691 would induce additional separations after completion of 3 or 5 years of service, and would thus require an increase in recruiting merely to maintain overall manpower levels.

Finally, I would have to question seriously whether the contributory program for career military members proposed as the second entitlement program in this amendment will have any beneficial effect at all on recruitment and retention. Any individual who serves in the military for 10 years has probably already decided to make a career of it, and is highly likely to stay in for at least the next 10 years, regardless of what lucrative benefits might be offered to the service member or the service member's children—simply because of the usual incentives of retirement benefits and other advantages of staying in for 20 years or longer.

Mr. President, I am disturbed by the notion that, at a time when we are routinely dealing with deficits in the neighborhood of $200 billion a year, we would consider enacting two new uncontrollable programs which have a potential for awesome expense, are virtually unrestricted in scope and are wholly lacking in any present justification whatsoever.

Since it would seem clear, Mr. President, that this amendment, standing alone on its merits, should be rejected at this time, I would earnestly express then that there are really only two reasons one would choose to support it: First, that GI bills are a very good thing, providing, for many of us—myself included—educational opportunities to which we otherwise would not have had access; and second, that this would seem to be an excellent opportunity to get on the record in a political year—as having done an act generally positive for veterans.

As to the first point, it cannot be emphasized strongly enough that this is not a GI bill like any previous GI bills. The goal in the past has always been to assist veterans to readjust to civilian life after service in a period of war. No GI bill has ever been enacted

solely in order to assist the Armed Forces in recruitment and retention. Furthermore, for the present peacetime period, we already have an attractive educational assistance program and have another complimentary one before us. No veteran who seriously wishes to pursue a college education could possibly be left out in the cold. And as I have already noted, DOD informs us that recruitment and retention in the All-Volunteer Force is working very very well, thank you.

As to the second point, I would respectfully offer a brief list of items already on the legislative agenda for this session of Congress which are of very substantial benefit to our Nation's veterans. We have a proposed VA budget for fiscal year 1985 that is substantially above the 1984 budget—$27.2 billion. We are in the first year of an operating program created last year to provide job training for veterans who have been hardest hit by unemployment during the recent recession. We have a veterans' health bill pending which would provide a number of significant improvements in benefits and services for veterans. We have introduced bills which would increase the rates of education benefit payments and would provide a 4.7-percent COLA for service-connected disabled veterans and their survivors and dependents, and we have a bill ready to go to conference with the House which addresses the complex problems surrounding the determination of which diseases should be service connected for veterans whose disabilities and death may be a result of their exposure to agent orange or radiation.

Clearly this is no session of Congress in which any Senator who feels a true and honest and nonpartial sense of commitment and national obligation to veterans could find himself or herself lacking in opportunities of a most unarguably worthy and positive nature, to disclose that he or she continued to honor that commitment and to repay that heartfelt debt.

Mr. President, I strongly urge my colleagues to join me in opposing the pending amendment.

Mr. CRANSTON. Mr. President, will my friend from Wyoming yield for a question?

Mr. SIMPSON. I shall.

Mr. CRANSTON. The Senator used a figure of $1.851 billion as the cost by fiscal year 2000. Am I correct in assuming that that is based upon an automatic cost-of-living increase?

Mr. SIMPSON. It is based upon a computation by CBO, based on indexing, which we do with other veterans' benefits.

Mr. CRANSTON. Is it not true that there has not been any automatic cost-of-living increase for GI bill beneficiaries? As a matter of fact, since 1977 there has been only one increase—a 10 percent—for the current GI bill benefits for Vietnam era veterans. And is it not also correct that this year, beginning in fiscal 1985, it looks like another 10 percent, no more? That is 20 percent over 7 years during which the CPI rose well over three times that amount, almost 68 percent. So I see no justification in figures that assume that we will have something happen that has never happened before.

Mr. SIMPSON. Mr. President, we have raised the GI bill in a continual way over the years until it amounts to an extraordinary figure. We just most recently recommended a 10-percent increase here on this floor about 3 weeks ago, with the assistance of the Senator from California, and the reason we did it at that figure is because we do not do it annually. But we do it. It may not be an annual thing. But at least with the GI bill we have a record of periodically raising the percentage of the GI bill.

Mr. CRANSTON. We have been falling steadily behind in the cost-of-living increase in terms of the actual cost of living, and there is no provision in this amendment for any cost-of-living increase.

Mr. GLENN. Will the Senator yield?

Mr. SIMPSON. Yes.

Mr. GLENN. I will submit to the Senator from California that it will do blessed little good for anyone if they have a GI bill that they do not index because college costs are going to continue to go up. What are they going to go to school on? You will have to index to really guarantee them money to go to college on. If you do not index, it is a worthless GI bill.

Mr. CRANSTON. We have never had it done automatically, but there have been many people who wanted to use it.

Mr. MATSUNAGA. Would the Senator from Wyoming yield?

Mr. SIMPSON. Yes.

Mr. MATSUNAGA. The Senator has made much of the fact that the proposal will not go into effect immediately but a few years hence. The Senator was, I believe, in the hearing when General Wickham testified before the Senate Veterans' Affairs Committee. He indicated this, and I remind the chairman of the Veterans' Affairs Committee: The Army has recently experienced a 22-percent decline in the number of young people coming into the Army recruiting stations to take the military entrance exam. General Wickham suggested that this 22-percent reduction "may be harbinger of an upturn in employment opportunities for young people." The fact of the matter is that many top military officials believe that we are seeing the first signs of recruiting difficulties that they ran into in the seventies, and that this will continue in months ahead and in the immediate years ahead.

If it takes as long to pass a bill as this amendment, the chairman of the committee will recall that this amendment was first offered in 1979. It has been 5 years now while we have been trying to get this GI bill passed. If it is going to take another 5 years, it will be too late, I remind the chairman of the Veterans' Affairs Committee.

In the final analysis, if the Senator will yield further——

Mr. SIMPSON. I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I do not want to interrupt the Senator from Hawaii. I will yield for him to complete.

Mr. MATSUNAGA. Mr. President, if I may have the floor now.

Mr. NUNN. I will not yield the floor. But I will yield for him to complete. How long will the Senator take?

Mr. MATSUNAGA. Probably 2 or 3 minutes.

Mr. NUNN. I will yield to the Senator from Hawaii for such time.

Mr. MATSUNAGA. In the final analysis, Mr. President, we need this GI bill in place now to head off what will inevitably be serious recruiting problems in the near future as improving economic conditions combine with the shrinking pool of eligible recruits to create a highly competitive recruiting market.

We must not be shortsighted where our military manpower is concerned. We did that during the 1970's. We found ourselves faced with a manpower readiness crisis that calls the then Chief of Staff of the Army, Gen. Edward C. Meyer, to call his force "a hollow Army." If the Congress fails to learn the lessons of just a few short years ago, and allows the services to once again experience recruiting shortfalls, I doubt that we will ever be able to stop the momentum toward the abandonment of the volunteer system, and a return to the peacetime draft that would be inevitable.

As one of the two so-called fathers of the All Volunteer Force, it would be a sad day for me if that happens. What we are proposing in our amendment is to give the military services what they say they need to continue to attract adequate numbers of high-quality recruits. That is a full GI bill program.

Mr. TOWER. Mr. President, would the Senator yield? Not one head of the military services has said he needs this specific bill.

Mr. NUNN. Mr. President, the Senator from Georgia has the floor.

Mr. TOWER. I am sorry.

Mr. NUNN. I yield to the Senator for a question.

Mr. TOWER. I wanted to make the point that none of the heads of mili-

tary services have said they need this bill.

Mr. NUNN. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. NUNN. Has the Senator from Hawaii completed his statement?

Mr. MATSUNAGA. If I may make one statement, the chief recruiting officer has said this GI bill is needed in testimony before the Veterans' Affairs Committee. So if the chairman of the Armed Services Committee, if I can have his attention, had only held hearings on this matter as we did in the Veterans' Affairs Committee, perhaps he could have had the wise counsel not only of the recruiting officers but all the chiefs of the various services.

I urge my colleagues to vote "aye" on the pending amendment.

Mr. ARMSTRONG. Mr. President, would the Senator yield for a question?

Mr. NUNN. I will yield.

Mr. ARMSTRONG. Is it the intention of the Senator to offer a tabling motion in a moment?

Mr. TOWER. It is the intention of the Senator from Texas, if I might intervene, to do so at the appropriate time.

Mr. NUNN. I yield.

Mr. ARMSTRONG. I am not trying to interrupt. I thought perhaps the Senator from Georgia was preparing to do that. I have a brief observation that I need to make sometime prior to that. I need not do so now.

Mr. NUNN. For the benefit of the Senator from Colorado, I intend to make a brief statement, and if the Senator needs to make an observation or ask questions——

Mr. ARMSTRONG. Not at all. I only wanted to be sure I am not foreclosed. Please go ahead. I want to hear the observation of the Senator from Georgia. I will be glad to put my remarks in, and I believe we are ready to vote. I believe we are really at that point.

Mr. GLENN. If the Senator will yield, I want to make a comment about the statement of the Senator from Hawaii.

He started off commenting about the Army's difficulty getting people interested these days. That is exactly what my amendment approaches. It exactly approaches that Army problem. It is not a basic problem of the Navy, Air Force, or Marines. It is an Army problem.

When we have the option of going from what is an approach of about a $1 billion a year program when it is fully in place as opposed to the program that is guaranteed not to go over $160 million per year, if we address specifically the major problem the Army has, and if we can get high-quality recruits in, then it seems to me that is the most cost-effective way to go. That is the reason I proposed this.

So we are addressing specifically the problem you addressed your remarks to.

Mr. MATSUNAGA. If the Senator will yield for 30 seconds, in response to that, if the Senator had been on the floor when I made my opening statement——

Mr. GLENN. I was here.

Mr. MATSUNAGA. Not for the very opening statement. This is what I said.

Mr. NUNN. I do not know whether I would yield to the Senator to repeat his opening statement.

Mr. MATSUNAGA. No; merely that the sponsors of this amendment did not in any way disagree with the objectives of the Senator from Ohio.

We do disagree on the manner in which the goals are to be attained. We believe that the Senator's amendment would not attain the goals because it has been shown, under the VEAP program, that a contributing program does not work, and a noncontributing program, such as ours, has worked in the past and will work again.

I thank the Senator from Georgia for yielding.

Mr. NUNN. Mr. President, I will just make a few brief comments because I know the debate has gone on for quite a while and I am sure that there may be other remarks. I know the Senator from Texas is prepared to vote on this, as is the Senator from Colorado. I understand all parties are prepared to vote.

Before I disagree with the amendment, let me say a few things on the points I agree with.

First, I agree with the emphasis on quality that has been made in this debate. Having led the charge for improving recent quality for about 5 years in the late seventies and early eighties, having pointed out the very severe quality deterioration in the services, and having proposed the amendment that put a floor on the number of high school graduates and a ceiling on the number of AFQT category IV recruits in the services that is now the law of the land, I could not agree more with the emphasis on quality.

I congratulate all parties for striving toward that goal.

We may disagree on the method of getting there, as we will in this debate, but that is a very important part of our military readiness today.

I am thankful, for whatever reasons, that we have improved the quality of our military recruits very dramatically in the last 4 or 5 years. This was partially because of increases in pay and benefits, partially because of the minimum standards set in law, but primarily, and regrettably, because of the very high youth unemployment rate, which we all hope is going to turn around now.

The second point I want to make is that I agree we are going to have difficulties ahead in recruiting. I think we are going through a very transitory period now that has been produced primarily because of economic matters and the high youth unemployment. I am afraid in the late 1980's we are going to go back through at least a portion of the problems we went through in the 1970's.

So I would agree on those points.

I disagree with the proponents of this amendment on other questions. The proponents of this amendment believe this GI bill will be a strong recruiting incentive that will attract large numbers of college-bound youth into the military. There is no doubt a new GI bill will help recruiting. Any time you have a major new benefit, it helps. The question is whether it helps commensurate with the cost and how much it helps. It does cost a great deal of money, as has been pointed out.

On the other hand, the amendment that the Senator from Ohio has offered is a much more carefully targeted program. It is designed to hold down costs and to appeal to a specific segment of the youth population. That segment would be the high school graduates, people who have the ambition to go to college, people who are willing to sacrifice at the front end of their career so they can get a larger benefit, people who are willing to go on a low-cost track in terms of pay and benefits so they can go forward with their education.

Incidentally, these people are more than likely going to be single people. If you look at the costs in the military, and, of course, it is up to every individual soldier whether they get married or not, and we do not want to dictate that, we do have a very large cost that is attendant to large families in the military.

If you look at the support costs and break out those support costs, you will see one of the reasons that personnel costs have gone up so much in the last 10 to 15 years is because we have a much higher percentage of married service members and a much higher percentage of families with children. That is not incidental when it comes to costs.

So I do not think any of the equations and debates about costs have taken into account the fact that the amendment of the Senator from Ohio is going to inevitably result in lower costs because it limits off-base housing and subsistence allowances. This will encourage people to live on base, and people who live on base in enlisted barracks are going to be the single people. You are going to have a huge cost savings in my view that is not being computed in any of these equations if the Glenn amendment becomes law.

After analysis in a year or two, after another look at the program, and it will last for a 4-year test program, we may well find, because of shifting the percentage of young people coming in from those who are more likely to be married or get married to those who are more likely to be single, that those savings are going to be very, very substantial. Those are the people we need to recruit, particularly in the combat arms.

Let me mention one other part of this debate that I think needs to be emphasized.

The Armstrong approach is a broad-based benefit. That across-the-board benefit way of proceeding is the least effective recruiting tool because it gives benefits to so many people who would come into the military services even if this program did not exist.

There are some who would not come in without this Armstrong amendment. I recognize that. I concede that point. But there are huge numbers, a very large percentage—I do not know whether it will be 75, 85, or 95 percent—who would come in without this, and we are paying everybody across the board. That is a different approach from what the Senator from Ohio is attempting. His approach is a targeted approach and more than likely a very high percentage of those who will come into the military service because of the amendment of the Senator from Ohio, if it becomes law, are more likely people who would not otherwise come in, and they will be paid in that respect.

Let me just say to reiterate the point that the CBO, the General Accounting Office, and others have estimated that it costs four to five times more to attract each additional high-quality recruit with an across-the-board educational benefit, like the Armstrong bill, than with a more targeted approach.

We are talking about a bill that in the past has primarily been looked at as a postservice program, not necessarily a transitional or readjustment program. The GI bill was a transitional program, a marvelous program, to help the transition from wartime to peacetime, and it did marvelous things for our society. We are now talking about using a program that did a great deal for our society and using it in a different way entirely as a recruiting device.

There is another problem with this approach. The Army is the service that needs help the most in recruiting and retention as times get difficult. Difficult times in recruiting and retention are good times in the economy. There is a relationship between high prosperity and low recruiting. When the economy deteriorates, recruiting gets better. The worse the economy is, the better the recruiting and retention are. So we have to keep that in mind.

The Army is the service that gets hurt the worst when we have a good economy and when the youth employment rate goes up.

The Armstrong bill could—and I emphasize could, because there will not be any certainty unless we pass it but it should be looked at with a very close analysis in this respect—end up hurting the Army, the very service that needs the help the most.

The greatest challenge facing the Defense Department is recruiting enough people for the Army, especially the Army combat arms. The year-long test of educational benefits authorized by the Congress and conducted 2 years ago by the Defense Department demonstrated that an across-the-board educational benefit like a new GI bill could reduce the number of high-quality recruits in the Army. The reason is obvious: Offering the same benefits to all services and to all recruits in the Army, Navy, Air Force, and Marine Corps takes away from the Army the competitive edge they now have because they now have the most lucrative educational benefit program of any of the services.

This program will inevitably draw more recruits into the Air Force, Navy, and Marine Corps; it will have a relatively detrimental effect on the Army, in my view. It will draw recruits away from the services and skills which involve the greatest risks and are not readily transferable to the civilian economy; in other words, the Army combat arms.

There is one other point I think we ought to make. There are two dimensions of military personnel readiness. One dimension in the early stages is recruiting; the other dimension is retention.

In my view, there is a considerable amount of evidence that would indicate that not the Army alone but all the services under the Armstrong GI bill would be hurt on retention. Think a minute. Why is that true? The reason is that a postservice educational benefit program provides people in the services with a negative incentive to reenlist. People will leave the service to use their educational benefits. A lucrative, universal, educational benefit is going to make it harder to retain larger numbers of skilled technicians, particularly in the Navy and the Air Force.

The Congressional Budget Office concluded in their recent study of educational benefits for military personnel that:

> Earned educational benefits also provide servicemembers an incentive to leave in order to use their benefits. Ultimately, such separations might offset, in part or in whole, the gains in recruiting. This should be a key concern in evaluating educational benefits.

Mr. President, I shall not go on and on. I know there are some who feel we should pass nothing, that we have not had enough hearings. I shall not quarrel with that argument on the Glenn or the Armstrong amendment. If we are going to pass any kind of program today, let us pass one we know something about in terms of effect.

We know something about the cost. We have a limited test program. We have a limited number of people who can participate. We know the people coming in that program if the Glenn amendment passes will be people who will be highly motivated and who want to pursue their education.

If they are not highly motivated, if they do not have a lot of educational ambition, they certainly are not going to come in on an approach to the military that will require them at the very beginning to give up $250 a month and would require them to give up quarters, and subsistence allowances, and live on base. We know something about what the Glenn amendment will attract. We do now know whether it will work totally; that is the reason we are making it a test program.

As to the Armstrong approach, while we know it will help recruiting, we do not know how much. We feel that in all likelihood, it is going to have a detrimental effect on retention. It certainly will have a negative effect on the Army, because the Army will no longer have a lucrative educational program. It will be just like everybody else. So I urge my colleagues to vote against the Armstrong-Cohen-Matsunaga-Cranston proposal.

I hope, in the final analysis, while the Budget Committee and the Finance Committee are out having conferences and trying to figure out a way to cut the Federal budget, and while we are all going back and making speeches about how entitlement programs are out of control, and we have to do something about them as soon as we can get the elections behind us, and while the interest rates continue to creep up because of the huge budget deficits, it seems to me everyone who votes today should ask himself the question: Is this the time to create a new major entitlement program before we do what we are supposed to do about getting budget reduction this year?

Mr. President, that is just what this is. This is a new entitlement program. I hope everyone will consider that and the effect on the economy.

I yield the floor.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, each year when the Senate struggles with the defense authorization bill and later the appropriations bill, the headlines are made by what we accept or reject in weapons systems—the MX,

the B-1B, strategic defense initiative, ASAT, and others.

Too little attention, if any, is paid to the one element of our defense without which all others fail. That is, the people who make these sophisticated systems work. The men and women who operate the tanks, fly the planes, fire the artillery, supply the ammunition, cook the food, wash the clothes, repair the equipment, lead the troops—the men and women who have chosen to enter the service of their country, and have expressed their willingness to defend the rest of us with their lives if necessary. These men and women are among the finest this country has to offer, Mr. President, and in recognition of the sacrifices they make throughout their service, we have a tradition of providing special consideration to their needs. That tradition rightfully includes the opportunity for educational benefits.

I am proud to join the Senator from Colorado and others as a cosponsor of this amendment which provides for a GI bill as an expression of commitment by this Nation to the maintenance of the quality and caliber of people required by today's Armed Forces.

This proposal attracts my support for several reasons. Among its most important features is its consistency with the total force concept we have adopted. It recognizes the extremely important role of the Reserves and the National Guard to our national security.

Under this program, eligibility for both the basic program and the career members contributory educational assistance encompasses these components of our force. It is just as vital, Mr. President, to retain personnel in these areas as well as the active force.

Retention is another important element that benefits from this program. We have had recurring difficulties with retention in all services and while the GI bill will not permanently resolve those difficulties, it will be a major step in the solution.

I might add that cost—we have just heard them discussed by the able Senator from Georgia—is never far from anybody's mind in the Senate. I have been consistent in my call for equal sacrifice by all to address the horrendous budgetary imbalances we face year after year. In this case, the cost of this program is, on balance, well within the limits of prudence and priorities. If we must forgo a weapons system to fund this program within budgetary limits, Mr. President, we will have made the wiser choice. This program is cost effective.

Finally, Mr. President, I find the GI bill a positive step to the readiness in our Armed Forces that must be attained if we are to have an effective defense. Through retention and the quality of people such a program will attract the standards of readiness we know we must meet will be within our reach.

There is a declining pool of men and women from which we can draw to maintain our strength requirements. We must make service in the Armed Forces attractive and desirable. This proposal of a GI bill is a major pillar in the foundation of that effort.

Mr. ARMSTRONG. Mr. President, we have had a good half day's debate on this issue. I think the thought of the Senate has been enriched by what has been said here, and I do not limit my observation about the speeches and arguments to those who happen to agree with my point of view. I believe the points made by the Senators from Wyoming, Georgia, Texas, Ohio, and others who do not see eye to eye with me on this issue have made a valuable contribution. I have learned something sitting here the last 5 or 6 hours and hearing what has been said. I believe the entire Senate has benefited from this additional discussion.

I think we are about ready to finish this issue now. I would count it a privilege if, as the chief sponsor of the amendment, I would have the opportunity to close the debate.

Mr. MATSUNAGA. Will the Senator yield?

Mr. ARMSTRONG. I am happy to yield.

Mr. MATSUNAGA. I think there was a point here which has not come into the debate, which was raised by the Senator from Georgia, relative to the problem of retention. As the Senator from Colorado will recall, that was taken up in the hearing in the Veterans' Affairs Committee. During the hearing, when General Thurman, the Vice Chief of Staff, was the witness, I asked a question. Here is the exchange taken from that hearing record:

Senator MATSUNAGA. There has been criticism of our GI bill proposal that it will have a negative impact on retention because of the built-in incentive to get out of the service and use the benefits. First, does the Army see this drawback of a GI bill as insurmountable? If not, what features should a GI bill have to blunt the negative impact on retention?

General THURMAN. Provision of education benefits need not affect retention adversely. First, the Army does not need or want to retain all soldiers who enlist. The understanding and maturity that a former soldier takes with him when he returns to college or to the civilian community strengthens the nation. Many enter college ROTC programs and return to the Army as superb junior officers. Others grow to serve in leadership positions throughout American society, embued with the values and ethics of service.

Second, provisions can be made to aid retention of soldiers who want to stay in the military and who we want to be the leaders of today and tomorrow. Foremost among the possibilities is transferability. If a soldier sees that the education of his children is provided for, he and his spouse are more likely to stay, accepting often arduous assignments but gratified by the service they perform.

That was General Thurman speaking. I remind my colleagues that the GI bill, as proposed in the pending amendment, does provide for transferability.

I thank the Senator from Colorado for yielding.

Mr. ARMSTRONG. Mr. President, I again thank my colleague for his observations. I believe we are about to the point of closing the debate, but before we do so I want to quickly respond to some issues that have been raised. I do not intend to recap the arguments I made earlier. I think they speak for themselves, and in fact I think most Members of the Senate are well acquainted with the arguments. But there are two or three issues that have been raised which I think need to be addressed.

Someone pointed out that this amendment rides on a tide of American history. Indeed, that is true, because what we are seeking to resurrect is one of the most successful programs in the history of our country.

Now, someone says that this program is not needed or that if it is needed, it is only in the future.

Well, Mr. President, I want to point out to you it is needed right now, today. The enactment of this program responds to a problem which is very real in statistics as recent as last month's Active Army recruitment figures. The mission accomplishment was only 88.3 percent in May of this year, representing the fifth month that the contract mission has been missed.

If this trend continues, the Army will begin to experience a second mission shortfall by the first quarter of fiscal 1985; that is to say, by the last quarter of this year—in other words, 4 or 5 months from now. Even during the years when unemployment was high and the economy was soft and it was, relatively speaking, easier to recruit for the armed services, the educational level of recruits suffered. For example, in fiscal year 1982, which was our best recruiting year, the proportion of high aptitude recruits coming into the Army was lower than in 1976, the last year during which the GI bill was in effect.

Well, somebody says this is not the most effective way and, besides, it really will not help the Army; it will be mostly helpful to the Navy and the Air Force.

Maybe so, but the Army does not think that. If there is one thing that emerges from all the hearings that have been held, it is that the Army recruiters want a GI bill. Now, all the services are for it to some degree or another, under some level or another, under some circumstances or another, but the people who really hunger for this, who say it is critical, are the

Army recruiters and the Army service chiefs and the military sociologists who are looking at the problem of the armed services.

Survey after survey has made it plain that education incentives are the only effective means of recruiting voluntarily the high aptitude young people the Armed Forces, especially the Army, need most.

Someone has asserted, "Well, this is something we have never done before; it has never happened in peacetime." But I want to note we had it in peacetime. We had it up until December 1976. It was working well. The predictions for what would happen when we eliminated this successful program were dire and catastrophic, and even they proved to underestimate the severe effects of terminating this program.

Then there is the notion that was brought up by our colleague from Illinois that we really ought to have some more hearings and get together a carefully crafted bill.

Friends, this matter has been the subject of many hearings, hearings in the committee that has jurisdiction over it, informal hearings in other settings, hearings last year, hearings the year before, hearings in the House, hearings in the Senate. It has been the topic of conversation as well as formal hearings for at least 5 years. As a result of these informal meetings, these conversations, the give and take, the negotiations, and the formal hearings, in fact, a compromise bill has been hammered out. That is what this is. This is not the bill that Senator MATSUNAGA and Senator COHEN and I introduced 5 years ago when we first raised it. This is a bill that has been refined and has been through the test of scrutiny that comes from extensive hearings both in this body and in the House of Representatives.

Well, even so, would it be a good idea to send it back to, say, the Veterans' Affairs Committee, the committee that has jurisdiction over this, or the Armed Services Committee? I would like each Member to reflect on that for themselves, but evidently the members of the Veterans' Affairs Committee, the committee of jurisdiction, think that they have this matter pretty well under advisement because there are 12 members on that committee and 8 of them are cosponsors of this amendment. I believe, my friends, the case is proved. The time is now. The merits of this matter are very clear.

I appreciate the acknowledgment of the Senator from Texas that this is not politically motivated, and he is correct; I raised this issue long before I was even thinking about running for reelection. I raised it in 1979, in 1980, and in 1981. I appreciate his gracious acknowledgment that my motive is for the good of the service and the country. I want all Members to recall that he also said it might be politically popular. If it has that side effect, I do not reject that as a conclusion from someone who is wise in the ways of election campaign politics. This is an amendment that really is good for everybody. I hope that my colleagues will support it. I believe it will be received in a friendly way by the other body. I think a cheer will go up among servicemen and women around the world. It is truly, as I observed earlier, like Victor Hugo said, "an idea whose time has come."

Mr. KENNEDY. Mr. President, I am pleased to join my colleagues in the Senate as cosponsor of this important amendment which will help to ensure that our Armed Forces are staffed with qualified men and women. I commend Senators ARMSTRONG, COHEN, CRANSTON, HOLLINGS, and MATSUNAGA for their hard work in developing this GI bill. I am aware of their continued interest in this area and the amendment we have before us represents a well thought out compromise.

In the past, the main goal of our GI bills has been to assist the Nation's veterans in readjusting to civilian life after war duty. Those programs were very effective and were responsible for educating and broadening the horizons of many Americans who would not have had such opportunities with out these benefits. I do not doubt that some of my colleagues in the Senate and many of the Members of the House of Representatives reaped the benefits of the GI bill and would not presently be serving the people of our great Nation in their present capacities were it not for those educational programs.

More recently, this focus has shifted from readjustment to recruitment and retainment of personnel in our All Volunteer Forces. We are all aware of the recruitment difficulties that existed in our armed services in the late 1970's. At one point during that time, all four branches of the Armed Forces failed to reach their recruitment goals and the quality of our military personnel was not as high as the figures were showing. Even the President expressed his strong concerns regarding the critical recruitment situation at that time. During his address before the 1980 annual American Legion convention in my home State of Massachusetts, then-candidate Ronald Reagan stated:

> We must provide the resources to attract and retain superior people in each of the services. We should take steps immediately to restore the GI bill, one of the most effective, equitable and socially important programs ever devised.

We can all agree that over the past few years, there has been a major improvement in the number of recruits and in the quality of these volunteers. Hard economic times and a tight job market have made enlistment a viable option for many men and women. But we must not become complacent about this situation. We must not allow our military to slip back into the critical posture that existed only a few years ago. An expected decline in military-age youth in the near future and the possibility of a stronger economy could bring about these past difficulties.

In order to avoid this crisis and continue to recruit quality personnel for our Armed Forces and for the protection of all Americans, we must act now to establish a GI bill. We must provide the necessary incentives to attract men and women to careers and opportunities in the military. The GI bill has proven to be one of the most effective and cost-saving recruitment devices the military has ever had and we should reinstitute it.

I urge the Senate to adopt this amendment and once again reaffirm our commitment to the people who are instrumental in keeping our Nation secure.

NEW GI BILL NEEDED

Mr. PRESSLER. Mr. President, I rise today to support the amendment offered by my distinguished colleague from Colorado, Senator ARMSTRONG. I am a cosponsor of this amendment and cosponsored this legislation in its bill form, as S. 1747. The new GI bill, as proposed by the Armstrong amendment, would best meet the needs of our Armed Forces personnel, as well as the various military services.

It is a fact that the percentage of young people reaching the age of 18 is steadily declining. Estimates project a decline of 20 percent between fiscal year 1982 and fiscal year 1987. If we do not move now to address this issue, we will pay the price later. Poor economic conditions have contributed greatly to the successful recruiting and retention rates of recent years. With the unemployment rate now on the decline and an improved economy, military recruiting and retention will become increasingly difficult.

Many of our colleagues have received excellent education through previous GI bills. They and countless other American veterans have benefited from those educational programs. Successful careers and a multitude of opportunities have resulted from the GI bill. The increased earning power of former servicemen and their contributions to our economy are usually overlooked by those who question the necessity of the proposed new GI bill.

Mr. President, another point that should be addressed is the importance of education programs in the service-to-civilian life transition. Education plays a vital role in helping the veteran to build civilian opportunities and make the change from the rigors of military life. It is clear to me that the new GI bill, as proposed by Senator

ARMSTRONG, is a much more effective educational package than the often unused VEAP Program or that proposed by Senator GLENN.

One other item is the extension of the 1989 cutoff date for the Vietnam-era GI bill. Originally, this extension was a part of S. 1747. However, it was not necessary to include it in this amendment before us because it was included in the fiscal year 1985 DOD authorization bill. This extension is essential for many Vietnam veterans who wish to complete their military careers before utilizing the benefits to which they are rightly entitled. I commend Senator TOWER and the Armed Forces Committee for adopting this much-needed provision in the committee-reported legislation.

● Mr. LAUTENBERG. Mr. President, I rise in support of the amendment offered by my distinguished colleagues, Senators ARMSTRONG, COHEN, HOLLINGS, MATSUNAGA, and CRANSTON, to establish a peacetime GI bill. They have worked hard over the past year to fashion this new program. I have cosponsored this amendment because I believe a GI bill can be vital in attracting top quality candidates to our Armed Forces and providing educational opportunities for young people who would otherwise be unable to attend college.

The sponsors of this amendment have spoken about the favorable impact a peacetime GI bill could have on our military recruitment efforts. Projections suggest that there will be a dramatic decline in the pool of young people in the 18 to 21 age bracket in the years ahead. With this decline, it will be increasingly difficult to attract motivated, intelligent high school graduates to join the Armed Forces. The armed services will find itself vying with colleges and universities and private sector opportunities for new entrants.

Our experience in the past indicates a close relationship between the GI bill and recruitment/retention levels. Following the cancellation of the GI bill in 1976, recruitment levels dropped and have only increased recently as the economic recession has driven young people to seek jobs in the military because other employment prospects were curtailed. Efforts to provide educational incentives through the Veterans Education Assistance Program [VEAP] have proved ineffective. The attrition rate is very high and the amount of refunds paid far exceeds the amount of educational benefits paid. This is a sorry situation and one that needs to be rectified.

The GI bill proposed by Senators ARMSTRONG, COHEN, and others provides incentives to bring high quality recruits into the military. Moreover, it provides similar incentives for those who would serve part of their time on active duty and the rest in the Reserves or the National Guard. The Reserve and National Guard constitute an important component of our military forces. This type of national service should qualify reservists and guardsmen for eligibility for benefits under this program.

The Armstrong-Cohen-Cranston amendment would also recognize the contribution of career military men and women, those who have served over 10 years, and provide them with the opportunity to contribute to an educational assistance fund and have their contributions matched on a 2-for-1 basis. This fund could be used by the contributor for his/her family. This will provide an educational fund for career military personnel, who provide the continuity and mainstay of our military Forces.

In addition to giving military recruiters the tools they need to attract high quality personnel, this revised GI bill would give many the means for pursuing higher education following or during their military service. At a time when funding for many other educational programs has been curtailed, this is a major step in making educational opportunities available for those with the motivation to pursue a degree and to use that education to make a contribution to our society.

As a past beneficiary of the GI bill, I can speak from personal experience about how critical this program was to me in starting on my career. I strongly support efforts to afford others the same opportunity. I urge the Senate to support this peacetime GI bill.●

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, the impact of this proposal on retention is enormously uncertain. In my view, it could very well be adverse. It is far too costly. And even though it might achieve in a limited way its purpose, $200,000 per additional quality recruit is much too high. It is a new entitlement program, and once you get them on the books they are awfully hard to take off.

We have had some 4½ hours of debate. Therefore, Mr. President, I conclude that it is time for me to move, and I do move, to table the amendment of the Senator from Colorado.

Mr. ARMSTRONG. I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Delaware [Mr. ROTH] are necessarily absent.

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

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

The result was announced—yeas 46, nays 51, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—46

Abdnor	Grassley	Percy
Baker	Hatfield	Proxmire
Bentsen	Hecht	Quayle
Bingaman	Humphrey	Rudman
Bumpers	Jepsen	Simpson
Chafee	Laxalt	Stafford
Chiles	Long	Stennis
Danforth	Lugar	Stevens
Denton	Mathias	Symms
Dixon	Mattingly	Thurmond
Domenici	McClure	Tower
Eagleton	Metzenbaum	Wallop
East	Murkowski	Warner
Exon	Nickles	Wilson
Glenn	Nunn	
Goldwater	Packwood	

NAYS—51

Armstrong	Ford	Levin
Baucus	Garn	Matsunaga
Biden	Gorton	Melcher
Boren	Hart	Mitchell
Boschwitz	Hatch	Moynihan
Bradley	Hawkins	Pell
Burdick	Heflin	Pressler
Byrd	Heinz	Pryor
Cochran	Helms	Randolph
Cohen	Hollings	Riegle
Cranston	Huddleston	Sarbanes
D'Amato	Inouye	Sasser
DeConcini	Johnston	Specter
Dodd	Kassebaum	Trible
Dole	Kennedy	Tsongas
Durenberger	Lautenberg	Weicker
Evans	Leahy	Zorinsky

NOT VOTING—3

Andrews	Kasten	Roth

So the motion to lay on the table Mr. ARMSTRONG's amendment (No. 3189) was rejected.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote.

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

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I want to tell the Senate what we have done. We have agreed to a brand new entitlement program on the floor of the Senate and the cost is going to grow annually. I am hopeful, since this is not needed as a recruiting tool and perhaps may have an adverse effect on retention, that we can perhaps consider an amendment that would take this out of the function 050 and put it in the veterans' function so that the Department of Defense, which has opposed this measure, will not have to bear the expense of it.

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

Mr. ARMSTRONG. If the Senator would withhold, I move to reconsider the previous vote.

Mr. CRANSTON. I move to lay that on the table.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BAKER. Mr. President, after consulting with the distinguished chairman of the committee, and other Senators, it appears to me appropriate at this point to suggest that a point of order does lie against this amendment.

At this time, Mr. President, I make the point of order that the amendment violates section 303 of the Budget Act by creating a new entitlement program for a year for which a first budget resolution has not been adopted.

Mr. ARMSTRONG. Mr. President, I move to waive the relevant portions of the Budget Act, and I understand that is a debatable motion. I do not intend to debate it at great length but I think the Senate should understand why we are in this situation.

Mr. BAKER. Would the Senator yield?

Mr. ARMSTRONG. Of course.

Mr. BAKER. I wonder what section of the Budget Act the Senator is consulting.

Mr. ARMSTRONG. I will consult the Parliamentarian. I think it is 304(b), am I correct? That is the section under which I have to make my request?

The PRESIDING OFFICER. The authority for the waiver is under section 904(b) of the Budget Act.

Mr. BAKER. 904(b) is a waiver of all of the requirements of the Budget Act. Is that correct?

The PRESIDING OFFICER. 904(b) contains the authorization for waiver of any provisions of title III or IV of the Budget Act.

Mr. BAKER. Mr. President, I thank the Chair.

If the Senator would yield further, I do not mean to create an unduly difficult situation. But for the sake of clarity, it is my understanding that there should be a designation of what section of the Budget Act is being waived under this provision. Could I inquire of the Chair, is that correct?

Mr. CRANSTON. Section 303(a).

The PRESIDING OFFICER. There is precedent for a motion to waive being stated generally. Past practice has used that procedure.

Mr. BAKER. I yield.

Mr. ARMSTRONG. Mr. President, I thank the Chair.

I ask if the leader would stay on the floor, please, for just a moment because the implication when someone brings a measure to the floor and seeks a waiver, particularly after the majority leader has raised the point of order, deserves, I think, a bit of explanation. The reason why a waiver is necessary, and why the majority leader's point of order lies, is not because of something that is wrong with the amendment, or because there is something wrong with the procedure for bringing the amendment to the floor, but because we have not yet passed a budget resolution in due course. In other words, if we had completed work on the budget resolution in the normal timetable, this amendment would in fact be in order, and would not be violative of the Budget Act. I think that is terribly important because the proponents of this measure found themselves in a catch-22 situation. If we decided not to come forward in order to not run afoul of the Budget Act, then we would miss the opportunity to take it up on this bill which is the most logical place to put it. I would appeal to the majority leader to withhold his point of order for a couple of reasons and then I, of course, would withdraw my waiver request.

The first reason is because other sections of the bill are also subject to a point of order, and it scarcely seems to me that we ought to say that points of order lie against one section of the bill and not against another, particularly when it is only a technical violation, only a violation arising for failure to pass the budget resolution; second, because we have been down this path before.

On one previous occasion at least this amendment was very narrowly defeated on a procedural question. It might be again today, even though the vote we have just had would tend to indicate that Senators wish to adopt the GI bill. But, Mr. President, at some point during this year, this amendment will be in order. Sometime during this session of the Congress, we will have passed a budget resolution, and we will have gotten ourselves into a calendar situation in which this point of order will not lie, and we could bring it up again.

It seems to me to march up and down that mountain more times than is necessary is really taking undue time.

So I appeal to the majority leader to withhold his point of order so that I would not be constrained to press my request for a waiver, have another vote, and go through all of that.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. I respect the Senator from Colorado's point of view, and indeed I understand fully what he speaks of. It is absolutely true that from time to time we either ask the Budget Committee to report a waiver under a different section of the act, or in the absence of such resolution from the Budget Committee we proceed under section 904 in effect to waive the Budget Act itself. That really is what we are dealing with. As the Chair has stated, it need not specify what provision of the act is being waived. It is a general waiver. But the point that I made was not that there is not a budget resolution for this year.

It was for a year in which the first budget resolution has not been adopted.

I would call attention to the fact, as I understand it, and I would ask the Senator to correct me if I am wrong, that the first benefits from this bill will not be paid as an entitlement until 1988. Regardless of whether we had passed the budget resolution this year or not, the point of order would still lie, because it is clear we do not have a budget resolution for any of the outyears. We do not have one yet for this year. But this year is not the controlling feature. The controlling feature is that the point of order lies because it deals with an outyear, a year in which no budget resolution has been adopted and we cannot contemplate what our economic situation will be in this year, let alone 1988.

Mr. ARMSTRONG. But when would a program of this type ever be in order?

Mr. CHILES. If I may answer that, it would be after the Budget Committee would decide to embark on this program. The purpose of the act is to try to keep us from passing entitlement programs binding outyear appropriations without being considered by the Budget Act and by this body and without a deliberate decision of the body that we are ready to create new entitlement programs.

Mr. ARMSTRONG. Mr. President, who has the floor?

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. I will take but a moment and then I will yield so the Senator from Colorado can seek recognition in his own right.

Mr. President, I do not know a single person more concerned about the state of the budget, the deficit, and the question of entitlement than the Senator from Colorado. What I am about to say is not to be critical of him. But if we are going to hatch new entitlement programs that begin 2 or 3 years in the future, and do so with a general waiver of the Budget Act, then we might as well throw away the Budget Act. We might as well stop thinking that we have any sort of restraint on the question of structuring a budget that has some sort of coherence and relevance to our economic situation today or in the future.

So, Mr. President, I did not wish to make this point of order, and indeed I

had hoped that the motion to table would prevail. I think I would be derelict if I did not point out that all of us who have been screaming about trying to get entitlements under control, if we do not sustain this point of order, will be hatching one of the biggest entitlements we have seen in a long, long time.

I yield the floor.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Two or three things need to be pointed out. If the issue is when it starts, when the expenditure of money begins, it appears to me that there never comes a time when you are in the current budget year for a program that requires 2 or 3 years of military service to qualify one to receive the benefit.

Furthermore, let me point out that exactly the sort of concern the majority leader expresses is already contained in the bill because there is an extension of the GI bill date in this bill, which would be subject to the exact same point of order raised against this.

Mr. President, I would appeal to my colleagues not to be confused with the parliamentary issue, whether we are creating a new entitlement program. It is true we are. We are phasing out an old entitlement program, but we are substituting a program by this Senate for a program that has not been successful, in the judgment of this Senator and a number of others, according to what the recruiters say, the military chiefs say, the military sociologists says. We are substituting the GI bill which did work for an entitlement program which is not working very well. Maybe that is not a good policy decision, but it is not a parliamentary issue.

I will appeal, without getting into the fine points of parliamentary procedure, and particularly to the leaders, to let us have a vote on the merits of the question and not bog down in procedural points because at some stage, and I assert this with the utmost confidence, indeed with serenity, at some moment during this year this will be in order. It may not be in order on a military bill. It may be in order on a bill that is completely unrelated to the national defense.

It appears to me far more orderly to put it on a bill which has in broad terms the general jurisdiction and concerns of the amendment, than hook it onto something that is unrelated. But we might have to do that if the only legislation on the calendar which was moving at a time when we have the right combination of budget resolutions in place would permit us to offer it.

I do not think we ought to let this hang up over a parliamentary situation, really a catch-22.

Mr. CRANSTON. Will the Senator yield?

Mr. ARMSTRONG. I have no desire to monopolize the floor. The motion is debatable. I yield the floor to whoever wants the floor.

Mr. BAKER. Could I present one remark, and then I will yield to the Senator from California.

I promised not to make this a long-winded debate, and I will not, but one point made by the Senator from Colorado deserves an address, and that is the question how do you deal with it if you deal with it 3 years hence? You deal with it in a simple way. It is not just a procedural way. It has to do with how we do business. The way you do it is to go to the authorizing committee, try to get this program authorized, get it included in a budget resolution, and then you adopt it by May 15. That is the way you do it.

Mr. President, if the authorizing committee reports a bill that conforms, then you do that and the outyear objection would not apply. But it does in this case, Mr. President, and I think it is far more than just a procedural move. I think it is a matter of great substance and great importance.

Mr. ARMSTRONG. Will the Senator yield to me?

Mr. BAKER. Yes.

Mr. ARMSTRONG. I have been a member of the Budget Committee for 5 years, and the Budget Committee does not consider the individual components except in arriving at their totals. When the Senate votes on a budget resolution, it is not whether or not we need a new Food Stamp Program or a new GI bill or a new airplane. It votes only on budget totals. In fact, frequently, I say to the leader, when we set our mark in committee, Senators will say, "I arrived at my mark in this way," and another Senator will say, "I am going to vote for the mark, but I do so on the basis of entirely different assumptions." It is perfectly possible for the Budget Committee to send forth a resolution in which one Senator says, "I am putting in extra money for a new bomber," and another one says, "I am putting it in for the new GI bill." But that is really not the issue.

Mr. BAKER. Mr. President, I do not wish to pursue it further. The only additional point I will make, and I will stop after this, is what we are doing is creating an entitlement and, therefore, contracting to spend money in the future. Had this proposal been to enact a GI bill but subject to appropriation, you would have an entirely different situation. But that is not what it is. The appropriating committee never gets a crack at it. We are committing funds without going through the authorizing process, without going through the appropriating process, and it does require a waiver of the act to do that. I oppose it.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. In answer to one of the points made by the majority leader, we are talking about people earning a right by putting in at least 2 years of service, perhaps 3, and perhaps committing to 6. Unless they know they are going to get what we hold out to them as a reward for that service before they commit that service, they are not going to enlist. They must have that assurance before they begin to serve or the program would make no sense. The interpretation of the Senator from Florida I also question, because the budget process does not have any binding effect, it simply sets targets, for outyears. I do not believe it can take an action under the present law that would absolutely commit money being available in the outyears. This is purely a technical point of order.

The budget resolution, when it has been approved, would not be affected by one penny of what we are talking about, because there is no money to be spent in 1985 and no money to be spent in 1986 under the amendment we have approved by a slim margin in the Senate just now.

I would also like to add that if this point of order holds against the amendment that the Senator from Colorado offered, it would also hold against the amendment offered by the Senator from Ohio. The same logic would knock it down. I do not think we want to knock down a program that is designed to help us meet our military manpower needs.

Mr. DOMENICI. Mr. President, I think this is a very important issue. I do not believe it is a casual point of order. I did not think the Budget Act was cavalier at all about it.

It is not easy to create a new entitlement in the outyears since the Budget Act was enacted. That is the issue, and I think, it is a good proposition for us.

I can remember, Mr. President, for those who wonder how entitlements got to where they are, an entitlement program that was described on the floor of the Senate as costing only $700 million per year. I just refreshed my memory by reading the RECORD.

Let me tell you about that program: That program this year, which was voted into existence on the floor, because it did not go through any committees, is costing the American Government this year $21 billion and is costing the various States of the United States, $23 billion a year. That is how things happen around here.

Frankly, I think if we are going to decide that a Budget Act which says

you cannot create new entitlements in the outyears in this manner, if we are going to say it does not really mean anything, then we may just as well decide that committees mean nothing, that estimates mean nothing, that we are just going to come to the Senate floor and create new entitlements when we please; appropriations mean nothing; and having some way to control these things means nothing.

Aside from the proposition that the Senator from Texas has raised, I have serious doubts whether we should charge a program like this to the 050 function, which is the defense of our country. Maybe we ought to have a debate on that some day as well. I do not know whether an entitlement program which might cost $1.8 billion belongs in the national defense function.

The question of whether it is counterproductive or not, whether it is needed or not, has been debated. Perhaps those who have voted for it have decided that is a very significant thing for an All-Volunteer Army. I for one am not sure of that at all. That is not the issue here. The issue is the Budget Act and the precedents of this institution.

For those who forget, we did the very same thing last year. The very same thing was tried here. I am not sure whether it was on this bill. The Senator from Georgia may remember whether it was or not. Maybe it was on another bill. But if it comes on another bill, with the same posture of this institution, the same point of order will apply again. For those who say try it next week when we have another bill, I will tell you that it will be subject to another point of order. I hope we sustain it here today.

Mr. NUNN. Will the Senator from New Mexico yield?

Mr. DOMENICI. I am happy to yield.

Mr. NUNN. Mr. President, had this matter been presented to the Budget Committee, what would be the proper procedure if one wanted to create a new entitlement program like this in terms of the Budget Committee?

Mr. DOMENICI. Let me say the Senator from Colorado is correct with reference to the Budget Act and the functions. Obviously, somebody would come before our committee and say there is not enough money in the 050 function, because we ought to be considering this new program in the third year. Frankly, that is not why it is subject to a point of order.

Mr. CHILES. Will the Senator yield?

Mr. DOMENICI. Yes; I yield.

Mr. CHILES. I think exactly the reason it is subject to a point of order is the creation of the Budget Act. The Senator from Georgia will remember that one of the great concerns was we were trying to put back into the Appropriations Committee every function that we could. We were trying to get away from trust funds, we were trying to get away from entitlements in any way we could. We were trying to get away from where we just sort of passed a tax and this or that fund and it did not become appropriated anymore.

If we think carefully, since we have passed the Budget Act, again we have been very careful about creating new entitlement programs. That 303 was put in there specifically the way it was to be a barrier to creating entitlement programs that did not go through the appropriations process, so we could look at those programs and see what they are, because of the trouble we were in because of past appropriations. We could say this bill only costs so much this year, it is just a little old program we are starting. We did that with program after program until we found the Appropriations Committee is handling less than 25 percent of the budget. Over 75 percent is going with entitlements.

How many of us have said the woe we are in now is because we passed these entitlements? Now we have the Budget Act and at least we have not created any new ones. At least we are trying to watch that. If this program—here is a way this program can start: Put it through an appropriations process. Then it will not come under the Budget Act. It has to be done timely as all appropriations have to be. But it will not fall in this particular act. It will not fall under this.

But whether it be this program or any other entitlement program, I am certainly going to stand here, I hope the chairman of the committee is going to stand here and try to say to the Senate, this is why we passed the Budget Act. This is what we said the act was about. We were trying to move back into the Appropriations Committees every kind of funding that we could possibly do and we were saying we are not going to go down that path that we went down that got us into the kind of trouble and bind that we have been in by virtue of the fact that we allow these things to start off in just little dollars, they are not going to cost much, they are for a good purpose and we ought to have it.

The exact reason for the act is it was created to be a barrier, that section, so that we would not have these programs started here.

Mr. NUNN. Mr. President, may I ask a question of the Senator from New Mexico and the Senator from Florida?

Mr. DOMENICI. Yes, Mr. President.

Mr. NUNN. In analysis costing this program out, I heard the Senator from New Mexico mention $1.8 billion and I have heard other figures on the floor. What size military force did he assume? Did he assume the present size military force?

Mr. DOMENICI. Mr. President, let me say to my friend from Georgia, I have the CBO preliminary cost estimate. It does not provide that particular number. Staff thinks that they used the present estimates of force structure that exist currently. We can find out exactly.

Mr. NUNN. The point I am getting at is that we have a very small military force now. If we did have any kind of emergency buildup, the cost figures here would go up appreciably, would they not?

Mr. DOMENICI. No question about it, Mr. President.

Mr. NUNN. May I ask the Senator another question? Maybe staff can answer the question on indexing. We have had discussion here about the costs and whether indexing was assumed here, whether we wanted to increase those benefits each year based on indexing. I know the proponents of the amendment said clearly that is not in the amendment. Is that correct, I ask the Senator from Maine?

Do the cost figures assume indexing or not?

Mr. DOMENICI. Mr. President, the $1.8 billion does. CBO prepared estimates of the bill with and without indexing. If the Senator would like, we shall put both tables in the RECORD.

I ask unanimous consent that they be printed in the RECORD. Preliminary CBO estimates of the cost of this amendment, one indexed, one not indexed.

Mr. NUNN. I thank the Senator.

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

S. 1747: INDEXED JUNE 12, 1984

	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Veterans training	0	0	0	20	117	212	307	413	518	623	737	867	1,008	1,149	1,253
Transferability	0	0	200	247	290	333	373	427	470	510	547	580	610	640	660
Reserves training	0	0	2	19	34	45	58	66	81	92	103	114	129	137	139
In-service training	0	0	67	69	77	85	86	88	91	95	96	97	99	99	99
VEAP offsets	0	0	0	−7	−28	−45	−72	−112	−141	−170	−200	−230	−257	−285	−300
Budget authority	0	0	269	348	490	630	752	882	1,019	1,150	1,283	1,428	1,589	1,740	1,851
Outlays	0	0	269	348	490	630	752	882	1,019	1,150	1,283	1,428	1,589	1,740	1,851

S. 1747: NONINDEXED, JUNE 12, 1984

	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Veterans training	0	0	0	16	88	147	198	245	284	317	347	377	407	432	435
Transferability	0	0	145	175	200	220	237	257	270	287	300	310	320	330	337
Reserves	0	0	2	17	32	39	51	56	58	62	64	65	66	66	65
Inservice	0	0	67	69	77	85	86	88	91	95	96	97	99	99	99
VEAP offsets	0	0	0	−6	−25	−40	−65	−80	−93	−104	−111	−118	−124	−129	−130
Budget Authority	0	0	214	271	372	451	507	566	610	657	696	731	768	798	806
Outlays	0	0	214	271	372	451	507	566	610	657	696	731	768	798	806

Mr. DOMENICI. Mr. President, I want to make one last remark.

Out in the country, people ask us why we cannot get the budget under control. There is a word we keep giving them. We say because 65 percent of the budget is uncontrollable—uncontrollable in quotation marks. They end up looking back at us and saying, "What do you mean, uncontrollable? Do you not run the country?" We end up trying to explain to them that every year, the appropriators pass a bill.

They say, "That is what is spent for our country. Why not take that appropriations bill and cut it?"

I am looking at the distinguished former chairman of the Committee on Armed Services, now ranking member on the Appropriations Committee. People think those appropriations bills can just be cut and we would control the budget. When we say it is uncontrollable, he knows what we are talking about. We are talking about these kinds of programs. Once you pass them, there is a definition of the recipient.

As a matter of fact, that is how we got the word "entitlement," because the courts interpreted the recipients to be entitled to them. That is what this does. I submit we ought not to be creating it in violation of the act and I also think we ought to think very seriously about the process that says, "Be careful, put the red flag up." You can do it. You can vote to overturn the point of order. That is all that is necessary to vote in such an entitlement. Then you can proceed to vote it in. I hope you do not.

Mr. STENNIS. Mr. President, will the Senator yield just for one question?

Mr. DOMENICI. I am pleased to yield.

Mr. STENNIS. Mr. President, the Senator is eminently correct in the points he has made, as is the Senator from Florida entitled to the same degree of credit. I am for something along the lines of what this bill contains. I have supported pay increases as needed over the years, but I have restrained my self today. I have not said anything. I voted the other way because I have said, as have many others, that we absolutely must take care of the budget deficit and these entitlements. This has been quite a red-letter day in the history of our Budget Act and the way it has been carried out has been of the highest order of statesmanship. I thank both Senators.

Mr. DOMENICI. I thank the distinguished Senator.

Mr. President, I want to refer to one last item because I do think the Senate ought to know that we are not just talking about a prohibition. Some might be thinking, "Well, how do you do it? Obviously, from time to time, in the national interest to create an entitlement."

Well, I will just refer Senators to the Congressional Budget and Impoundment Control Act of 1974, as amended, page 18, section 303, subsection (c).

There is a very detailed procedure for waiver, and there is a process for doing it without waiver. It can be done. It is not being done that way in this case and maybe it is because committees are not prone to do it the way it is prescribed in this amendment because they do not think we ought to be doing this kind of thing. I think that is a pretty good sign to us that we ought not be doing it either.

I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, earlier this afternoon, or just a few moments ago actually, reference was made to our "hatching" an entitlement program. "Hatching" to me sounds like something you do in secret, like a covert action. Maybe we hatch a Stealth bomber program.

This particular amendment has been offered in public session, not in closed session. It has been the subject of debate since 1979 and the subject of debate at length this afternoon. The message to me from what is taking place this afternoon is that if we cannot win on the merits, we will beat you to death on the procedure. This issue is no longer being discussed on the merits but, rather, placed on the alter of the Budget Committee' sanctity.

We keep hearing the issue about costs. The Tomahawk missile is going to come up later tonight or tomorrow. I can recall being told that missile program had a $250 million cost overrun. I tried to find out why, and they said,"Well, it was mismanagement."

No big deal, just a little mismanagement on the part of the Navy and the contractor at that time. But in the G.I. bill, we are talking about putting in a program which we know has worked in the past in substitute for a program, VEAP, that is not working today. What we are getting is a lot of legislative razzle-dazzle.

Last year we came before this body and they said, "Gee, let's not move to hastily. We are moving too quickly here. By the way, has the Veterans' Affairs Committee had hearings?"

We said they did not have hearings. The Veterans' Affairs Committee this year had hearings. They come back to the floor after they have had their hearings and they say, "Wait a minute, this really didn't belong in Veterans' Affairs. How about DOD? Let's go back to Armed Services. Shouldn't we have a hearing over there?" And it is the same sort of legislative dance that we are playing here. If we cannot beat you on the merits, we will beat you on the procedure.

Let me address one more subject. Do you really believe, Mr. President, we are going to create a GI bill that is subject to annual appropriations? Are we going to tell the young recruits, "By the way, we have this good program for you. If you will give us 2 years, 3 years, maybe 4 years, 5 years or 6 years, you will have the following educational benefits that will have accrued to you in terms of money, subject, of course, to the whims and caprice of Congress, assuming they will appropriate the money for that given year."

So, we must face the suggestion, "Gee, don't create this as an entitlement program, put it in subject to annual appropriations." What we have here is a procedural issue that is being raised.

Mr. NUNN. Will the Senator yield for just one brief question? As I understand it, if there were an amendment then to this amendment, to the Armstrong-Cohen amendment that said this provision shall be subject to annual appropriation, would the Senator from Maine support that amendment or oppose that amendment?

Mr. COHEN. I am sorry; I did not hear the question.

Mr. NUNN. Mr. President, the Senator from Georgia may have an amendment at some point that would make it clear that it is subject to annual appropriation. Would the Senator from Maine be opposed to that type of amendment? Does the Senator from-Maine believe——

Mr. COHEN. I would want to consult with the Parliamentarian first.

I yield the floor.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ARMSTRONG. Mr. President, I am hopeful the majority leader and other Senators will return to the Chamber because I think we are at the verge of reaching a conclusion about the pending point of order and my motion to waive provisions of the Budget Act.

Before telling Senators what I think may happen, I just want to make a couple of observations.

The notion that somehow an action to waive this Budget Act means the Budget Act does not mean anything, let me say to the Senator from New Mexico, is simply not my understanding. The Budget Act provides for such a waiver. Now, I am not going to press my motion for a waiver, but that is consistent with the Budget Act. It is not something that is contrary to the Budget Act. It is not something that violates the Budget Act, that despoils the Budget Act, that trashes the Budget Act or, as he has put it, means that the Budget Act does not apply or does not mean anything. It is part of the budget process and, as the Senator knows, the Budget Act has been waived on innumerable occasions, nor am I going to complacently stand by and let the argument remain unanswered that somehow this amendment would always be subject to a point of order.

That is simply not the case. A time would come when even under the interpretation which the majority leader has propounded this amendment would be in order.

Now, it might or might not be in order under the understanding which the majority leader has put forward, but we believe a proper reading of the bill will not lead the Chair to sustain the point of order. And so after consulting with the Parliamentarian, it is my intention not to press my motion for a waiver of the Budget Act at this time. We think, in fact, that the Chair will not sustain the point of order of the majority leader and that the matter will be back before us.

If I am in error about that, then we will have some other options to get it back before us. But the cleanest, simplest way is to dispose of the point of order so that we can vote on the matter on its merits.

Mr. DOMENICI addressed the Chair.

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

Mr. DOMENICI. Parliamentary inquiry. Is the motion of the Senator withdrawn? Has the Senator withdrawn his motion to waive the Budget Act?

The PRESIDING OFFICER. The Senator has not.

Mr. ARMSTRONG. Mr. President, I have indicated that I will perhaps do so. I was awaiting the arrival of the majority leader and other Senators before reaching a decision on that.

Mr. DOMENICI. Mr. President, while the Senator discusses that, let me respond to the Senator about the waiver. The Senator from New Mexico does not contend that the proposal to waive the Budget Act is in violation of the Budget Act. Actually, the Senator is correct. If it says the way to do it is to waive the section, clearly that is a process for the Senate to use. I did not mean to say anything to the contrary. If I did, I misspoke. The waiver is before the Senate. If that is what it is, you vote on it. It is clearly a process which puts up all the red flags, but it is, indeed, an appropriate process.

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

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

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. Chairman, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. BAKER. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is the motion to waive by the Senator from Colorado.

Mr. COHEN. Mr. President, would the majority leader yield?

Mr. BAKER. Yes; for a question.

Mr. COHEN. Shortly, prior to the most recent quorum call, Senator Nunn had put a question to the Senator from Maine. I was wondering—there was confusion at that particular time—whether or not he could restate that question to me.

Mr. NUNN. I say to my colleague that I do not know whether I can precisely restate it. But at that point we were trying to determine—and we are still trying to determine—whether this is an entitlement program, and we have a point of order going to the question I asked. There is considerable doubt about whether this is an entitlement program. My question to the Senator from Maine, and also the Senator from Colorado, is, if we propose an amendment that makes it absolutely clear that there are no vested interests except subject to appropriation in this program, that there is no vesting, that there is no entitlement, and that there is no right to go to court, whether that would solve the question for the Parliamentarian, solve his dilemma, and whether the Senators from Maine and Colorado would accept that amendment.

Mr. COHEN. I was going to suggest to the Senator, if this first section, 1446(a), were rewritten with just two words in this measure, whether he would find this in accord with what he is recommending: putting the word "no" in front of "payment" so it would read "No payment of educational assistance allowance under this chapter shall be made except from appropriations made to the Department of Defense," and the words following.

Mr. NUNN. That will not do it. I might have answered more affirmatively before all of this discussion, but since we have been educated on this, I would have to say unequivocally that would not accomplish the purpose the Senator from Georgia had in mind, which was to prevent vesting, or to prevent people from going to court, if the money was not available.

The PRESIDING OFFICER. The Senator's time has expired.

The majority leader is recognized.

Mr. BAKER. Mr. President, I yield.

Mr. NUNN. Mr. President, I am sorry. I thought the Senator from Colorado had the floor.

I am told that you have very explicit language, and it has to be very precise language to avoid entitlements; that is, that there have been precedents in court cases where there were appropriated funds, but they were deemed to be appropriated entitlements; and, that, if the court has held that the money is not appropriated, the plaintiff was nevertheless entitled under the law; and, that the appropriation in effect had to be a mandatory appropriation.

Mr. DOMENICI. Would the distinguished majority leader yield?

Mr. BAKER. Yes.

Mr. DOMENICI. Is it not correct that the amendment pending before us is the same amendment that was brought before the Senate last year, and that the Chair ruled that it was out of order under the Budget Act?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Let me ask one further question: Did not the amendment that was offered and ruled out of

order contain language that the money was subject to appropriations?

The PRESIDING OFFICER. It contained language that payments should be made from an appropriated fund.

Mr. DOMENICI. I have it now. I am reading:

Payments of educational assistance allowances under this chapter shall be made from appropriations made to the Department of Defense (in the case of service in a military department) or the Department of Transportation (in the case of service in the Coast Guard) and transferred to the Administrator for such purpose.

Mr. President, will the majority leader yield?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I would be happy to yield. But let me say that we have a waiver pending under section 904 of the act. We have been an hour or more on this. I would recommend that we do one of several things since time is moving on. We either have a vote on the waiver, which I am prepared to do; or, I will move to table the waiver, if necessary; or the waiver will be withdrawn. I have no control over that except in the case of tabling, but I would prefer to go ahead, and vote on the waiver, or see it withdrawn, if the Senator from Colorado would choose to do that.

Mr. President, there are all sorts of variations on this. There is no doubt in my mind that one way or the other you can probably fit this thing together. But it has been my experience also that when you try to cut, fit, and paste on the floor you end up not really knowing what you are doing. At least I do not know what I am doing. So I would not be willing to amend this. But I would be willing to go forward now on some basis for disposing of this matter and then, of course, the Senator from Colorado or others have not impinged any rights they may have.

I would like to liquidate this issue at this time. I would ask the Senator from Colorado if he is prepared to go forward with a vote on the waiver, or to withdraw the waiver and let the point of order be ruled upon.

Mr. ARMSTRONG. Mr. President, I will be ready to do so very promptly. I would like to take a few minutes to explain to my colleagues who have not been discussing in the ad hoc huddles what the parliamentary situation is. Aside from the fact that I would like to pass this amendment, which despite what the majority leader and others have said has not been cut and pasted on the floor, the fact is it has been under development, and is the work of quite a large number of Senators and staffers here, in the Pentagon, and elsewhere. This is not something that has been thrown together in a slapdash way. In fact, it has been rather carefully developed after extensive hearings.

I would also like to avoid, if we possibly could, polluting the precedents any further on this kind of question. The issue, which as I understand it, is to be addressed by the majority leader's point of order, is the question of whether or not there is an entitlement in this bill. Under his interpretation, under the theory that there is an entitlement created—and I am on page 19 of the amendment if anyone wants to follow this—it would be out of order to offer this amendment because we have not yet passed the budget resolution. That is the point I made at the outset when he and I first began to discuss this 1 hour ago—if we had passed a budget resolution yesterday, then his point of order would not lie.

May I address the Chair to ask if my understanding of that issue is correct, that under the theory which the majority leader has propounded that an entitlement exists in this amendment, a theory which I do not subscribe to, that it would nonetheless be in order had we passed a budget resolution yesterday.

The PRESIDING OFFICER. Entitlement begins in the year in which payments are to be made. The payments pursuant to this amendment are to begin in which year?

Mr. ARMSTRONG. The entitlements would begin to be earned in fiscal 1985; the first payments thereunder would not begin until some subsequent year.

The PRESIDING OFFICER. The budget year for that subsequent year would have to be in place.

Mr. ARMSTRONG. Would the Chair state that again, please?

The PRESIDING OFFICER. The budget resolution for that subsequent year would have to be in place in order for this amendment to be in order.

Mr. ARMSTRONG. If I understand what the Chair has said, we have received an advisory opinion that in effect it is impossible to start a program under which people earn an entitlement that they do not receive payment for 2 years hence. So we really do have exactly the kind of catch-22 situation I described earlier. There are several ways out of it. One would be, if I would be able to argue as persuasively as I think I might, that the language on page 19 makes it quite clear that this is subject to annual appropriations, or at least to appropriations not necessarily annual appropriations but subject to advance appropriations, and, therefore, is not, in fact, an entitlement within the meaning of the Budget Act. That would be one possibility.

Another possibility would be if we were to vote on the waiver and pass that, as I believe we have subsequently agreed, waiving the Budget Act is part of the Budget Act procedure. It has been used on many occasions and is particularly appropriate for use when we are confronted with the need to resolve in some practical way what amounts to a technical problem that is not otherwise capable of resolution.

Still another possibility would be if the Chair would rule adversely to my interest; that is, to sustain the point of order, it would then be possible for us to appeal the point of order and in an abstract sense of writing the precedents and putting the precedents where some of us believe they should be, that would be the best solution. The only reason, I understand it, that the Chair might sustain this point of order is not based so much on the language here but the fact that identical or nearly identical language has previously been ruled out of order in a setting in which there has been little understanding by the sponsor of the amendment, the Senator from Colorado, or the Presiding Officer. We did not address this in the process as we sometimes do. We must add a precedent which I think, aside from the merits of this issue is really an unfortunate one. I am trying to figure out what is the best way not to make the precedential situation any worse and also to give the amendment a fair chance. That is why I want to again appeal to the majority leader to not press this point because at some stage of the game we are going to have the right to get a vote on this on its merits. It just appears to me that to ask us to go up and down the mountain again later tonight or tomorrow on another bill does not really help the Senate.

To that point, let me just make this clear: Even if we took the amendment down, if it was knocked down on a point of order, if our waiver motion fails, a very simple amendment which clarifies the existing intent of the amendment—it does not change it but really clarifies it—would, we are told, qualify it and eliminate the technical points of order. I want to shop around with my fellow sponsors and see what their pleasure is. I have a duty, I think to do that.

That is the parliamentary situation in which we find ourselves. I yield to the Senator from Maine.

Mr. COHEN. It is my understanding that if we insert those two words, that no payment would be made except subject to appropriations, then the point of order would not lie against that particular amendment.

Mr. BAKER addressed the Chair.

Mr. ARMSTRONG. Would the Senator from Maine restate that so we have it pinned down?

Mr. COHEN. It is my understanding that were we to amend this particular provision with two words; namely, that no payment shall be made except subject to appropriations, that provision would not be subject to the point of order.

The PRESIDING OFFICER. The Senator from Maine is correct.

Mr. ARMSTRONG. May I just point out to the Senator from Maine, that would not change the bill, it would not change what we are doing. It would make what amounts to a cosmetic change, a technical change. I do not say it is not a significant change, but not a change of substance, intent, spirit or outcome. All it would change is enough so that the amendment would qualify.

Mr. NUNN. Will the Senator yield?

Mr. ARMSTRONG. Let me finish my point. That would be the most straightforward way of doing it without having the point of order lodge, without appeal of the point of order, without a waiver motion. It would simply be to modify our amendment, if that be the desire of the distinguished cosponsors. I inquire of the managers of the bill were we to offer such a request whether or not they would be willing to allow it, though it would require unanimous consent, because after all the yeas and nays have not been ordered. I put that to them. If their desire is to kill the amendment that is one thing. If it is procedural, that is something else. But all the opponents of the amendment make a series of parliamentary points that support their original position, which is for policy reasons they do not want to pass this. So if all we are doing is dancing around the parliamentary point in order to get it into shape to vote on it, I would be glad to make a change to do that.

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

Mr. ARMSTRONG. Yes.

Mr. TOWER. Would this be subject to the annual authorization and appropriation process if modified?

Mr. ARMSTRONG. It would be subject to appropriations before the benefits could be earned. It probably would be forward funded in the way we do with some education programs at the present time or put on the same kind of appropriated basis that the House version of this has been done. But it is conceivable, not probable, I think, that we might appropriate less frequently than annually. But in order for the benefits to be earned, an appropriation would have to occur.

However, and I want to stress this, that does not change what it already says, it only changes the words.

Here is what it already says:

> Payments of educational assistance allowances under this chapter shall be made from appropriations made to the Department of Defense—

And so on. Now, because these exact words, through a fluke, in my opinion—that is an editorial comment but it was a fluke—a year ago that was ruled out of order. We did not present our case properly to the Presiding Officer at that time. Had we done so, I believe these very words would have been held not to be an entitlement and not violative of the Budget Act. But perhaps we ought to make some sort of change in order to let the Parliamentarian take a fresh look at it and avoid having to further complicate the precedents.

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

Mr. ARMSTRONG. I yield.

Mr. GLENN. It does not seem to me that anyone has earned their right to this money. It would not have anything except a big question mark added as to whether they are going to get anything or not. I do not think there would be anything left of the GI Bill. I think this is going forward for nothing.

Mr. ARMSTRONG. I can reassure the Senator on that point, although I am surprised he raised it, because his underlying amendment is subject to the same point of order.

Mr. GLENN. We are talking about a pig in a poke here. You are selling them one thing, getting them in, and maybe they will get it and maybe they will not. I am more concerned about that.

Mr. ARMSTRONG. If the Senator from Ohio will reflect on what he has just said, I think he may want to think again about that because surely he is not suggesting that that is the intent of the Senator from Colorado. What he literally said is you intend to do this or will do this.

Mr. GLENN. I did not say intend. I said you are going to get people in with no certainty of the promise you make to get them in.

Mr. ARMSTRONG. That is not the case. This will be subject to appropriations in advance of the time the benefits are earned. That means, if we did not appropriate the benefit, it would not be earned. As a practical matter, Congress will do that. It is analgous in some ways to the Food Stamp Program which some people feel is an entitlement as a political matter but, in fact, requires an appropriation to fund that account.

Let me finish the point. I do not want to bog down on the technicality because the reality is this: If we are for the GI bill and adopt this amendment, we will fund it through the appropriations process. We will do that. That is a fact. In my opinion, Congress could change its mind on that just as we have a right to change our mind on everything that comes before us in appropriations bills every year. As a practical matter we are not going to do that. We are not going to break faith with the troops on pay. We are not going to fail to fund other multiyear kinds of obligations. We are not going to do that.

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

Mr. ARMSTRONG. I think I am responding to the Senator from Ohio.

Mr. GLENN. No matter what the language says, we are really funding this as an entitlement program.

Mr. ARMSTRONG. It is not an entitlement program in a legal sense from our reading of the Budget Act. It is a commitment to begin this program.

Mr. GLENN. It is an entitlement program.

Mr. ARMSTRONG. An entitlement program is a particular kind of legal entity, the kind of entity on which somebody can come and bring a lawsuit. That is not what this is because it is subject to an appropriation.

What it does represent, and I do not want any Senator to be in favor of this thing otherwise; it does mean, if we pass this and fund it, that we intend to go with it.

Mr. TOWER. Will the Senator yield?

Mr. ARMSTRONG. Anybody who has any idea that we are going to set it up and not do it, that is not what we have in mind.

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

Mr. ARMSTRONG. I reluctantly yield.

Mr. DOMENICI. Is it not correct that the Senator suggested that last year's ruling was a fluke, since last year's amendment language said it was subject to appropriation? Now you are going to add two words, and conclude that the amendment is subject to an appropriation.

Mr. ARMSTRONG. It was anyway.

Mr. DOMENICI. Would the Senator not conclude that maybe the ruling is inconsistent?

Mr. ARMSTRONG. No, Mr. President; I would say to the Senator that the issues which we have spent an hour discussing with the Presiding Officer and the Parliamentarian were not discussed last year.

I do not want to involve the Parliamentarian in a policy dispute. The Senator from Maine propounded a question. The question was if a minor change is made in this paragraph, would the amendment be subject to this point of order? He was told it would not.

Mr. DOMENICI. Did the Senator not say last year's ruling was a fluke?

Mr. ARMSTRONG. I believe it was. The reason it was a fluke is that, having argued the merits at some length, when the point of order arose, I, as sponsor of the amendment, was not quick enough on my feet to explain why the point of order was not valid and it just whistled by me. I was relying instead on the opportunity to move to waive the Budget Act, a motion which nearly carried. If there had been only a couple or three Senators to vote contrary to the way they did, we would have won and I thought

we were going to win. I thought we had a chance.

I am saying it was a fluke because I did not do my job. I did not explain as carefully as I should have last year to the Presiding Officer and the Parliamentarian what I had in mind. I am very reluctant to be in a position of urging that the Parliamentarian reversed himself, even though I do not think it was good law a year ago. So I am trying to find some way for the Senate to work its will without facing that question head on.

Mr. DOMENICI. Mr. President, I wonder if I may have 2 minutes without the Senator's losing his right to the floor. Will he yield for that purpose?

Mr. ARMSTRONG. Certainly, Mr. President.

Mr. DOMENICI. Mr. President, I think the Chair ruled correctly last year. There is no doubt in my mind that this bill clearly said that it was subject to appropriations and the Parliamentarian ruled it was an entitlement. I think that is simple. You cannot have an education GI bill that says if you stay in the military for x number of years, you are entitled to x number of years of the Government educational benefits and conclude that is not an entitlement just because it requires an appropriation. That is precisely the subject covered by section 303 of the Budget Act.

It seems the Parliamentarian has changed his mind regarding this interpretation, but I do not think the Senate will change its mind. I think the Senate will table the waiver motion.

My first point is this: It seems to me that it is clearly not the intent of this amendment to let the Appropriations Committee determine the size and scope of this program. Therefore it is not a discretionary program but an entitlement.

Second, Mr. President, this Budget Act, has a provision for waiver. So anyone thinking that they are supposed to come down to the floor and cavalierly move for a waiver to solve the entitlement problem, that is not so. Anyone can waive the entire Budget Act on the floor of the Senate. Anyone. But a waiver for an entitlement should utilize the waiver process described in the Budget Act.

First a waiver resolution is filed, which is referred to the Budget Committee. The Budget Committee considers the issue and, after 10 days reports the waiver to the Senate. If the Senate agrees to the waiver, the process has been completed and a new entitlement starts.

I am suggesting, Mr. President, that the waiver process is a very valid process. Anybody who wants to do that, can do it, but no one has done it in the last few years. The reason I think they have not done it is simple: Congress is not interested in new entitlements. So coming down here and attempting to waive the Budget Act has generally not been successful.

Mr. GLENN. Mr. President, I suggest the lack of order for listening to the Senator from New Mexico. Some of the people involved here are carrying on separate conversations. I think what he said makes a lot of sense.

The PRESIDING OFFICER. The Senate will be in order.

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

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. ARMSTRONG. Mr. President, unless another Senator wishes to speak, I need to confer with one of my cosponsors and I shall suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. TOWER. Mr. President, It is my intention to object to the consent request to amend the amendment offered by the Senator from Colorado. I suggest that the best way to proceed is to go ahead and vote on the motion of the Senator from Colorado to waive the rule, then go from there and let us get this thing moving.

We are going to be in, I think all night now, Mr. President. We have spent 6½ hours on this measure, an inordinate amount of time. We have some big-ticket items in this bill. Of course, if they are going to loan this on defense—everybody wants to cut defense. We have small business setasides, we have restraints against contracting out that will save us a lot of money. We have restrictions against base closures, we have Davis-Bacon that applies to military construction. We have all these fancy social and economic programs in defense. Nobody ever wants to cut those out of defense. Now they want to lard this on it. God knows how much it is going to cost, particularly if we get the SURGE situation in the Armed Forces.

I am getting a little bit resentful of the fact that many of those who advocate rather severe reductions in defense are not willing to support those politically unpalatable things that make defense more affordable. So I intend to object to the Senator's request to modify his amendment, and I suggest we get on with it. We are going to be here all night.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG Mr. President, there comes a time when you just kind of have to do what you have to do. I have been trying to figure out some way to get a fair vote on our amendment because, if it is voted on up or down, someday, it is going to pass. I do not know whether today is the day or tomorrow or next week or 6 months from now. But as I look back on the history of this thing, when a handful of us first introduced it, there was not much support. But the more Senators that have looked at this thing, the more hearings we have had, the more people in the other body have looked at it, the more the service chiefs have testified, the more service organizations have expressed their feelings, we are picking up steam every day. Someday we are going to get a vote on it and when we do, it is going to pass.

I think this is the day to do it. I would like personally to do so in a way that minimizes the procedural frustrations and that gives us a vote on the merits of the issue. If the Senator from Texas will not permit us to modify our amendment to make the modest changes that are necessary to comply with the rule——

Mr. TOWER. If the Senator will yield, if the Senator from Texas did not object, there are others who would.

Mr. ARMSTRONG. I understand, Mr. President. That is their right. Then it seems to me the most orderly way to go at it is just to have a series of votes. It may take more than one more vote, I am not quite sure; it may take several. I would just as soon do it now while the subject is fresh in everybody's mind. After the passage of the budget resolution, this whole thing would be in order without any change.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ARMSTRONG. Yes; I am happy to yield, Mr. President.

Mr. GOLDWATER. I am inclined to agree with the Senator that sometime this will pass. What would be wrong with introducing it as a piece of legislation and having it pass as a bill?

Mr. ARMSTRONG. Mr. President, let me say to my friend from Arizona, that is what I did 5 years ago; that is what I did 4 years ago; that is what I did 3 years ago; that is what I did 2 years ago; that is what I did last year. We have had extensive hearings on this matter. I have begged the Senate not only to have hearings in the Veterans' Affairs Committee, which has jurisdiction over this issue, but also in the Armed Services Committee.

Frankly, we have just been stiff-armed at every occasion in armed services. The Veterans' Affairs Committee has had extensive hearings on it. And the hearing record not only this year but the year before, not only in the Senate but in the Armed Services Committee of the House and the Vet-

erans' Affairs Committee of the House just bolsters the case. In fact, of the members of the committee which has jurisdiction over this matter, 8 of the 12 members of the committee are cosponsors of this amendment. So the Senator's suggestion is a valid one.

Mr. GOLDWATER. Eight out of twelve could not get it out of committee?

Mr. ARMSTRONG. Well, they have not been able to yet, I say to the Senator.

Mr. President, all I can tell you is that we are here offering it as a floor amendment again, as we did before. All I want to do at this point is expedite the process, and so I am going to reluctantly suggest that the best way to do that is to first have a vote on the motion to waive. That is a part of the Budget Act process. Even though I do not think it is the most orderly and best way, it seems to be the best approach. If that succeeds, then the amendment is squarely before us for an up or down vote. If it fails, then there is going to be a ruling by the Chair and I assume at that point, the Chair will sustain the point of order. We will, however, those of us who are present, the two dozen who have sponsored this amendment, expect to offer again our amendment in a slightly modified form, a form that does not really change the effect, or purpose, or spirit, or outcome of the amendment but merely qualifies it under this catch-22 parliamentary situation in which we find ourselves. Then I would not expect to debate it at length but simply to call for a vote on it at that time. I would like, let me say to the managers of the bill, with their agreement in that sequence of events, to put it on right away so that we do not have to come back to it tomorrow. At some point in time, whether it is tonight or tomorrow, in order to pass this, my colleagues and I are going to have to produce 50 or 51 votes or a majority of however many are here to vote. I do not know whether we have the votes tonight. I understand that some of our backers are already traveling, but then I see that we have additional—well, there are Senators here tonight who expressed a special interest in this matter and there are maybe opponents of the measure who are also traveling tonight. I do not know who is here tonight. But it just seems to me the straightforward thing to do now is vote on the waiver motion, and I hope my colleagues will vote for it so we can get on with the Senate's business.

I want to close by saying that nobody, nobody should say I am voting against the waiver on some procedural grounds. This is just a vote on the GI bill. That is all it is. It is a vote on this version of the amendment. We have waived the Budget Act hundreds of times. This is not some crazy, unprecedented, unusual, unheard of procedure. We have done this over and over again. So I just sum it up this way. If you are for the GI bill amendment in the form that my colleagues and I have presented it, vote for the waiver, and then we will have a vote on the bill.

Mr. CRANSTON. I ask for the yeas and nays.

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

The yeas and nays were ordered.

VOTE ON MOTION TO WAIVE RELEVANT PORTIONS OF BUDGET ACT

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Wisconsin [Mr. KASTEN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Delaware [Mr. ROTH], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wisconsin [Mr. KASTEN] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Massachusetts [Mr. TSONGAS], and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 44, nays 48, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—44

Armstrong	Evans	Levin
Baucus	Ford	Matsunaga
Biden	Garn	Melcher
Boren	Gorton	Mitchell
Boschwitz	Hart	Moynihan
Bradley	Hatch	Pell
Burdick	Hawkins	Pryor
Byrd	Heflin	Randolph
Cochran	Heinz	Riegle
Cohen	Hollings	Sarbanes
Cranston	Huddleston	Sasser
D'Amato	Inouye	Specter
DeConcini	Kassebaum	Trible
Dodd	Lautenberg	Weicker
Durenberger	Leahy	

NAYS—48

Abdnor	Grassley	Nunn
Baker	Hatfield	Packwood
Bentsen	Hecht	Percy
Bingaman	Helms	Proxmire
Chafee	Humphrey	Quayle
Chiles	Jepsen	Rudman
Danforth	Johnston	Simpson
Denton	Laxalt	Stafford
Dixon	Long	Stennis
Dole	Lugar	Stevens
Domenici	Mathias	Symms
Eagleton	Mattingly	Thurmond
East	McClure	Tower
Exon	Metzenbaum	Warner
Glenn	Murkowski	Wilson
Goldwater	Nickles	Zorinsky

NOT VOTING—8

Andrews	Kennedy	Tsongas
Bumpers	Pressler	Wallop
Kasten	Roth	

So the motion to waive relevant portions of the Budget Act was rejected.

The VICE PRESIDENT. On a point of order an identical amendment was ruled out of order 1 year ago. This amendment falls.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Texas is recognized.

AMENDMENT NO. 3179, AS MODIFIED

Mr. TOWER. Mr. President, I believe now the question recurs on the amendment of the Senator from Ohio, and I wish to inquire of the Senator from Ohio what his intentions are.

Mr. GLENN. Mr. President, my intentions are to ask unanimous consent that I be able to modify my amendment, which is at the desk, if I get the floor to do that.

May I do that at this time?

The PRESIDING OFFICER. Is there objection to the request of the Senator from Ohio?

Mr. ARMSTRONG. Mr. President, reserving the right to object, could we understand the nature of the modification?

Mr. GLENN. Yes. It makes the amendment subject to annual appropriations.

Mr. ARMSTRONG. Mr. President, I am disposed not to object to this proposed change in the amendment offered by the Senator from Ohio even though at one level it might be natural if I would do so because a similar request was objected to when I offered to do that. It would be my intention not to object, but then immediately if the Chair will recognize me to offer my amendment again in a slightly modified form so that both are before us and we get a fair up-or-down choice between the two proposals.

I pointed out earlier the point of order was available against the Senator's amendment. In fact, I will point out to the managers of the bill if there are other points of order of exactly the same character which are available to someone who might wish to object to other portions of the bill, I am not going to make that point of order or any points of order because my desire—Mr. President, is the Senate in order?

The PRESIDING OFFICER (Mr. COCHRAN). In the opinion of the Chair, the Senate is not in order.

The Senate will please come to order. The Senate will please be in order.

The Senator may proceed.

Mr. ARMSTRONG. Mr. President, just to sum it up, the desire of the advocates of the GI bill is not to delay. It is not to confuse the situation. It is not to debate parliamentary fine points. It is simply to get the issue fairly before us.

So I will not object to the request of the Senator from Ohio. I will immedi-

ately seek recognition to offer my amendment in the hope that we could vote on it promptly. I do so because of the very close vote we have just had on what in a sense was a procedural motion, and I am constrained to do so because some of those who voted against us on the last vote have said that they would like to vote with us the next time around, that they have scruples against voting for the budget waiver even though we have done it hundreds of times.

There are a handful of Members who have never voted to waive the Budget Act under any circumstances. I do not think it is any crime to waive the Budget Act. It is a part of the budget process to do so. But some Members feel otherwise. So we did not really get a vote on our amendment. We got a vote on a procedure.

So, therefore, Mr. President, I do not object to the Senator's request.

Mr. DOMENICI. Mr. President, reserving the right to object, and I am not going to object, but I would like to tell the Senate why I am not going to object. I do not think it makes any difference. I do not think the amendment that the distinguished Senator from Ohio offered has changed in its basic character by adding the language. It is an entitlement, a very small one, a pilot.

I think when the distinguished Senator from Colorado offers his amendment and he adds two words, I do not think it changes things one bit.

I hope the Senate understands that in the vote just taken, those who voted for the point of order basically said this: this amendment is an entitlement. In the outyears, it can cost as much as $1.8 billion.

There is a provision in the law of the land that says you cannot, without waiving the Budget Act in a very specific way, you cannot do this. So you agreed that you ought not do this.

Now, the proponents of that amendment propose to add two words, which they say turns the entire amendment into a discretionary program.

The amendment that was just ruled out of order said the payments were subject to annual appropriations. The proponents of the amendment have modified it to say that no payments are forthcoming unless there is an appropriation.

Now, I ask anybody if there is any difference. Somehow, it is being argued that there is a difference. It has been established by precedent that a program can be subject to appropriations and still be an entitlement. But now the argument is being changed so that if there are no payments until there is an appropriation, it is no longer an entitlement. I do not know what it is subject to appropriations for. Payment for what? I think it is something else to be appropriated.

On the other hand, the Senator from Colorado makes a point that we waive the Budget Act all the time. Let me make one point. We do not waive the Budget Act all the time under section 303, which prohibits the creation of new entitlements in this manner. In fact, section 303 is waived very rarely.

What we do is waive the whole act from time to time. But I remind you that for good reason the Congress of the United States prescribed a very excellent process for new entitlements.

We are supposed to introduce a resolution saying we want to waive section 303, pursuant to the Budget Act and have a new entitlement. The resolution is referred to the Budget Committee, and the committee looks at it and says, "Do we think we ought to recommend a new entitlement?" If they do not, the Senate does not vote on it. If they do, then we have waived the entitlement prohibition.

So I am not suggesting waivers are not provided for. They are. But the waiver for a new entitlement is an excellent process. The proponents of this amendment do not want to follow it here today.

Mr. ARMSTRONG. Will the Senator yield to me?

Mr. DOMENICI. I will yield, but I want to finish one point.

On the other hand, the Senator is correct. There is a catch-all provision in the Budget Act that you can waive it all and just say we do not want to be bound by it. That is clearly in order on the floor, and there is clearly a provision that says you can do that.

I submit, however, that what we really had in mind is when the issue is an entitlement, we go the other route. Now, my good friend from Colorado knows I have the greatest respect for him. He is going to say, however, that the Senator from New Mexico is arguing about an entitlement and it is not an entitlement. I remind the Senate that when the identical language was offered last year, it was ruled to be an entitlement, and therefore out of order. Now the Senator from Colorado argues it is not an entitlement anymore, that because of the addition of two words, it is no longer an entitlement.

I submit that it was an entitlement then, and it is an entitlement now.

The Senator from Colorado says that last year's ruling was incorrect. I submit that is incorrect to argue this year that the identical language, with the addition of two small words, is no longer an entitlement.

I yield the floor.

The PRESIDING OFFICER. Is there objection to unanimous consent request? Without objection, it is so ordered. The amendment is so modified.

The amendment, as modified, follows:

On pay 7, line 31, insert "No" before "payments".

On page 7, line 32, insert "except" after "made".

On page 7, line 32, insert "annual" after "from".

Several SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I just want to suggest that the Senator from Colorado go ahead and offer his amendment, and let us get on with this.

AMENDMENT NO. 3191

(Purpose: To establish two new programs of educational assistance for veterans of peacetime service, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an amendment numbered 3191.

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

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

(The text of the amendment is printed later in the RECORD under Amendments Submitted.)

Mr. SIMPSON. Mr. President, I have a point of order. I would like to inquire, did we not just, by unanimous consent, modify the amendment of the Senator from Ohio?

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMPSON. That is before the body?

The PRESIDING OFFICER. It was.

Mr. SIMPSON. And the amendment of the Senator from Colorado is also before the body?

The PRESIDING OFFICER. It is an amendment in the second degree to the amendment of the Senator from Ohio.

Mr. SIMPSON. We have a situation here then procedurally that if Senator GLENN were to withdraw his amendment, then Senator ARMSTRONG might be able to proceed; is that right?

The PRESIDING OFFICER. It is not necessary for the Senator to withdraw his amendment in order to proceed with the Armstrong amendment. The Armstrong amendment is an amendment in the second degree of the amendment of the Senator from Ohio.

Mr. ARMSTRONG. Mr. President, I want to clean this up fast. We have been on it long enough. Everybody understands the issue.

But just to recap where we have been, we had a good debate on the question of whether we want a GI bill. The Senator from Texas moved to table. The tabling motion was defeat-

ed by a vote of 46 to 51. Ordinarily, that would have been dispositive of the issue, but for the point of order raised by the majority leader.

Since we were not successful in the budget waiver and since some Members who voted against the GI bill concept on the waiver motion issue expressed to me privately their willingness and desire to vote squarely on the issue if I could get it before the body in a form that we were just voting on that and not some procedural question, I have felt constrained to offer this. Ordinarily, I would not come back a third time. But I do think we understand the issue.

It is not my desire to drag it out. I just ask the 51 who voted with us an hour or two ago to do so again, and let us get on with the task.

Mr. TOWER. Mr. President, I would simply ask the 49 Senators that voted with us on the last vote to vote with us again. I think that the Senator's views on the issue to create new entitlements are clear.

I move to table the amendment of the Senator from Colorado.

Mr. ARMSTRONG. Will the Senator withhold for just a moment?

Mr. TOWER. I will withhold for a moment, but we have been debating this issue for well over 7 hours today, and I do not think we could get any more enlightenment on it. Senators are going to be here all night voting on other amendments that are germane to this bill.

Mr. ARMSTRONG. Since there was a tabling motion previously, I wonder if the Senator would now not be willing to have an up-or-down vote on the issue itself, rather than a tabling motion. We had this tabling motion earlier. I would just appeal to the Senator that we have been through that, and could we not just now vote on the pending question.

Mr. TOWER. Without the tabling motion, the matter is still debatable. Therefore, Mr. President, I move to table the amendment of the Senator from Colorado.

Mr. ARMSTRONG. I reluctantly ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas [Mr. TOWER] to table the amendment of the Senator from Colorado [Mr. ARMSTRONG]. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Delaware [Mr. ROTH], the Senator from Vermont [Mr. STAFFORD], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

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

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Massachusetts [Mr. TSONGAS] are necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 47, nays 45, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—47

Abdnor	Grassley	Nunn
Baker	Hatfield	Packwood
Bentsen	Hecht	Percy
Bingaman	Humphrey	Proxmire
Chafee	Jepsen	Quayle
Chiles	Johnston	Rudman
Danforth	Kassebaum	Simpson
Denton	Laxalt	Stennis
Dixon	Long	Stevens
Domenici	Lugar	Symms
Eagleton	Mathias	Thurmond
East	Mattingly	Tower
Exon	McClure	Wallop
Glenn	Metzenbaum	Warner
Goldwater	Murkowski	Wilson
Gorton	Nickles	

NAYS—45

Armstrong	Durenberger	Levin
Baucus	Evans	Matsunaga
Biden	Ford	Melcher
Boren	Garn	Mitchell
Boschwitz	Hart	Moynihan
Bradley	Hatch	Pell
Burdick	Hawkins	Pressler
Byrd	Heflin	Pryor
Cochran	Heinz	Randolph
Cohen	Helms	Riegle
Cranston	Hollings	Sarbanes
D'Amato	Huddleston	Sasser
DeConcini	Inouye	Specter
Dodd	Lautenberg	Trible
Dole	Leahy	Zorinsky

NOT VOTING—8

Andrews	Kennedy	Tsongas
Bumpers	Roth	Weicker
Kasten	Stafford	

So the motion to lay on the table amendment No. 3191 was agreed to.

Mr. ARMSTRONG addressed the Chair.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. ARMSTRONG. Mr. President, before we take up the reconsideration motion, I would just like to thank all Senators, especially those who joined me in attempting to pass this amendment. When last we visited this issue about 6 months ago, we failed by four or five votes. I guess today, after three rollcalls, they finally got us by a vote or two. I expect that some of us will want to make this effort again. In fact, I think the clear sentiment which has been expressed is increasing support for the concept of a GI bill. There are parliamentary questions to be answered; there are details that need to be reconciled.

I just want to announce here and now that I am going to be in touch not only with Senators who have voted for this, but I am going to be in touch with some of the Senators who have told me privately that they would like to vote on this but did not feel they could today, to see if there are little adjustments we can make.

I would like to express the hope that the Armed Services Committee will have a hearing on this. They do not have to have a bill before them to do it.

Mr. TOWER. If the Senator will yield, we have made that commitment already once today, and I reiterate that commitment.

Mr. ARMSTRONG. Mr. President, I thank the Senator, and I am going to apply for permission to come testify before his committee as I have before the Veterans' Affairs Committee and have before the House committee.

Mr. TOWER. The Senator's application is accepted.

Mr. ARMSTRONG. I hope, in the process of considering the amendment, even though we have not passed the amendment, we have enriched the thought life of this body and have focused attention on one of the most important programs that is under consideration. In doing so, I have had some sense of fulfillment, although next time out, let us pass the amendment.

Mr. DOMENICI addressed the Chair.

Mr. TOWER. Mr. President, the question now recurs, I believe, on the amendment of the Senator from Ohio.

The PRESIDING OFFICER (Mr. DANFORTH). The Senator is correct.

Mr. NUNN. Mr. President, we have not reconsidered the vote by which the Armstrong amendment was tabled. I move that we reconsider that vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3179, AS MODIFIED

Mr. GLENN. Mr. President, I would like to have a record vote on this. I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. GLENN. Mr. President, as I explained before, this amendment is a targeted effort to assist the services in acquiring high quality recruits for 2-year enlistments from a wide cross section of American society and at a limited cost.

It does not conflict with, or change, any existing programs.

It is a contributory program: The recruit forgoes $250 per month in pay for the full 24 months.

We assume most of these people will be on the base so there is no offbase quarters or subsistence allowances.

Services can assign duty in any of the critical fields they warn. Service members are encouraged to reenlist after 2 years but will retain benefits to the end of their service career if they like.

The benefits to the recruit at the end of his 2-year service would be $500 a month for 36 months, and the total we would see on this whole program, which would be not over $160 million as we have covered several times today, would be limited to that but could not go above that, so it is a far less expensive bill.

I think we have debated these things long enough today, Mr. President. Unless there is objection, I am prepared to move to vote.

The PRESIDING OFFICER. Is there further debate?

Mr. TOWER. Mr. President, briefly, before we vote, Senators are now ready to come forward with amendments, which I think is a happy state of affairs. Senator PERCY has indicated a desire to cooperate. Senator DOMENICI is prepared to offer his amendment relative to DOE and DOD. That, I think, can be voted on at the appropriate time by voice vote.

After that, Senator PERCY is ready to bring up his amendment to reduce funding for special defense initiatives to the House level.

TIME LIMITATION AGREEMENT

I would like to ask unanimous consent that, following the disposition of the amendment of the Senator from New Mexico, Senator PERCY be recognized to offer his amendment. He has agreed to control of time on that amendment, 1 hour equally divided.

I propound that as a unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I simply want to say that as chairman of the Veterans' Affairs Committee, I assure the Senator from Texas that we shall hold hearings. I assure the Senator from Colorado we shall do that again and Senator COHEN, too. It has been the most formidable and awesome array of adversaries here. I hope when somebody comes by in the next few months and hands my colleagues a "Dear Colleague" letter about the GI bill, they will reserve their judgment until they see the damage in the bill again.

The VA is going to end up paying this. Senators will want to know that is going to happen. They will want to know the proposal of the Senator from Ohio is for $12,000 per recruit as opposed to the Armstrong, which is $200,000 per recruit.

I hope my colleagues keep those perceptions as we go into the future.

Mr. THURMOND. Mr. President, the pending amendment is a very generous educational assistance program, and I am pleased to be a cosponsor.

A soldier will receive approximately $18,000 for educational purposes from a $6,000 investment.

This voluntary savings program is cost effective and will certainly be an incentive for enlistment for those who want to join the military services in order to further their educations.

Mr. President, with the absence of a draft and the high pay given recruits, it is unfair to ask the taxpayers to wholly subsidize service-connected educational benefits. Therefore, I believe this amendment, which requires the Government to match a serviceman's funds at a rate of about 2 to 1, is equitable and fair to the soldier and the taxpayer. I urge my colleagues to vote for its adoption.

Mr. COHEN. Mr. President, before we vote, I would like to call to the attention of my colleagues on the floor that on the Glenn proposal, there have been no hearings held whatsoever. The basic objection we have heard here on our proposal is that we have not had hearings again. The record is voluminous, yet not quite enough hearings have been held. On the proposal of the Senator from Ohio, there have not been any hearings held, to my knowledge.

Also, I point out if my colleagues think VEAP is a failure, then this, it seems to me, is also going to be doomed to failure. We have a system in which there is a $25 a month contribution on the part of the service personnel and the program is, in fact, failing. Now we are going to have a $250 a month contributory program. If that is not doomed to failure, I do not know what is.

Nobody should vote on this measure thinking it is a GI bill. It is not, in fact, a GI bill. It is an amendment which has had no hearings. If we had had hearings, I think the evidence would indicate it is not likely to improve the situation. In fact, it would prove to be a much less productive program.

Mr. GLENN. Mr. President, the VEAP program the Senator from Maine refers to certainly was not successful. I hope ultra-VEAP can be considered a success. I think the amendment I am proposing will be a response to that.

We agreed with Senator TOWER and Senator NUNN to accept their amendment on that. I supported that amendment. I think it did perfect my amendment, made it better. I am prepared to go forward with the vote.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Ohio. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Tennessee [Mr. BAKER], the Senator from Wisconsin [Mr. KASTEN], the Senator from Delaware [Mr. ROTH], and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Massachusetts [Mr. TSONGAS] are necessarily absent.

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

The result was announced—yeas 72, nays 20, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—72

Abdnor	Hart	Murkowski
Baucus	Hatch	Nickles
Bentsen	Hatfield	Nunn
Biden	Hawkins	Packwood
Bingaman	Hecht	Pell
Boren	Heflin	Percy
Boschwitz	Heinz	Proxmire
Bradley	Helms	Pryor
Chafee	Huddleston	Quayle
Cochran	Humphrey	Rudman
D'Amato	Inouye	Sarbanes
Danforth	Jepsen	Sasser
Denton	Johnston	Simpson
Dixon	Kassebaum	Specter
Dodd	Lautenberg	Stennis
Domenici	Laxalt	Stevens
Durenberger	Leahy	Symms
Eagleton	Long	Thurmond
East	Mathias	Tower
Exon	Mattingly	Trible
Garn	McClure	Wallop
Glenn	Melcher	Warner
Goldwater	Metzenbaum	Weicker
Gorton	Moynihan	Wilson

NAYS—20

Armstrong	Dole	Matsunaga
Burdick	Evans	Mitchell
Byrd	Ford	Pressler
Chiles	Grassley	Randolph
Cohen	Hollings	Riegle
Cranston	Levin	Zorinsky
DeConcini	Lugar	

NOT VOTING—8

Andrews	Kasten	Stafford
Baker	Kennedy	Tsongas
Bumpers	Roth	

So the amendment (No. 3179), as modified, was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3194

Mr. DOMENICI. Mr. President, I am going to send an amendment to the desk in a moment that I am very pleased to thank some cosponsors. Senator BAKER is a cosponsor along with my junior Senator, Mr. BINGAMAN, Mr. BOSCHWITZ, Mr. JOHNSTON, Mr. MCCLURE, Mr. PERCY, Mr. MOYNIHAN, Mr. WILSON, Mr. GLENN, and Mr. RANDOLPH. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for himself and Mr. BAKER, Mr. BINGAMAN, Mr. BOSCHWITZ, Mr. JOHNSTON, Mr. MCCLURE, Mr. PERCY, Mr. MOYNIHAN, Mr. WILSON, Mr. GLENN, and Mr. RANDOLPH proposes an amendment numbered 3194.

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

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

The amendment is as follows:

On page 117, strike the text and catchline of Section 1006 and on page 237, strike the text and catchline of Section 331 and insert the following catchline and text:

"COST-EFFECTIVE FUNDING OF NUCLEAR WEAPONS

"(a) The President shall establish a Blue Ribbon Task Group to examine the current procedures used by the Department of Defense and the Department of Energy in establishing requirements for, and in providing resources for, the research, development, testing, production, surveillance and retirement of nuclear weapons. The purpose of the Group's effort will be to recommend any needed change in such procedures.

"(b) The Group shall consist of seven members, qualified by reasons of experience and education. The President shall appoint three members and shall designate one member to act as Chairman of the Group. The Majority and Minority leaders of the Senate and the House of Representatives shall each appoint one member. None of these members shall be an employee of the Department Energy, the Department of Defense, or any contractor employed by either such Department and involved in the research, development, testing, production, surveillance or retirement of nuclear weapons.

"(c) Within 90 days of the date of enactment of this Act, the President shall submit the names of those persons appointed to such Group, together with the qualifications of such persons to serve on such Group, and a detailed plan for completing the report required by subsection (e) to the Committees on Armed Services of the Senate and the House of Representatives.

"(d) The President shall insure that the Group has complete and timely access to Department of Energy and Department of Defense employees and records pertaining to such procedures.

"(e) The Group shall submit a report of their findings and recommendations to the President and the Armed Services Committees of the Senate and the House of Representatives within 180 days of the date of enactment of this Act. Such report shall include any additional or dissenting views that any members of the Group may wish to submit. As a minimum, the study shall include recommendations in the following areas—

"(1) ways to improve coordination between the Department of Energy and the Department of Defense to ensure cost-effective implementation of weapon activities and materials production;

"(2) cost-effective improvements that can be made in budgeting and management procedures that affect weapon activities and materials productions; and

"(3) whether the Department of Defense should assume the responsibility for funding current Department of Energy weapon activities and materials production programs."

Mr. DOMENICI. Mr. President, I do not think we will take very long. From what I understand, the distinguished manager, the Senator from Texas, and the distinguished ranking minority member, the Senator from Georgia, are willing to accept the amendment.

The Armed Services Committee has proposed what I consider to be a fundamental change in the way we control the production of nuclear weapons. In an effort to bring greater scrutiny to the cost, they would move the budgeting of these weapons from the Department of Energy to the Department of Defense.

The placement of the nuclear weapons program in the Department of Energy was not an accident. It has always been kept separate from the Department of Defense in an attempt to create the requisite checks and balances that many think the development of such weapons require.

As a matter of fact, clear back to President Truman, he proposed in writing that we should not put development of nuclear weapons in the same Department, the Department of Defense, which I think then was the Department of war. It started with a letter from President Truman to the then committee of the Senate, and I ask unanimous consent to have printed in the RECORD the distinguished President Truman's remarks.

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

LETTER TO SENATOR MCMAHON CONCERNING A BILL FOR DOMESTIC DEVELOPMENT AND CONTROL OF ATOMIC ENERGY, FEBRUARY 2, 1946

[Released February 2, 1946. Dated February 1, 1946]

My dear Senator McMahon:

You have requested my views on S. 1717, a bill for the domestic development and control of atomic energy. I wish to give you my thoughts at this time because I consider the subject of paramount importance and urgency, both from the standpoint of our welfare at home and that of achieving a durable peace throughout the world.

I appreciate the thorough and impartial manner in which atomic energy hearings have been held before your Committee. I believe that the hearings, in keeping with democratic tradition, have aided the people in obtaining a clearer insight into the problems which such legislation must meet.

You will recall that I sent a special message to the Congress on October 3, 1945, calling for legislation to fix a policy for the domestic control of atomic energy. Since then I have given considerable time to the further study of this most difficult subject. I have had the advantage of additional technical information and expressions of public opinion developed at the hearings. With this background I feel prepared to recommend in greater detail than before what I believe to be the essential elements of sound atomic energy legislation:

1. A commission established by the Congress for the control of atomic energy should be composed exclusively of civilians. This should not be interpreted to disqualify former military personnel from membership, and is in accord with established American principles embodied in our statutes since 1870. I would prefer a three-man commission in lieu of a larger group which administrative experience has shown unwieldly. It is essential that the members of the commission be full-time Government employees.

2. The Government must be the exclusive owner and producer of fissionable materials. (*Fissionable* materials are, of course, to be distinguished from *source* materials from which fissionable materials may be derived. By fissionable materials, I mean such as U235, or Plutonium, or any substance enriched in these beyond its natural state.) It follows that there should be no private patents in this field of exclusive government activity.

The disadvantages of Govenment monopoly are small compared to the danger of permitting anyone other than the Government to own or produce these crucial substances, the use of which affects the safety of the entire Nation. The benefits of atomic energy are the heritage of the people; they should be distributed as widely as possible.

3. Consistent with these principles it is essential that devices utilizing atomic energy be made fully available for private development through compulsory, non-exclusive licensing of private patents, and regulation of royalty fees to insure widespread distribution of the benefits of atomic energy while preserving the royalty incentive to maintain the interest of private enterprise.

4. In my message of October 3rd, I wrote: "Our science and industry owe their strength to the spirit of free inquiry and the spirit of free enterprise that characterize our country . . . (This) is our best guaranty of maintaining the preeminence in science and industry upon which our national well-being depends."

Legislation in this field must assure genuine freedom to conduct independent research and must guarantee that controls over the dissemination of information will not stifle scientific progress.

Atomic energy legislation should also insure coordination between the research activities of the Commission and those of the proposed National Science Foundation, now under consideration by the Congress.

5. Each of the foregoing provisions for domestic control of atomic energy will contribute materially to the achievement of a safe, effective international arrangement making possible the ultimate use of atomic energy for exclusively peaceful and humanitarian ends. The Commission should be in a position to carry out at once any international agreements relating to inspection, control of the production of fissionable materials, dissemination of information, and similar areas of international action.

I feel that it is a matter of urgency that sound domestic legislation on atomic energy be enacted with utmost speed. Domestic and international issues of the first importance wait upon this action.

To your Committee, pioneers in legislation of vast promise for our people and all people, there beckons a place of honor in history.

Sincerely,

HARRY S. TRUMAN.

[Honorable Brien McMahon, United States Senate, Washington, D.C.]

NOTE: On August 1, 1946, the President approved the Atomic Energy Act of 1946 (Public Law 585, 79th Cong., 60 Stat. 755) providing for the development and control of atomic energy.

Mr. DOMENICI. Mr. President, then Congress abolished the Atomic Energy Commission, which had been the civilian agency that did this. In the process we created ERDA. We transferred these programs to ERDA. When we did away with ERDA, consistent with civilian control, we transferred it to the Department of Energy.

In 1982, the President proposed that DOE be abolished, but decided to send nuclear weapons development, even at that time, to the Department of Commerce rather than DOD.

I do not think it is wise to break with a system which is based on this fundamental principle.

The concerns about the rising costs raised principally by the distinguished Senator from Georgia may very well be valid. New procedures and accounting methods should be explored.

I propose along with my cosponsors that we create a blue ribbon committee, that that committee be made up of three Presidential nominees, one to be recommended by the majority and minority leaders of the House of Representatives and the Senate, and they begin a study that is to be done in 180 days. The study would explore better coordination between DOE and DOD, better management, and whether or not to move the budget function from the Department of Energy to the Department of Defense. No present employees of either department, DOE or DOD, could participate in the study as members of the committee, and it is my hope that the National Security Council should have the lead for the administration and not the Office of Science and Technology or some other group which does not have as its principal responsibility the management of a national security matter.

Mr. President, I have letters of support from the Secretary of Energy and the Secretary of Defense indicating they do not desire the transfer that is contained in the bill. They have no objection to the blue ribbon commission. I ask unanimous consent to have printed in the RECORD the letters to which I have referred.

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

THE SECRETARY OF ENERGY,
Washington, DC, June 13, 1984.

Hon. PETE A. DOMENICI,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOMENICI: I am writing in regard to your proposed amendment to the Omnibus Defense Authorization Act of 1985 (S. 2723) to establish a Blue Ribbon Task Group to examine the current procedures used by the Department of Energy (DOE) and Department of Defense (DOD) to establish requirements for nuclear weapons and suggest improvements that may be warranted.

In doing so, I want you to know of our strong support for this amendment as it is in close concert with our own position on the matter. We recognize the important need for developing ever more effective operating procedures between the two Departments. We welcome this amendment as an appropriate step in developing additional efficient and cost-effective improvements to the current approaches being employed. Of utmost importance in such efforts is the preservation of the fundamental concept of civilian control of nuclear weapons, a concept which dates back to the Atomic Energy Act of 1946 and which has been reaffirmed several times whenever the idea of having DOD fund and/or manage DOE defense programs has been studied.

The current division of responsibility between DOD and DOE provides for dual agency judgments and has worked well to improve the safety, security, control, and performance features of nuclear weapons. This separation of responsibilities has also been a key factor in ensuring separate scientific advice from our laboratories on defense issues and in maintaining the active involvement of universities in managing major weapons research facilities.

The DOE fully supports efforts to improve the planning and budgeting of weapons systems and has taken a number of important steps in recent years to strengthen the coordination process with DOD. We would be pleased to join with the proposed Blue Ribbon Task Group as well as the DOD in a study of ways to further improve coordination in budgeting, management and execution of weapons activities. We believe this is the best way to address the concerns you or your staff may have without infringing upon the underlying premise of the Atomic Energy Act for civilian control of nuclear weapons.

Sincerely,

DONALD PAUL HODEL.

THE SECRETARY OF DEFENSE,
Washington, DC, May 23, 1984.

Hon. SAM NUNN,
U.S. Senate,
Washington, DC.

DEAR SENATOR NUNN: Thank you for your letter of May 18, 1984 requesting our views on an amemdment to the FY 85 Omnibus Defense Procurement Authorization Bill, which would transfer the nuclear warhead and associated nuclear materials budget from the Department of Energy (DoE) to the Department of Defense (DoD), effective in FY 86. We understand that this amendment would continue DoE management for the full scope of this activity and that the amendment is intended to strengthen programming of procedures to insure that nuclear warhead costs are given full consideration in the DoD when decisions are made on tactical and strategic nuclear systems.

As you know, nuclear warhead costs and requirements are given careful consideration throughout our system acquisition process. This department maintains active and continuing interaction with the DoE through the Military Liaison Committee and through many other working level machanisms within the Services.

We have been working over the years to insure full coordination between the Departments. In particular, as a result of the 1980 "Starbird Study" we have put in place a number of measures to ensure better coordination. We welcome the interest expressed by the Subcommittee in seeking organizational and management arrangements to accomplish further improvements in the process. However, we think that the approach envisioned by the amendment is clearly not the best way to accomplish such improvements.

I know we share a common conviction that the nuclear weapons program constitutes a vital national security resource. The United States and its allies rely upon this program as an indispensable component of our shared deterrent posture. Consequently, the ability of the nuclear weapons program to function effectively—and efficiently—within the government must be one of our highest national priorities. That very priority requires, however, that the mechanisms whereby we implement the Atomic Energy Act and perform the various related missions are altered only after careful analysis and deliberation.

For that reason, we do not recommend adoption of the amendment in the absence of such careful study and analysis of the results. Instead, we would propose that the Departments of Defense and Energy conduct a joint and comprehensive assessment of all the potential improvements to the present management and budgeting procedures for the nuclear weapons program. We believe it is appropriate and achievable for the results of such an assessment to be available in time for detailed Congressional consideration along with the FY 1986 budget submissions.

Sincerely,

CAP.

Mr. DOMENICI. Mr. President, I am going to yield in a moment to the Senator from Illinois.

Before I do so I wish to thank the Senator from Texas for his cooperation, the Senator from Georgia for his cooperation, and certainly the distinguished Senator from Virginia, Senator WARNER, for his cooperation, and I know that the distinguished junior Senator from California along with the Senator from Illinois have an interest. They are on the floor.

I also wish to thank my distinguished junior Senator. We talked about this after the bill came out. He asked me to proceed and concluded that he wanted to support this, even though he is on the committee. I thank him for that. I think we are doing the right thing. Basically by this amendment we will have stricken the mandatory language which would move budgeting of this very vital defense function, that is that function of nuclear weapon development from the Department of Energy to the Department of Defense. That will not occur. It will be studied. Congress in due course can make up its mind.

We can get recommendations that are much needed in the studies that the Senator from New Mexico feels are very much needed.

With that, I know the Senator from Illinois wished to be heard. I yield the floor.

Mr. NUNN. Mr. President, I wish to make a few points about this amendment. I am not trying to get in front of someone, if the Senator from Illinois wishes to speak first or the Senator from California.

Mr. PERCY. Mr. President, I rise to express my strong support for the

amendment to require a comprehensive report to the Congress on how to achieve the greatest efficiency and cost savings in the nuclear weapons research, development and production programs. I believe the Armed Services Committee's proposal to move an important part of the nuclear weapons program from the Energy Department to the Department of Defense raises issues that go to the heart of the 1946 Atomic Energy Act, and I would like to take just a few moments to address them.

First, I certainly share the concerns of my distinguished colleagues, the Senator from Virginia [Mr. WARNER], and the Senator from Georgia [Mr. NUNN] regarding the costs of nuclear weapons. Those of us in the Congress bear a special responsibility to monitor and control the costs of providing for our national security. There are many important things we can and should do to reduce those costs, and to make sure that they do not escalate unreasonably. But I am not persuaded that moving a major program like this one into the Department of Defense will, of itself, produce cost efficiencies. I am just not convinced that DOD regards cost efficiency as one of its top priorities. There have been too many examples of waste in the Pentagon for me to accept the idea that just giving them the nuclear weapons program will somehow ultimately save the taxpayers money, or improve the management of the program.

Second, we should not take a major step of this kind without reviewing the very important considerations for the existing institutional arrangement, especially one that has endured for 40 years and which has been deliberately preserved by the Congress on a number of occasions. When the Atomic Energy Act was written, the drafters believed it of utmost importance to separate the development and control of nuclear weapons from the military—to insure control by civilians. This was one of the important reasons for creating a separate Atomic Energy Commission. As the system has developed, the arrangement has proven to have a number of benefits. For one thing, it allows the civilian agency which performs nuclear weapons research to independently advise the President and other senior officials—including the Congress—with regard to weapons design, safety considerations, and other technical matters. In some instances, this independent advice has been of great benefit in the conduct of our foreign policy and our national security policy. Despite strong initial opposition from the military, safety and command and control features have been developed and implemented in nuclear weapons systems which might otherwise never have seen the light of day. This is just one example of how maintaining independent, civilian control of these programs has been important and beneficial.

Third, I do not think a transfer of the kind recommended by the Armed Services Committee should be carried out unless there are strong reasons for it. Reorganizations of this kind inevitably cause dislocations and problems. They involve organizational costs that can actually—at least in the short run—harm the effectiveness of the program. When it is the nuclear weapons program that is at issue, we must be particularly careful.

As I understand it, the committee believes this new setup will produce cost efficiencies by making nuclear weapons compete against other weapons systems in the budget process. This could be true, but we should not assume that it will be true. Furthermore, funding pressures of the kind the committee intends to create could have perverse effects. For instance, the military might decide that a certain safety feature should not be developed, because it would make an otherwise desirably new system too costly. So the safety feature would be scrapped. Congress might not learn about it. Who loses? All of us lose. To be sure, tradeoffs of this kind are made today. But today we have the advantage of some checks and balances. The shift proposed by the committee would begin the erosion of those checks and balances.

We must always remember that when we are talking about nuclear weapons, we are talking about the most destructive technology known to man. In changing the institutional structure of this program, the utmost caution is called for. The need for independent civilian control is just as present today at it was in 1946, when the Atomic Energy Act was enacted. We must be absolutely certain that we will not compromise the goals of that act. For these reasons, I fully support the amendment to require a report from the administration before making any such change as the committee recommends. I, therefore, urge my colleagues to support the amendment.

Mr. NUNN. Mr. President, while we have a few Senators in the Chamber, I wish to make a few points about why this provision is in the bill.

I am agreeable to the amendment that is proposed by the two Senators from New Mexico as well as others.

I first wish to say that the Senator from New Mexico [Mr. BINGAMAN] in committee was an opponent of this amendment. We did have votes in the committee. It passed, but he was in opposition there. I think that point should be made clear.

I think that everyone who is concerned with this issue should begin to focus on what has happened.

I realize it is history here to separate the Department of Defense from all aspects of the production of nuclear warheads. I recognize that history.

We are certainly not separating the Department of Defense from the management of warheads once they are produced. So no one should believe that we have complete civilian control of nuclear warheads once they are put in the field. They are under the Department of Defense. But I am afraid what we have developed inadvertently is an insensitive system for more and more warheads to be built independent of any kind of real analysis about whether they are needed.

The amendment did not take any authority away from the Department of Energy in terms of producing the warheads, in terms of managing the program. What this amendment that is being stricken by this Domenici amendment and Bingaman amendment would have done is, it would have industrialized funding these warheads. It would have said to the Department of Defense you are going to have to pay for these warheads. They are going to come out of your budget. Therefore, you better start paying attention to them. You better start looking at the cost of them. You better start figuring out whether you really need them. But you better start deciding whether conventional capabilities in the emerging technologies can substitute for some of these warheads.

You are over here funding a very large emerging technologies program. It is going to get larger. The emerging technologies program is being talked about by the Secretary of Defense, by the President, by European allies, and by many of us in Congress as a possible beginning toward substituting precision guided and accurate conventional weapons for a lot of our short-range nuclear systems that are now stationed in Europe.

If we do not have someone in the Department of Defense who is looking at the tradeoff between those conventional weapons and the nuclear weapons, then we have no incentive for anyone to do anything except keep on producing nuclear weapons, particularly short-range nuclear weapons, whether we need them or not.

In effect, what we have right now is a system where the Department of Defense basically has every incentive to say, whether they say this literally, I do not know, I do not allege that they do, but it is a system that basically says, "Step right up, folks, the nukes are free. The nukes are free. Get as many of them as you want. We do not have to pay for them."

The Department of Defense does put in the requirements, but why should they worry about it, whether they order 1,000 or 10,000 or 50,000. They do not pay for them. The Department of Energy is sitting over there, and they are saying, "We have

these laboratories," and I recognize they are wonderful laboratories, and we have some great people there, but they are saying, "We have all these laboratories, we have all this overhead, we do not want to lay anyone off. Now the Department of Defense does not care how many nuclear weapons we produce. If we produce more nuclear weapons, we can divide that number into the total overhead and we look like we are more efficient."

So, the Department of Energy has every incentive to produce nukes. The Department of Defense has no incentive to do anything about it.

Now, I do not know how many nuclear weapons we need. I do not stand here on the floor and say that I know how many we need. I know we are producing a lot of nuclear weapons that no one in the executive branch is properly monitoring as to whether we really need them or not. I know we do not have an incentive system for anyone to manage this program. I know that whether you produce more or less nuclear weapons, per unit cost continues to go up. I know we have had huge increases in the per unit cost of these warheads.

I am not arguing this point philosophically. I am arguing it from a management point of view.

It seems to me that those who signed on to the Domenici amendment should begin to ask serious questions, and I think the study should begin to ask serious questions. Anyone who thinks that we have some great civilian control of the production of nuclear weapons now simply does not know how the system is working.

First of all, the people in charge at DOE, most of them are military people or retired military people. So you are not really separating them that much. There is some kind of myth going around that by having the Department of Energy fund all of these weapons you have divorced them from the military. Well, that is just totally inaccurate in terms of the facts now.

I think it is important to say that the purpose of the committee provision that is being stricken by this amendment—and I am not arguing against the amendment. I am not absolutely certain that the proposal we have come up with is the final and best solution. I am convinced that the status quo is not working in terms of management and in terms of incentives.

So the purpose of the committee provision is to try to build some cost discipline into the process of acquiring nuclear weapons. Under the system that exists today, there is a built-in incentive for DOE to build the most expensive warhead possible and to build as many as possible. The Department of Defense is not constrained to consider cost in setting warhead requirements because DOE funds the warhead costs. That is the situation we are in. The Department of Defense specifies the most complex and, therefore, usually the most expensive weapons that DOE can make. DOE justifies its expenses based on DOD requirements.

So the long and short of it is in the executive branch there is every incentive to have very high numbers and high costs of nuclear weapons. What we are trying to do is turn that incentive around.

Now it is true that we in Congress have looked at this account more and more carefully. I think it was about 3 years ago the Armed Services Committee terminated the so-called B-77 bomb. This was killed by our committee because it was too expensive. But it is not a good management system when you have to get to the Congress of the United States before you have anyone with an incentive to look very carefully at the dollars.

We have some examples that bring into mind very serious questions here. We had just 2 or 3 years ago a so-called dial-a-yield warhead on the ground-launched cruise missile. That added very substantially to the cost of that. We never found anywhere in the testimony why that had to be done, why that was different from other warheads. But we did know and do know it cost a lot more money.

We had SLCM's and GLCM's that were built with much cheaper warheads and no one can explain really what the difference is. So we have a situation where the status quo is simply not acceptable.

I agree with the amendment by the Senator from New Mexico because I think it does bear close scrutiny from a high-level group. Again, I am not precisely certain that the industrial-funded provision would solve all of this problem. I am not certain we have got exactly the right solution, but I am reasonably certain that the status quo is not a good management system and we have no incentive in the executive branch to properly manage.

I want to give you just a couple more examples. The Defense Resources Board—that is the Board that allocates the defense spending—they do not consider the warhead portion in terms of costs when they are making decisions on weapons. Those are the people over there that are considering the tradeoffs and there really is not a consideration of tradeoffs in this nuclear warhead area.

There is another, I think, important point. The warhead funds are not reviewed by the national security apparatus in the Office of Management and Budget. The people in the Office of Management and Budget reviewing national security look at the whole picture. Looking at the tradeoffs, they do not review this. These costs are reviewed by the energy and natural resources part of the Office of Management and Budget.

So I think there was a great deal of frustration in our committee with the present system. I hope that this blue ribbon commission would take note of the situation we have today.

I also hope that people who have gotten—perhaps sincerely, perhaps not—very alarmed—I heard rumors going around that this provision in the bill is a first step toward cutting out the national laboratories. I know of no discussion that has taken place like that. There is no discussion in our committee on cutting out the national laboratories. They are indispensable assets. I think we have to have them. I think they have a number of people who are indispensable there that cannot be replaced. I do not think that means, though, we ought to just have a blank check and say, "Build as many nukes as you want to. Nobody cares." And say to the Pentagon, "Step right up and get your nuclear weapons, folks. They are free." And that is the system that we now have in terms of incentives.

So I hope that everyone concerned with this blue ribbon commission would recognize the seriousness of this issue and would give it the kind of attention that it deserves.

Mr. WARNER. Mr. President, this issue was considered by Senator NUNN and myself during the course of the hearings conducted by the Subcommittee on Strategic Nuclear Systems, of which I am privileged to be the chairman. I wish to associate myself with the observations made by my distinguished colleague from Georgia.

Mr. President, let me briefly discuss the committee-reported provision.

The purpose of the committee provision was to try and build some cost discipline into the process of acquiring nuclear weapons. Under the system that exists today there is a built-in incentive for DOE to build the most expensive warheads possible. DOD is not constrained to consider cost in setting warhead requirements because DOE funds the warhead cost. Therefore, DOD sometimes specifies the most complex, and therefore, the most expensive warheads that DOE can make. DOE justifies its expenditures based on DOD requirements. The system has built-in incentives to promote high costs.

The principal controls on the system reside in Congress. The Armed Services Committees have exercised that control on a regular basis. For instance, the B-77 bomb, which was to be a new strategic bomb, was killed by the Senate Armed Services Committee because it was too expensive. It was too expensive because the requirements for the warhead were unrealistically restrictive. After the B-77 was

canceled, the requirements were relaxed and the B-83 is now being produced at a fraction of the cost of the B-77. Other similar examples can be cited.

It is poor management to depend on Congress to be the first level at which cost discipline is imposed. Somewhere within the administration cost controls should be built into the system.

The provision does nothing to affect current DOE program management. DOE would continue to execute its programs just as it does today. The amendment does require that funding responsibility be transferred to DOD. It is bad management technique to have the same agency responsible for both setting requirements and funding the execution of those requirements; such a situation that exists in DOE today with regard to atomic weapons programs. The committee provision seeks to correct that bad management situation.

There has been a great hue and cry raised by the DOE labs that the provision would destroy the labs and the independence that they enjoy today. There is no intent to change the way the labs are managed. DOE would continue to contract with the University of California and Bell Labs, just as it does today, to run these labs. There is no intent in the provision to restrain the independent voice of the labs.

During the course of our deliberations, the junior Senator from New Mexico was present and asked a number of pertinent questions. At the conclusion of our markup, Senator NUNN and I had some concerns and requested that the Secretaries of Defense and Energy provide the committee with their views on the subject.

At this point, Mr. President, I ask unanimous consent to have printed in the RECORD the responses of those Secretaries to the committee.

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

THE SECRETARY OF ENERGY,
Washington, DC, May 23, 1984.

Hon. JOHN W. WARNER,
Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: Thank you for your letter of May 18, 1984, requesting our views on an amendment to the FY 1985 Omnibus Defense Procurement Authorization Bill which would transfer the budgets for the Nuclear Weapons and Nuclear Materials Production programs from the Department of Energy (DOE) to the Department of Defense (DOD), effective with the execution of the budget for FY 1986. We understand the amendment is intended to strengthen programming procedures to ensure nuclear warhead costs are given full consideration in the Department of Defense when decisions are made on tactical and strategic nuclear systems.

The need to ensure nuclear warhead costs are given full consideration in the nuclear system decision process has been and continues to be a matter of high priority. This interest was a major reason for the studies that have been performed over the past several years wherein the possibility of having the DOD fund and/or manage DOE defense programs was considered. Among these studies were the 1976 "Funding and Management Alternatives for ERDA Military Application Functions," commonly referred to as the "Transfer Study," updated in 1981; the July 1980 "Long-Range Nuclear Weapon Planning Analysis," called the "Starbird Study"; and the review conducted in the context of the proposal to merge parts of DOE with the Commerce Department.

These reviews generally concluded that consistent with the thrust of the Atomic Energy Act of 1946, as amended, which established the Atomic Energy Commission (now DOE) to exercise civilian control over atomic energy, it is vital to keep weapon program management and funding responsibilities in a single civilian agency. One concern was that separation of funding and management responsibilities for programs of substantial size could result in steadily increasing involvement of the funding agency in the management of the program, with a resultant diffusion of responsibility to a level detrimental to weapon quality. Another concern raised in these reviews was that changes in funding arrangements could increase pressures toward duplication of facilities, staff, and other resources.

Nonetheless, it should be noted that, as a result of these specific reviews as well as our continuing joint efforts, several recommendations for improved coordination between the two agencies were developed and have been implemented. For example, over the past few years, the DOD has joined the DOE in discussions with the Office of Management and Budget and in testifying before Congress regarding the validity of weapons cost estimates and the annual DOE funding; required to support such estimates. Additional examples of recent improvements are enclosed.

We will continue to work closely with the Military Liaison Committee, the Office of Management and Budget, and the Congress to ensure all factors, including the full costs of the nuclear warheads, are taken into consideration during the decisionmaking process. We believe in this way we can best address the concern you or your staff may have without disrupting the fundamental tenets of the atomic Energy Act, which has served this Nation so well. Accordingly, we do not support the proposed amendment. However, we would have no objection to a joint reassessment by the Departments of Defense and Energy of potential improvements in the present budgeting and management procedures.

Sincerely,

DONALD PAUL HODEL.

EXAMPLES OF STEPS TAKEN TO IMPROVE DOD/DOE COORDINATION ON PROGRAM DECISIONS AND THE BUDGET PROCESS

1. As a result of the 1980 "Starbird Study," Department of Energy (DOE) costs are receiving more consideration in the Defense Systems Acquisition Review Council (DSARC) process then formerly was the case. Some (but not all) programs containing nuclear weapons have been incorporated into the DSARC process. The DOE Assistant Secretary for Defense Programs and the Development of Defense (DOD) Assistant to the Secretary of Defense (Atomic Energy) participate as observers for those systems included in the DSARC process.

2. In participating in the DSARC, the DOE has taken a position that weapon system tradeoff analyses must equally consider life cycle costs and nuclear weapons performance characteristics.

3. DOE costs are now being included in the DOD system acquisition cost reports to Congress.

4. DOE development phasing has been revised for better alignment with the DOD acquisition cycle. Besides providing for improved engineering detail for early program definition, this change allows the DOE to provide more detail on nuclear weapon costs and the impact of DOD requirements on DOE resources for consideration at major system decision points.

5. A criticism of the DOE has been that the DOE has been overly optimistic in nuclear warhead cost and schedule projections with the result that it tries to accomplish too much with limited resources. To remedy this, the DOE has established a position with the DOD that specific workloads can be accomplished only at specific resource levels. The DOE will not make a production or design commitment unless it is confident that the workload can be accomplished within specified resource levels. Further, the DOD has agreed that DOE can reject requested weapons characteristics on the basis of cost or production difficulty. Additionally, active efforts continue for improvement of cost definition.

6. The DOD and the DOE have agreed that decisions involving nuclear weapon systems will include full consideration of their impact on the total nuclear weapons complex. These considerations include the desirability of achieving more stable nuclear weapon production rates and stockpile levels, to include costs and availability of nuclear materials.

7. Over the past few years, the DOD has joined the DOE in discussions with the OMB and in testifying before Congress regarding the validity of weapons cost estimates and the annual DOE funding required to support such estimates.

THE SECRETARY OF DEFENSE,
Washington, DC, May 23, 1984.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, DC.

DEAR JOHN: Thank you for your letter of May 18, 1984 requesting our views on an amendment to the FY 85 Omnibus Defense Procurement Authorization Bill, which would transfer the nuclear warhead and associated nuclear materials budget from the Department of Energy (DoE) to the Department of Defense (DoD), effective in FY 86. We understand that this amendment would continue DoE management for the full scope of this activity and that the amendment is intended to strengthen programming procedures to insure that nuclear warhead costs are given full consideration in the DoD when decisions are made on tactical and strategic nuclear systems.

As you know, nuclear warhead costs and requirements are given careful consideration throughout our system acquisition process. This department maintains active and continuing interaction with the DoE through the Military Liaison Committee and through many other working level mechanisms within the Services.

We have been working over the years to insure full coordination between the Departments. In particular, as a result of the 1980 "Starbird Study" we have put in place a number of measures to ensure better coordination. We welcome the interest expressed by the Subcommittee in seeking or-

ganizational and management arrangements to accomplish further improvements in the process. However, we think that the approach envisioned by the amendment is clearly not the best way to accomplish such improvements.

I know we share a common conviction that the nuclear weapons program constitutes a vital national security resource. The United States and its allies rely upon this program as an indispensable component of our shared deterrent posture. Consequently, the ability of the nuclear weapons program to function effectively—and efficiently—within the government must be one of our highest national priorities. That very priority requires, however, that the mechanisms whereby we implement the Atomic Energy Act and perform the various related missions are altered only after careful analysis and deliberation.

For that reason, we do not recommend adoption of the amendment in the absence of such careful study and analysis of the results. Instead, we would propose that the Departments of Defense and Energy conduct a joint and comprehensive assessment of all the potential improvements to the present management and budgeting procedures for the nuclear weapons programs. We believe it is appropriate and achievable for the results of such an assessment to be available in time for detailed Congressional consideration along with the FY 1986 budget submissions.

Sincerely,

CAP.

Mr. WARNER. Mr. President, I wish to congratulate the distinguished senior Senator from New Mexico. Indeed, he and the junior Senator from New Mexico have brought to the attention of the members of the committee the alternative we are now considering. The majority is prepared to accept this amendment. Senator NUNN and I will continue to monitor this question in the forthcoming year, because I am as concerned, as he is, that there be proper oversight with respect to the tradeoff between expenditures for conventional weapons and those for nuclear weapons which might not be present in the existing budget review process.

[Mr. WILSON addressed the Chair.]

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, I join to urge the adoption of the resolution authored by the senior Senator from New Mexico. I commend him. I think it is a very great improvement upon what the committee adopted. At the time the committee did so, I objected. I commend my colleague on the committee, the junior Senator from New Mexico.

You have offered letters from the Department of Defense and from the Department of Energy. There are, as well, concerns that have been expressed by those at the national laboratories affected and by the University of California. All of them have opposed the change which the committee proposed. The reason, I believe, quite simply, is that they were concerned that the conviction shared by them with those who drafted the Atomic Energy Act might somehow have left this body and that there was no longer an appreciation of the wisdom of dividing the responsibility with respect to nuclear weapon development so that civilians that were really responsible for the research and development and testing.

I think that we can all appreciate the concern of the Senator from Georgia. I commend him for his concern about the costs of nuclear weaponry. It is a concern which I share.

But I think that the study that this amendment proposes will very likely lead us to the conclusion that the proper concern of the Department of Defense should be with respect to production. They should be concerned with the kind and number of nuclear weapons that are actually produced. I think we will probably determine that the better part of wisdom is to keep research and development and testing and, necessarily, the funding and management of those functions with the civilians who are now charged with that responsibility under existing law and who have been under the Atomic Energy Act since 1949.

So I thank the Senator from Virginia for his accommodation. I commend my colleague, the senior Senator from New Mexico, for proposing this amendment. I join him in urging it. I think the study will prove useful. I think it will lead to a division of function perhaps but not one that will violate a principle that I think was well thought of in 1949, and remains a good idea today; that is, the retention of the responsibility of the funding, management, research, development, and testing with the civilian laboratories.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to thank the distinguished Senator from California. Indeed, he has added to this issue the valuable perspective of those in the university systems, principally the University of California, and indeed there are others who make contributions to this important national defense effort. This is a very important perspective that we had overlooked initially during the subcommittee consideration of this issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I do not want to take a lot more time. But there are a couple of things I want to say because I do not agree wholeheartedly with my friend from Georgia, and I would not want him to accept my amendment today with the motion that the Senator from New Mexico agrees with everything he said because I really do not.

First of all, I do not think the Department of Energy is deciding the number of nuclear warheads. I think the Senator understands that decision is made by the President of the United States, and it is from him that it comes down. There are people who wanted to change that at one point in history, and actually the Department of Defense people wanted to change that. That really is not the issue. There are two things that I am impressed with in the present situation. I urge that this blue ribbon commission worry about them, and be concerned in anything they recommend. First of all, there is an enormous safety and reliability function that is involved in the development of nuclear warheads, of all types, all sizes, tactical and strategic. I find in discussing this with the civilians that whenever there is any pressure on money, it is safety and reliability that they are concerned about more than the defense people. I think that is very, very healthy. I would not want this function vested in the generals exclusively where they could choose between safety, reliability, and getting more of what they want.

Second, I really question whether the best way to get cost benefit is to put the budgeting for nuclear weapons in the Department of Defense. Frankly, if I did not have so much respect for the Senator from Georgia, I would say that I do not think it makes any sense at all. But I am not going to say that. I hope the Blue Ribbon Commission looks at it because I do not know that anybody would believe that the Defense Department save money. As a matter of fact, it seems to me from the fights we have more times than not down here that they waste money. I do not know why they would not waste it on nuclear if they are wasting it on everything else.

Mr. NUNN. Will the Senator yield for a brief observation?

Mr. DOMENICI. Of course.

Mr. NUNN. My very point is the same one which you made. I think money is being wasted on nuclear, but the reason the Defense Department really could care less is because they do not have to pay for it. I would agree with the Senator about the importance of safety. I would not in any way diminish that. Of course, as you recognize, our amendment would have left all the management of this to the Department of Energy. But those are the type of questions. The Senator makes a valid point on savings, and that should be possibly separated out of the consideration. Those are the kind of things I hope will be studied.

Mr. DOMENICI. Mr. President, the last point I would make is that I look at the defense budget from a slightly different vantage point. First of all, when we get the defense budget from the White House, the first place it

goes is to the Budget Committee, and strangely enough, all of the Department of Defense is in one function; that is, those aspects that the distinguished Senator from Georgia is worried about here today are not separated out in the defense function when we debate down here whether we want $299 billion in budget authority or a lesser number. They are in that number. They are separated out in the appropriation process.

I actually do not think leaving them in the appropriation process is necessarily going to cause any more frugality or cost benefit concern than the way it is done now. As a matter of fact, in the appropriation process, which is the next step, they go to a committee, or a subcommittee that has a significant function that is nonmilitary, and nonnuclear. And in that, they are balanced in the total amount available against a series of domestic needs; nonmilitary.

Maybe there is not enough pressure there yet. Maybe the function has been too large, and they have not been able to squeeze enough out as they consider the nondefense aspects of that particular subcommittee. But frankly, I think ultimately that may be a better way to handle it; to make it compete not with the entire defense budget, and say it will get treated there with more cost consciousness, and the like, but rather to mix it as we have but maybe do something else that we are not doing today.

So I am pleased that we are going to accept the amendment and not move precipitously. I hope the blue ribbon commission studies the matter in great detail.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I want to very briefly comment on the action we took in the committee. I did object to the language, the proposal by the Senator from Georgia, and the Senator from Virginia, to transfer this funding to the Department of Defense. I did so because of my concern that this was precipitous action which was being taken without adequate consideration for the complexity of the problem.

Although the committee at that time was not persuaded by my arguments, I am encouraged that the sponsors of that amendment are now willing to accept the amendment that is being proposed by the senior Senator from New Mexico. I commend him for putting together this amendment, and have the matter properly studied. I think there are some significant questions here. I think his concern about continued attention to the safety and reliability issues needs to be given high priority.

I am honored to be a cosponsor of this amendment that is being offered by the senior Senator from New Mexico.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I suffer from a very serious oversight in my remarks. Wherever I referred to the distinguished Senator from Georgia as having proposed something that did not make much sense, but that I did not want to say that, I want to add that whenever I referred to the Senator from Georgia, I want to add the Senator from Virginia also.

Mr. NUNN. Mr. President, I think the Senator might want to include the Senator from Virginia in that statement about having great respect, and if you did not have great respect for the Senator from Georgia, you would say the amendment made no sense at all. If the Senator is going to be in one part, he ought to be in the other.

Mr. WARNER. Mr. President, I think all Senators who wished to speak on this subject have now been heard.

Mr. MATHIAS. Vote.

Mr. WARNER. If the senior Senator, the Senator from Maryland, would refrain just a moment, the senior Senator from New Mexico has courageously put this issue to the Senate, joined by the distinguished junior Senator from New Mexico. The managers of the bill are willing to accept the amendment. But we forewarn all that this issue will be revisited in the coming year with great scrutiny.

Mr. NUNN. I agree with the Senator from Virginia. We will be looking forward, assuming we can get this motion, to stay in conference, and I hope we can receive the blue ribbon commission report. I hope they will give this a great deal of attention. I hope they will consult with some of our fine staff people that have been monitoring this for a long time, like Jim Smith. He is very knowledgeable. That is where the greatest check and balance is in this whole program right now—the staff.

Mr. BAKER. Mr. President, as a cosponsor of the Domenici amendment I am compelled to speak in opposition to the movement of budget control of nuclear warhead development, testing and production from the Department of Energy to the Department of Defense. Although I heartily commend Senators WARNER and NUNN for their efforts to control more effectively costs of nuclear weapons systems, I believe that the consequences of their suggestions could extend beyond those which they emphasize.

As a past member of the Joint Committee on Atomic Energy, I attach special significance to this issue. The Atomic Energy Commission was established in 1946, was staffed by civilians, and was given control of atomic energy matters. In 1957 the amendments to the Atomic Energy Act underlined the principle of civilian control of nuclear energy and nuclear weapon development. Since that time, the country has maintained the concept that the management and funding of nuclear weapons projects be a responsibility of the civilian sector. A transfer of authority for nuclear weapons work from DOE to DOD would mitigate this legislative history, a step which I am not, at this time, inclined to endorse.

The preservation of civilian control of these programs is not, however, my sole reason for supporting the position of Senator DOMENICI on this point. For I would suggest that such a transfer of authority as that recommended by Senators WARNER and NUNN would lead to both agencies sharing responsibility over weapon development, and, rather than reducing the costs of such systems, the ensuing increase in bureaucratic involvement would tend to ultimately increase our costs. Inasmuch as the secretaries of both agencies oppose any change in authority, I feel that the alternative proposed by my friend from New Mexico is the preferred option. A study of this matter, as authorized in this amendment, will provide a greater depth of understanding of the elements at issue, and hopefully provide members with the backdrop for a more informed choice at some later time.

In sum then, I applaud the members of the Armed Services Committee for their attention to this problem and their concern that we achieve a more effective control of nuclear weapons costs. I do hope, however, that the Senate will avoid the temptation offered by the quick-fix method of cost control which would erode the fundamental underpinning of our nuclear weapons program, that the civilian component of our Government shall make policy for and shall manage that program.

Mr. WARNER. Mr. President, I move the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Mexico [Mr. DOMENICI].

The amendment (No. 3194) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized.

Mr. NUNN. Mr. President, would the Senator yield for about 10 seconds?

Mr. PERCY. Yes.

Mr. NUNN. Mr. President, was consideration given to the Glenn amendment?

The PRESIDING OFFICER. The Glenn amendment was reconsidered, and the motion to reconsider was tabled.

Mr. NUNN. I thank the Chair.

AMENDMENT NO. 3196

(Purpose: To limit funds for certain programs of the Strategic Defense Initiative)

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, 1 hour has been agreed to on this amendment. I feel it can be disposed of more quickly than that.

I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. PERCY], for himself and Mr. MATHIAS, Mr. PROXMIRE, Mr. BUMPERS, Mr. HATFIELD, Mr. PELL, Mr. HEINZ, and Mr. PRESSLER, proposes an amendment numbered 3196.

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

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

The amendment is as follows:

On page 10, line 1, strike out "$4,566,541,000," and insert in lieu thereof "$4,466,541,000 of which not more than $1,527,000,000 may be used for the following program elements of the Strategic Defense Initiative:

(1) surveillance, acquisition, tracking, and kill assessment, (2) directed energy weapons, (3) kinetic energy weapons, (4) system concepts, battle management, command, control, and communications, and (5) survivability, lethality, and subsystems; and ".

Mr. PERCY. Mr. President, this amendment which I am offering with Senator PELL, Senator PRESSLER, Senator HEINZ, Senator MATHIAS, Senator PROXMIRE, Senator BUMPERS, and Senator HATFIELD as cosponsors, and which I understand will be supported—though they are not cosponsors—by Senator NUNN and Senator COHEN. If they would care to speak on the amendment, I would be happy to yield to them.

Mr. President, this amendment would reduce funding for the strategic defense initiative (SDI) by $100 million which brings it closer to the level approved for fiscal year 1985 by the House. The amendment cuts $100 million from the level recommended by the Armed Services Committee, for a total reduction from the DOD's request of $250 million.

At the outset, I want to emphasize that this amendment does not kill the SDI. The amendment still provides $1.527 billion for research and development of SDI-related technologies. According to estimates prepared by the Congressional Budget Office, this figure represents over a 50-percent increase in R&D for SDI-related programs over the level provided for the same programs in fiscal year 1984. This increase in SDI funding, I might add, is more than double the requested 26-percent increase for all defense R&D programs.

Mr. President, the House Armed Services Committee—which is certainly a fairly conservative body when it comes to national security matters—maintains that the SDI can be funded at a much lower level, a position that was not challenged on the House floor. For its part, the Senate Armed Services Committee agrees in its report on this bill that in light of fiscal year 1985 budgetary constraints, it could not approve the DOD's full request for $1.78 billion for the SDI. In sum, there is agreement in both bodies that SDI must be cut—the only question is how much. The amendment does not target the SDI funding reductions; rather, we agree with the position taken by the Senate Armed Services Committee that the cut should be distributed by the Pentagon.

What this amendment does is to ensure that SDI is approached with a prudent degree of caution. This is precisely what the Scowcroft Commission has recommended. In a report released in March, the commission warned, and I quote:

. . . the strategic implications of ballistic missile defense and the criticality of the ABM Treaty to further arms control agreements dictate extreme caution in proceeding to engineering development in this sensitive area.

The words used by the commission, Mr. President, were "extreme caution." This amendment will ensure that the Scowcroft Commission's warning is heeded.

Over the past two sessions, the Foreign Relations Committee has held a series of hearings on the SDI and other space arms control issues. The hearings have been chaired by Senator PRESSLER, who is the chairman of the Subcommittee on Arms Control. From my participation in these hearings, I have come to the conclusion that there are grave questions raised by the SDI proposal with respect to cost, goals, technological feasibility, effect on crisis stability, and its consistency with long-standing U.S. arms control policy.

Mr. President, the Foreign Relations Committee was not the only committee in this body to come away from its hearings on the SDI with far-ranging concerns about this defense initiative. In its report on the bill, the Armed Services Committee alludes to "uncertainties about the precise focus and goals of the program, and about the reactions of our allies and adversaries alike." Indeed, the Armed Services Committee warns that a "clearer articulation of the goals, and assessments of the many-faceted implications of the program, including its implications for arms control will be essential if the committee is to support the substantial funding increases proposed beyond fiscal year 1985."

What this language says to me, Mr. President, is that the Armed Services Committee was very concerned by the Pentagon's presentation on SDI but nevertheless decided to give the Pentagon the benefit of the doubt by only recommending a modest funding cut. In a time of serious Federal deficits, I do not believe that the Senate can give the benefit of the doubt to any new program that is proposed if DOD does not make a convincing case for that program. If the DOD's SDI presentation was confused and uncertain as to ultimate cost, specific objectives, implications for arms control and allied reaction, then it is incumbent on this body to hold funding for that program to the minimum level consistent with our national security interests.

This amendment conforms to that criterion. It provides for a significant increase in R&D in those technologies where our technical community must be informed as to what is and is not possible. I fully appreciate the large investments which the Soviet Union is making in similar technologies, and it is imperative that we maintain a vigorous R&D effort as a hedge against a Soviet breakthrough.

There is, however, a crucial distinction between a hedge and an all-out, crash program intended to lead to deployment of hardware within the next decade. Our distinguished colleague, Senator GOLDWATER, said it best in remarks he made during an Armed Services hearing on the SDI. According to press reports, Senator GOLDWATER said, "We're facing a threat far more destructive than anything that the Soviets might throw at us—the deficit."

I agree with Senator GOLDWATER in that respect. We cannot underestimate the danger to this country if we do not bring this deficit down, and we and we alone, the House and the Senate, have that responsibility. After all, we have to take into account you cannot have a credible foreign policy unless you have a strong national defense, but you cannot have a strong national defense unless you have a strong, dynamic, growing economy. This deficit is going to drive interest rates up, is driving interest rates up, and they will slow down economic recovery and increase unemployment if we do not do something about it. It begins that vicious cycle all over again.

Just this week, the leaders of the seven leading Western industrial nations reaffirmed the critical need to reduce U.S. deficits if we are to preserve economic recovery and avoid escalating interest rates. Reducing the SDI by $250 million would send a

strong signal that this warning has been heeded by the U.S. Senate.

Mr. President, I will not belabor all of the doubts that I have about the SDI. There is much about this initiative that we simply know very little about, in part because the DOD itself has been unclear as to what, exactly, is being proposed. We do know, however, one thing for certain. We know that the ultimate costs of deploying a multilayered space-based and space-directed shield against ballistic missile attack would be, in Under Secretary of Defense DeLauer's words, "staggering." By the estimates of many in the scientific community, the costs could run into the hundreds of billions of dollars.

Where will we find this money? Not by cutting funds for strategic offensive forces, since Defense officials have testified that such forces will have to be retained even if we do go ahead with a defensive shield. Not by cutting conventional forces, since everyone that I know shares Gen. Bernard Rogers' concern that conventional forces must be improved and expanded if we are to avoid having to resort to an early use of nuclear weapons in the event of a major Soviet attack in Western Europe.

The difference between $1.53 billion, as proposed in this amendment, and $1.63 billion, as recommended by the Armed Services Committee, may seem small to some. But I would stress that the fiscal year 1985 SDI request is just the tip of the iceberg. We know that the Pentagon intends to request $3.8 billion for the SDI next year, and that the total 5-year costs may approach $26 billion. None of this money—not a penny—will buy a single missile, gun, tank or submarine. It will not be used to increase the benefits provided our servicemen or to build new facilities. Rather, we are being asked to spend $26 billion on a research project—an exploratory study if you will.

Today, Mr. President, we can take a modest step toward imposing some rationality and caution in our approach to dealing with the new technologies of space warfare. This amendment, Mr. President, is a deficit-reduction amendment. It is a vote for fiscal responsibility. It is not a referendum on "Star Wars." It is not a referendum on the doctrine of mutual assured destruction. It will not indicate whether a Senator is or is not in favor of nuclear retaliation as opposed to strategic defense.

There will be many opportunities in the years ahead to have such fundamental up-or-down vote on the SDI. But on this vote, Mr. President, we can decide to keep the funding for this new and still very unfocused program to a minimum level consistent with our national security interests.

I know to some, Mr. President, it is probably a disappointment that we are only talking about reducing the $100 million, but after all, it was Everett Dirksen who said, a million dollars here or a billion dollars there, pretty soon you are talking about real money. And $100 million is a lot of money.

I know it is asking a lot of the Armed Services Committee to accept this amendment, Mr. President, but I do urge it, because members of the committee itself are feeling there can be a reduction here of $100 million without adversely or seriously affecting in any way the program. It will just mean I think we could have a better, steady, on-the-course program.

I never found in industrial research that by crashing dollars in there, you are really, in the end, ending up much better off than you would have been. Sometimes you lose time and money.

Mr. PROXMIRE. Will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. PROXMIRE. Mr. President, I support the amendment of the Senator from Illinois.

Mr. President, I'm pleased to join my colleagues, Senator PERCY and Senator MATHIAS, in sponsoring this amendment to reduce the level of funding of the Strategic Defense Initiative to that authorized by the House.

Mr. President, the administration requested that the funding for the Strategic Defense Initiative jump from $991 million in fiscal year 1984 to $1.78 billion in fiscal year 1985.

This represents a staggering real growth in the program of more than 70 percent.

In actual dollar amounts, this increase the administration has requested is higher than the increase for any other research and development program in the defense budget.

As a matter of fact, the increase for SDI was even higher than the increase requested for the entire Army R&D budget.

Mr. President, the Armed Services Committee cut the administration figure by $150 million, which I commend. But the committee did not go nearly far enough. It still allowed for a real growth in SDI of 55 percent.

This amendment would cut SDI another $100 million, which would still allow for a 45 percent real increase for SDI.

Even the huge increase the administration is requesting for fiscal year 1985 represents only the tip of the iceberg. Next year, the Defense Department wants to double SDI's budget. And by 1989, the Congressional Budget Office estimates that SDI will consume a whopping 16 percent of DOD's research budget.

It looks like even the SDI budget does not even come close to reflecting all that the Pentagon is spending on what has been called the President's Star Wars Program.

When you add in what will be spent on other strategic defense related programs—such as continental air defense, ASAT's, civil defense, Department of Energy Programs, and programs in the military services—when you add all this up, the total bill for strategic may run over $40 billion the next 5 years.

What are we trying to accomplish with this huge amount of spending?

Well, that is anybody's guess at the moment.

The House Armed Services Committee had written into its bill a requirement that DOD explain exactly what it is going to do with the money. And even the Senate Armed Services Committee admitted that there "will be uncertainties about the precise focus and goals of the program."

In other words, this year we are being asked to spend this money with a blindfold on.

And, after we get through this massive R&D effort, we would have another period of testing and development of prototype weapons that could cost us another $50 billion.

But even the $100 billion we would probably have to spend before the Star Wars is deployed—even this huge amount would only be a drop in the bucket compared to what we shall have to spend to deploy Star Wars.

And this is not my assessment. It is the Pentagon's.

None other than Richard DeLauer, the Under Secretary of Defense for Research, testified before the House Armed Services Committee:

> When the time comes that you deploy any one of these technologies, you'll be staggered by the cost that they will involve.

Dr. DeLauer has testified that Star Wars would be equal to "a multiple of Apollo Programs." Over a 10-year deployment period, Dr. DeLauer estimated that Star Wars' cost "could be equivalent to what we're spending on nuclear forces now."

In other words, according to Dr. DeLauer's estimate, the deployment of Star Wars could cost us $500 billion.

And even that may be an underestimate. Many outside experts believe the total cost of Star Wars could hit $1 trillion.

One trillion dollars.

Mr. President, this afternoon and this morning the Senate spent several hours debating a GI bill proposal that would attempt to encourage more highly motivated people to enlist in the Armed Forces, secure an education and give our national security the kind of human skill and competence we must have as the basis for protecting our country. With a heavy heart I voted against that proposal for one reason. It cost too much. The managers of the bill eloquently opposed that amendment on the grounds that we could not afford to begin spending

three-fourths of a billion dollars for such a purpose. I bought their opposition. I opposed the amendment because I agree that with the kind of deficits this country has suffered in recent years and faces in the future, we shouldn't spend the major fraction of one billion dollars, even for such an attractive purpose.

Now the distinguished chairman of the Armed Services Committee is calling for an SDI or Star Wars Program that will cost not three-fourths of a billion dollars, but will plunge this Nation ahead on a spending binge that will, if we follow through with it, cost our Federal Government $1 trillion or more. We were dealing with a relatively few peanuts for education. Now we are getting to the real mazuma. Make no mistake about it. If we go ahead with this program, we will be well on our way to the biggest and most extravagant commitment in our history. Any voter who, in 1984 or any subsequent year, wants to measure the fiscal responsibility or lack of it of his Senator will simply have to look at his vote on Star Wars—the big spending issue of 1984 and the future.

Mr. President, now whatever the final price tag, the important question remains: Can the U.S. economy afford to be staggered by such a massive drain on its resources?

Can the Federal deficit which is hitting an unbelievable $200 billion, afford to be staggered by such massive spending?

Can the readiness of our forces, which we all agree is not what we would like to to be—can that readiness afford to be staggered by such a massive drain on [DOD] funds?

The answer is "no."

No, we cannot afford Star Wars.

And, even if we could afford Star Wars, we do not want it.

We do not want it because the hundreds and hundreds of billions of dollars we would spend on Star Wars will not buy our children a dime's worth of security.

Why?

Because the bottom line is that the United States would never be able to deploy a perfect defense system that would make nuclear weapons "impotent and obsolete," as the President envisions this program.

Again, this isn't my assessment, Mr. President.

None of the defense experts, in an out of DOD, claims we could ever deploy a perfect defense.

The Fletcher Panel, which conducted a blue-ribbon defensive technologies study for DOD, talked only about achieving an "effective defensive capability by the 21st century"—not a perfect defense.

The Hoffman Panel, another blue-ribbon group DOD commissioned to study the role of Star Wars in our future security strategy, concluded that in the long term a defense system "might provide a nearly leakproof defense"—not a perfect defense.

Even Gen. James Abrahamson, the new chief of SDI, testified before the Defense Appropriations Subcommittee, on which I serve, that the defense system would be "highly effective"—not perfect.

But in this game, almost doesn't count.

Without a perfect defense system, enough nuclear warheads would lead through to effectively destroy the United States.

That's the bottom line.

A 90-percent effective system would allow 800 Soviet warheads to leak through—perhaps enough to touch off a climatic catastrophe known as nuclear winter.

Even if Star Wars were 99 percent effective, enough Soviet warheads would get through to destroy every major city in the United States with a population over 500,000.

Now we can spend hours debating this technology over that technology.

I agree that we cannot make a judgment now on what kind of future Star Wars technologies can be developed.

And I also agree that a laser beam or an interceptor can probably be developed to knock out another weapon.

But the real question is not whether under a carefully controlled test we can get an experimental missile to knock out dummy warhead, as the Army did yesterday.

The real question is whether during a nuclear attack we could intercept tens of thousands of warheads cleverly mixed in with hundreds of thousands of decoys while the Soviets are blinding and confusing our sensors and radars.

The real question is whether we could get hundreds of laser satellites and thousands of tons of chemicals and equipment into space to shoot down thousands of Soviet missiles in a matter of minutes.

In other words, the real question is not whether the technology will work.

The real question is whether the whole idea will work.

And the answer is "no."

Now we may not know what will come our way with the Star Wars technology.

But we do know what will come our way if we try to implement the Star Wars idea.

First, we know that the United States will have to abrogate the 1972 ABM Treaty.

There's some question about when we'll violate it and about whether during this 5-year R&D period anything will be done that constitutes a violation.

But in the end, those questions become irrelevant if the United States launches a massive program designed to eventually abrogate the treaty. As far as the Soviets are concerned, the treaty will be dead long before the actual violation occurs.

Now some say that we could amend the ABM Treaty to allow for these defensive systems.

That would be like amending the drug laws to allow heroin trafficking.

No Star Wars will kill the ABM Treaty.

Star War also will likely kill the Outer Space Treaty, which would prevent the deployment of nuclear bomb pumped lasers in space.

And while we are at it, you can toss the Limited Test Ban Treaty in the trash can. Those nuclear bomb pumped lasers would have to be tested in space to become operational and the LTB now prevents that.

We would probably never have a comprehensive test ban treaty, which has been the hope of every President since Dwight Eisenhower. Third generation nuclear testing would be in full swing under Star Wars.

And since a CTB was one of our best hopes for getting proliferation under control, the cause of nonproliferation would suffer.

There would never be any hope of negotiating an ASAT treaty since both sides would be scrambling to develop antisatellite weapons to puncture that other side's defenses.

We can say goodby to any type of INF treaty. Regardless of what the administration says, a perfect defense system is even more unfeasible for Europe than it is for the United States and Soviet Union.

So with the two superpowers racing to deploy missile defenses, the British and French will probably be scrambling to build up their nuclear forces so they can retain some credibility in their deterrent.

And since one of the main sticking points in the INF talks has been the British and French forces, you can be sure that the Soviets would never agree to reduce their intermediate-range missiles as long as the British and French are building up.

For that matter, START will also go down the drain.

And this will be disastrous, because the administration has already admitted that without Soviet reductions in their offensive arms, our defense system would never succeed.

The administration envisions that while the United States and the Soviet Union are deploying defensive systems, both sides will be walking arm in arm and reducing their nuclear forces.

Of course, these buildups and cutbacks would have to be synchronized perfectly so that neither side gets ahead of the other with its missile defenses.

But if the administration says it cannot verify an ASAT treaty, it certainly won't be able to verify that the

Soviets are not ahead of us in space weapons.

So it looks like we would just have to trust the Soviets not to develop secret countermeasures to overcome our defense system, and they will have to trust us not to overcome theirs.

Now we all know this is not going to happen.

There is not one scintilla of evidence that Moscow would be willing to render its nuclear deterrent impotent and obsolete.

On the contrary, the Soviets have said quite clearly that they view Star Wars as U.S. effort to gain a first-strike capability and they have let it be known they will do all they can to overcome Star Wars.

And if they do, if they simply build up their nuclear arsenal—Dr. DeLauer has admitted that "no defensive system will work."

Mr. President, I know that a number of my colleagues support the build-down proposal, whose goal would be to get both sides to move toward small, single-warhead ICBM's.

But if we have Star Wars, the last thing we'll have is builddown and small single-warhead ICBM's.

With Star Wars, the Soviets will likely be producing large ICBM's that would offer the most efficient means of delivering large numbers of warheads, decoys, and penetration aids.

One of the reasons we originally MIRV'd our missiles was in response to the Soviet ABM program in the 1960's. In fact, even the Scowcroft Commission argued that we needed to deploy large MIRV'd ICBM's like the MX in order to overcome a Soviet defense system.

As I have said, Mr. President, Star Wars represent a leap into the technological unknown.

But what is known is that Star Wars will kill arms control.

It will drive a spike right through it.

And, Mr. President, let us not be fooled that the R&D program we are launching today is some benign effort.

I know some people have been saying that all this 5-year research effort is doing is developing options for a future President to decide on Star Wars.

Well, that is hardly the case.

We are not debating here some options paper that came out of the Pentagon's bureaucracy.

The President of the United States, on national TV, announced to the world that the United States would launch a national program that would eventually result in our abrogating the ABM Treaty and attempting to deploy a missile defense system.

We are not talking about developing options here for a future decision.

The White House has already made the decision.

The R&D program that has been proposed for the next 5 years will develop options on the best way to carry out that decision.

And make no mistake about it.

What we are deciding now is whether to allow the administration to take that first step in making Star Wars a reality.

It is a decision that will affect the security of generations to come.

So I hope that we begin today by deciding today to accept this amendment, which represents a critical step in keeping this program under control.

I thank the Senator.

Mr. TOWER. Mr. President, is the Senator for Illinois through?

Mr. PERCY. I am finished, Mr. President.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

The effect of this amendment would be to move us closer to the House position. It would have the result of endorsing their action on SDI, which cut back on satellite survivability and arms control verification technology, the very things this Chamber went on record yesterday as supporting. I think most people here supported that amendment and insisted on making a study of survivability of satellites. Now we want to cut the funds for it.

None of the arguments made by the Senator from Illinois, I think, is really a good reason for cutting SDI except budgetary considerations. One hundred million dollars out is not going to send a clear signal. Why does the Senator not offer an amendment to cut entitlements by billions? That would be a better signal.

Remember, Mr. President, it was not defense that drove this deficit. Defense went down in real terms by 20 percent in the decade of the seventies, while nondefense was going up $100 million. Let us not call this a deficit-reducing measure. It is no such thing.

Mr. President, a lot of the debate about SDI is focused on whether or not defenses can be effective, what they will cost, how they will affect arms control. These are precisely the questions we seek to answer with the research program. This is not a full-scale development and engineering program. It is not a production program. It is research. And given the erudition of my distinguished colleague from Illinois, I am surprised and shocked that he would want to reduce funding for research.

It is from research that we derive knowledge. Without basic research, there can be no applied research. What applies in industry does not apply here. Industrial research is applied research. We are seeking the answer to questions—not only what our own weapons potential might be or what we can do to insure the survivability of our systems, but also to get some idea of what precisely the Soviets might be doing in this field, because we can be reasonably well assured that they may be pursuing some of the same research courses we are. And, Mr. President, we had better spend the money for this.

Remember that these programs are designed to perhaps give us some answers on defensive systems, systems that kill weapons, not people. The Senator said that cutting these funds is not an endorsement of the doctrine of mutual assured destruction, but, by George, it comes pretty close, if we are not going to fund research programs designed to defend against weapons, to kill weapons, not kill people. That is what this is all about.

Mr. President, I do not want to preempt all of the time that is allotted to us on this matter because there are others far better versed than I who, I know, want to address this issue. I hope the amendment of the Senator from Illinois will be roundly defeated.

I suggest to my friends who want to achieve some budget savings they are going to have an adequate opportunity. The junior Senator from Illinois is going to come up with one that is going to try to send us back to committee to try to whack about $6 million out of it. I am not advocating that anybody vote for that, either. But the point is we have already taken a $14 billion whack out of defense. That ought to be a pretty clear signal, I say to the senior Senator from Illinois. What is this additional $150 million going to mean? We have already taken a $14 billion cut. And we have come down barely to the level of acceptable risk in doing so.

Mr. MATHIAS. Mr. President, will the Senator from Illinois yield me 2 minutes?

Mr. PERCY. I yield 2 minutes to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I am pleased to be a cosponsor of the amendment offered by the distinguished chairman of the Foreign Relations Committee and by my good friend, the senior Senator from Wisconsin. Our amendment would reduce funding for the Strategic Defense Initiative Program [SDI] from the $1.62 billion recommended by the Senate Armed Services Committee to $1.52 billion, 22 percent above the level authorized for fiscal year 1984.

There has been a great deal of debate during the past year on the merits and demerits of the President's Strategic Defense Initiative Program; the successful intercept Sunday of a warhead in space by a Minuteman I missile raises as many questions about this country's policy toward the uses of outer space as it answers. If a common theme has emerged in the course of the last year's SDI debate among opponents and proponents of ballistic missile defense, it is that the United States must proceed cautiously with the development of these pro-

grams. I believe our amendment injects the proper amount of fiscal caution into a program where costs are quite literally astronomical. In this case, restraint is the better part of valor.

A strategic defense is nothing new. A number of international treaties already proscribe certain military activities in space and certain programs which are defensive in nature. President Reagan in his so-called "Star Wars" speech showed a personal interest in some sort of strategic defense.

Toward the end of that address you might recall the President shifted his focus from a discussion of deterrence to strategic defense. He proposed that this country embark upon a program to counter the awesome Soviet missile threat with measures that are defensive and directed a comprehensive and intensive effort to define a long-term research and development program to begin to achieve our ultimate goal of eliminating the threat posed by strategic nuclear missiles. Two reports to the White House, by the Defense Technologies Study Team and the Future Security Strategy Study, have subsequently endorsed a space-based ballistic missile defense [BMD]. Indeed, the DTST recommended spending as much as $27 billion over the next 5 years in support of such programs.

One of the most popular and well-publicized proposals to emerge following President Reagan's speech is the high frontier proposal for a global ballistic missile defense [GBMD]. The high frontier project, quite literally a call for America to seize the high ground in the race to control outer space, envisions a space-based missile defense and ground-based point defense of U.S. missile silos. This would be augmented by a second tier of space-based defenses, a massive civil defense program, advanced manned military space vehicles, and more. High frontier advocates have testified before the Senate Foreign Relations Committee that an initial GBMD can be deployed with off-the-shelf technology within 5 or 6 years, and at a cost of $15 billion. But before digging any deeper in the space-based BMD debate, recall briefly the current condition of the space environment we and the Soviets seem bent on leaving behind.

Outer space, obviously, is common territory; ideally a peaceful place. Space has served military functions for some time, many of which actually contribute to stability and deterrence. High-altitude geosynchronous satellites are used by the United States and U.S.S.R. to monitor one another's global military activities, verify compliance with existing arms agreements, and to provide crucial information to our country and our allies in times of crisis. Six international treaties govern the military uses of outer space, and several contain provisions prohibiting the deployment of some systems integral to any strategic defense program.

Furthermore, the United States depends far more on outer space than does the Soviet Union. Not only do we rely more on space for peaceful commercial activities, but most of what we know about Soviet nuclear weapons comes from satellites. Moreover, we depend on satellites to communicate with United States and NATO forces throughout the world. It's safe to say that the United States has special reason to pause before leaping into the abyss of a space arms race.

And this race, which I am convinced is imminent in the absence of restraint, will not begin when one side or the other finally deploys a space-based BMD. Those systems, while terribly costly today, are decades away. The space arm race begins with antisatellite (ASAT) weapons.

The ASAT mission is self-explanatory. ASAT's are used to blind or destroy enemy satellites. While it is true that the Soviet Union is the current sole possessor of an operational ASAT system, the primitive nature and limitations of that system are well known. The United States discontinued its ASAT Program 437 in 1975, but is now on the verge of testing a new device against an object in space.

This device consists of a miniature homing vehicle (MHV) fired from the belly of a high-flying F-15 aircraft and is far more sophisticated and versatile than the operational Soviet system. The MHV destroys its target by zeroing in on an enemy satellite and exploding nearby or colliding with it. Once operational, this ASAT weapon will offer the United States a temporary edge in the space arms race. Many also believe this capability will bring the U.S.S.R. to the negotiating table. I would like nothing more than to negotiate a ban with the Soviet Union on ASAT weapons and the other esoteric systems under consideration, I only wonder if first raising the stakes in space is the best way to do that.

A space-based BMD, however, leaves the ASAT threat far behind. Fortunately, opponents of a ballistic missile defense have found a powerful ally in deflating the claims of projects like High Frontier: the Reagan administration.

Dr. Robert Cooper, head of the Defense Advanced Research Projects Agency [DARPA] reports that DARPA has "experienced some difficulties in ratifying the existence of off the shelf components and technologies to provide the required surveillance, command and control and actually perform the intercepts," and specifically questions the High Frontier GMBD concept design. He concludes that the "enormous complexity of such a system is unmanageable today."

With respect to the $15 billion cost and 5 to 6 year timeframe of high frontier Dr. Richard DeLauer, Under Secretary of Defense for Research and Engineering, has testified that both are grossly underestimated. And Dr. Cooper has told Congress that "our understandings of systems implications and costs would lead us to project expenditures on the order of $200 billion to $300 billion in acquisition costs alone for the proposed systems." To put that in perspective, remember the entire fiscal year 1985 Defense Budget request we are considering today totals only $230 billion. Speaking of strategic defenses generally, Dr. DeLauer told the House Armed Services Committee:

> When the time comes that you deploy any of these technologies, you'll be staggered at the cost. Any defense system can be overcome with proliferation (of an adversaries missiles).

And if the numbing expenditures forecast by top DOD officials aren't reason enough for a long second look at BMD programs, consider this.

I have mentioned the dubious merit in militarizing outer space beyond the current level. Space should not and need not be the arena for the next round of United States-Soviet brinksmanship. Nor is it at all clear how an American strategic defense would affect relations with our allies. Would the United States be able or willing to construct similar shields over the NATO allies, Japan, parts of the Pacific? It would be folly to expect the Soviets to sit idly by as we develop these brave new weapons. And, in fact, we know the Soviets are not sitting still. They too are heavily involved in BMD and related programs.

The most obvious consequence of American and Soviet military space activity is the continuation and extension of the arms race. The arms race will become a two-pronged effort, both offensive and defensive in nature. Dangers will also arise when strategic offensive and defensive systems are integrated. If either superpower were to couple its awesome offensive forces with what was perceived to be a seamless defensive capability, the nuclear threshold could be lowered instead of raised. A nation that possessed offensive nuclear weapons and a strategic defense could be attacked before that defense is completely deployed by another nation that feared its weapons would otherwise be rendered impotent; or it could unwisely initiate a nuclear attack, secure in the belief that it could not experience similar devastation. Neither prospect is acceptable.

Too, we must ask if a space-based BMD would really work. How many missiles must it be capable of intercepting to be useful? Gen. Brent Scowcroft recently told me that a strategic

defense could probably never be better than 90 percent effective. And as Dr. DeLauer points out, an enemy could simply produce missiles and decoys enough to overwhelm any defensive system. But let's assume that the United States did possess a strategic defense, and that it was 95 percent effective. At today's force levels, approximately 800 of the U.S.S.R.'s 16,000 strategic nuclear warheads would still reach American soil. This would create unbelievable, unacceptable damage, and we haven't even factored in Soviet warheads delivered by bombers and on cruise missiles.

The most urgent item, then, on the space arms control agenda is ASAT weapons and their control. And the reckless and costly focus on a space-based BMD is premature. Worse still, advocates of strategic defense run the risk of raising false hopes, and of perpetuating the myth that America would somehow be spared the devastation of a nuclear exchange.

We do not have to fix our eyes on the stars to relieve the risk of war on Earth. The dangers and expense involved in fielding a ballistic missile defense overshadow the proposal's seductive appeal. Research and development of a BMD and of other methods for reducing our reliance on nuclear weapons should of course continue. Programs of such limited scope are decidedly cost efficient in terms of adding to the body of knowledge on the subject.

Which is why our amendment capping the fiscal year 1985 strategic defense initiative budget request at $1.52 billion is a prudent reduction in an already ambitious research and development program. I urge all of my colleagues to support it.

Mr. GOLDWATER. Mr. President, I was impressed yesterday during the debate on the antisatellite program by one thing. I think there is great confusion in this body as to what we were really talking about. I am firmly convinced that a great majority of the Members of this body thought we were talking about nuclear weapons. We were not. This amendment does not apply to nuclear weapons. So what my good friend from Maryland was speaking about will not apply in this whole general area.

When Dr. DeLauer was before our subcommittee, I asked him how much this whole thing was going to cost. He very frankly said he did not know. I pointed out to him that we had to have some idea of where we were going. He said he expected to have an estimate of how much it would take to get started and this represents, in my opinion, the estimate that he was referring to.

Striking the amount of money out that the Senator from Illinois has suggested would work real hardship, for example, on surveillance. Is that important? Yes. It is probably the most important part of the defense systems that we are trying to establish for use in outer space.

It is true that we can direct a satellite to within almost contact with any other satellite that is orbiting in space, but we have to know a little bit more about it. And again we are not talking about developing a weapon to destroy another weapon or a satellite with atomic power. We are talking about a laser, for example, or other weapons that would be varying from rather small power of 1 or 2 watts to a very high power of maybe a kilowatt or 2. The acquisition is important. We know a little bit about it. Tracking, we know a little more about it. The kill assessment is something we do not know much about. We do not know how well our laser rays, for example, will work. We know that they will work if we can develop the accuracy and develop the acquisition and the power.

Now we get into directed energy weapons. Mr. President, this is something we do not know a lot about. This is something that Dr. DeLauer was not able to discuss with us. We need this money for further research. We get into kinetic energy weapons and the same thing applies. We have a great knowledge of this type of weapon, how it is to be constructed, what it generally will do, but if we are going to strike the amount of money out of this defense budget that we are asking for, we are not going to be able to perform some of this research and development.

Mr. President, there is no more important term in the whole defense arsenal than research and development because we are not talking about the ordinary conventional weapon with wings on it or with a barrel out of which you shoot a bullet. We are talking about new concepts because, as I related on the floor the other day, we go down through the whole history of war beginning with man fighting a man with his fists. We see developments in warfare that immediately produce the reaction that that will be the end of war.

Mr. President, I will remind you that there has never been a weapon developed in the history of this world that some other weapon was not built to defend against. This is all we are trying to do. We hear it called Star Wars, we hear all kinds of exotic terms applied to it, but the prophesies were made as short a time ago as World War I that the war would be won by tanks. To a large extent it was and the prophesies were made that never another battle would be fought because of tanks. And then the airplane came along and many people said, "Well, it won World War II." It did not. It helped.

So, Mr. President, what this amendment is going to do, I am afraid, if it passes, is to prevent us from doing the type of research and development that we have to do. And again we are not talking about atomic weapons. We are not talking about nuclear power. We are not talking about long-range ballistic missiles. We are talking about the ability to guide a satellite to within striking distance of a satellite of whatever enemy we might have whose satellite could not necessarily rain destruction upon us but destroy satellites that we have for communication.

We are doing most of our communicating today around this world with satellites. Observation, I cannot get into that because it is extremely highly classified. But I have to ask my colleagues in the Senate to vote against any reduction of funds from this rather small amount that has been authorized merely to find out can we do it. If we do these experiments and we are convinced that we can go no further, Dr. DeLauer said, "I would be the first one to say so." I think we have to continue with the research that we have started. It is necessary to our defense and offense as any conventional weapon.

So, Mr. President, I am going to oppose this amendment. I do not think it is a wise amendment. I do not want to see us make a mistake in the cessation of research and development at this time.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I should like to comment first on the comments of the distinguished chairman of the Armed Services Committee. I want to be certain that we clearly understand that in this amendment we specifically reject specified cuts which the House Armed Services Committee directed. We agree with the position taken by the Senate Armed Services Committee that the cuts should be distributed by the Pentagon.

Second, there is still a $150 million difference between the amendment and the House mark that should provide the Senate conferees with leverage in the conference.

I would like to finally ask the distinguished floor manager of the bill, Senator WARNER, a few questions. Is it not correct that the Senate Armed Services Committee reduced the President's request for SDI by $150 million?

Mr. WARNER. Mr. President, in response to that question, the Subcommittee on Strategic Systems had no less than three hearings on this subject, and after many careful hours of deliberation and a number of witnesses—and I might add that we invited those who were in opposition to the President's initiative and gave them adequate opportunity to appear—it was the collective judgment of the

committee that we would take out no more than $150 million.

Mr. PERCY. Is it not also correct that in doing so the committee cited fiscal constraints caused by the Federal deficit?

Mr. WARNER. Throughout the discussion by the Armed Services Committee on its entire defense budget, the members of the committee had in mind fiscal constraints, but in terms of this specific cut of $150 million it was not related to any goal or figure for reduction by the committee. It was taken out solely because it was our judgment that that was the amount of money that could be removed without endangering this program. A dollar more in our judgment does endanger the program.

Mr. PERCY. Is it not also correct that the committee report warns that full funding will not be provided next year if the administration's presentation is as uncertain as it was this year?

Mr. WARNER. I was the author of that language, and indeed the subcommittee as well as the full committee was concerned about the preciseness with which the administration laid down certain aspects of this program, but the $150 million cut was not related to any lack of confidence by the committee in this program.

Mr. PERCY. I would ask my distinguished colleague, the senior Senator from Virginia, if he would not agree that the House Armed Services Committee did actually support SDI?

Mr. WARNER. Indeed, to an extent.

Mr. PERCY. Would I not be correct in characterizing that committee as a rather conservative body on defense matters?

Mr. WARNER. In this instance they showed less than good judgment.

Mr. PERCY. Is it not true that the House committee reduced the fiscal year 1985 SDI request by $407 million?

Mr. WARNER. That is in the RECORD.

Mr. PERCY. I thank my distinguished colleague. If there is no one else who would like to speak——

Mr. COHEN. Will the Senator yield?

Mr. PERCY. Yes; I would be happy to yield to the distinguished Senator from Maine.

Mr. COHEN. My understanding is that there is about a $1.7 billion request for the SDI; is that not correct? And that if the Senator's amendment were to prevail that would make a total reduction of $250 million from the administration's request?

Mr. PERCY. That is correct.

Mr. COHEN. Let me say to the chairman of the Foreign Relations Committee that part of the difficulty has come about from the nature of the presentation made by the administration as to the goals of the SDI. On the one hand, you may recall that the President made a very dramatic speech in a joint session of Congress in which he indicated we should strive for that day when we could render offensive weapons obsolete. I do not think anybody would question the desirability of that particular goal. It was then suggested that you would use a strategic defense initiative as a means of preventing attacks upon city populations. Later that was somewhat modified to say that we really have in mind the protection of our silos. Furthermore, I think there was a good deal of evidence in the RECORD that we could never really have what they call an astronomic roof over the United States that would be totally leakproof, that there would be some leakage, some percentage; and when you have thousands of warheads being fired upon the United States, even a small percentage means a good deal of damage.

However, more important than those issues that have been raised about effectiveness is the question: What is the strategic goal we have in mind? How does that pertain to what we are doing with our offensive systems? I think we make a mistake to simply look at our offensive capabilities and not take into account the effect when you also devise or develop and deploy an adequate defensive system.

What does that combination do? Is there a certain dynamic set up?

I mention this in the context of what do we anticipate our adversaries or enemies are going to do in response to this.

For example, one of the rationales offered—and the chairman of the Intelligence Committee may want to correct my recollection of this—one of the rationales that was offered was that if we build a defensive system, a very significant, substantial defensive system, it would provide the incentive for the Soviets to reduce their offensive capability. That was one of the rationales offered before the Armed Services Committee, as I recall.

The difficulty with that rationale is that it is contradicted by the Department of Defense studies. The Hoffman report indicates that—contrary to the Soviets reducing their offensive systems, being persuaded that they would be totally unable to penetrate the defense—the Hoffman report indicated that in all probability, and I have the language here, the Soviets would seek a cheaper way of using more offensive systems to overwhelm the defensive system.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. COHEN. I yield.

Mr. GOLDWATER. Mr. President, I think we have to make it clear—at least clear in my mind—as to what the President was talking about when he talked about "star wars" and what Dr. DeLauer was talking about.

This is not the development of offense. It is the development of defense, but not against ballistic missiles. As we grow more and more dependent upon the satellites for communication and for observation, the Soviet Union, or any enemy we have, will attempt to destroy the ability of those satellites.

This does not involve massive attacks. It involves the ability to render that satellite useless for what they are intending it for. That, in my opinion, is star wars.

I remember the day that President Kennedy said we are going to send a man to the Moon. I thought the guy was out of his head. Well, he was not.

I think we should at least give the President a chance to see if he can develop these things, and I think we can. They are not offensive. They are defensive.

Mr. COHEN. Mr. President, I appreciate what the Senator from Arizona has said.

It is not a question of whether it is technically feasible. I agree that within 15 years we will look at what we have now as obsolete. I think technology is running at such a pell-mell pace that, in a short period of time, we can achieve almost anything technologically.

The question I am raising is the context in which we are pursuing this. According to the Hoffman report, the Soviets' reaction to our building a defensive system, whether it is in space or call it star wars, would be to try to overwhelm a system.

Second, I recall during the course of the testimony, once again, the paradox or inconsistency in our positions. It was testified that we are way behind the Soviets in BMD or in our defense capabilities, at least 10 years behind. The logical question which comes is that if we are that far behind, why are we not reducing our offensive capabilities? That was a rhetorical question. The answer is that we are not doing that in any way.

I raise these questions because I believe there is a certain destructive tension between moving toward an expansion of our offensive capability at the same time we are developing a significant defensive capability. I believe that creates a certain instability.

I think many witnesses testified that one of the worst situations you can have is where you are expanding your offensive capability at the same time you are building a significant defensive capability. Preventing that is the rationale behind the ABM Treaty.

It may be that this administration is committed to the principle of repealing ABM, saying that it does not work, that they have not abided by it, and that we want to get away from it. They have not said that yet, but we may be taking certain steps which will lead us inevitably to that conclusion. I am not sure that we are prepared to come to that judgment yet or to say

that moving away from the concept of the ABM Treaty—that it is a destabilizing move to start making systems which are defensive—maybe we want to make that judgment, but we are funding programs which are going to carry us to that conclusion.

I think Members should be aware that there is a certain dynamic or a certain tension between the two, when you create an offensive capability and couple that with a defensive capability, and you are in fact, in my judgment, promoting a crisis instability situation.

I believe we should continue the R&D on it. I do not know what an adequate level is. I do not know how you can spend $7.1 billion in 1 year on a brand new program. So there is room for disagreement.

This is a question of the coherency of our objectives. How do they relate to our negotiating process? Are we not, in deed or in fact, calling for abolition of the ABM? Does it no longer serve our interests?

I have listened to the Secretary of Defense say words to that effect on television, that he has never been a supporter of ABM, and if he did support it, it is no longer relevant in view of Soviet behavior.

I do not believe we have answered the questions that I think are relevant. If you combine offensive capability with defensive capability, what position does that put you in, in terms of maintaining crisis stability?

Mr. QUAYLE. Mr. President, the Senator refers to the Hoffman report, as perhaps this is going to trigger a response from the Soviets, that they would overwhelm—that that would be their offense.

I believe the Hoffman report says that initially that would be the Soviets' response, but finally the report says that after they find out if a system works, and we do not know, and that is why we want to go ahead—that if the SDI defense works as envisioned, then the Soviets will find out that it will be difficult for them to overwhelm it.

As a matter of fact, it is going to be very uneconomical for them, and therefore they may be forced into a smaller missile, one that will be more survivable, which will demand more accuracy and less megatonnage and less throw-weight.

Does it not go on and indicate that perhaps after they initially tried to overwhelm this, that necessarily might not be the case?

Mr. COHEN. The operative words are:

> Their current program emphases suggest that they would be more likely to respond with a continuing buildup in their long-range offensive forces. However, such a buildup would not necessarily be sufficient to maintain their current level of confidence in the achievement of the strategic objectives of those forces.

Is that the phrase the Senator is talking about?

Mr. QUAYLE. I am talking about that language, also.

In the conclusion, they say that would be the Soviet response. But if we have a system that is going to work, then I am not sure that is going to be the Soviet response.

Mr. COHEN. There is no testimony I heard that said you could have a leak-proof system.

Mr. QUAYLE. We do not need a leak-proof system, but if you have one that is fairly close——

Mr. COHEN. But the question comes, are we committed philosophically at this point to saying that the ABM is out the window, and that rather we believe in the concept of trying to deploy defensive systems while you have offensive systems?

The whole theory behind ABM was that you have a greater chance of instability if you have an offensive threat coupled with a defensive capability.

Then you are really creating instability in a crisis situation.

Mr. QUAYLE. We are not ready to discard ABM.

Mr. COHEN. I do not think so either.

Mr. QUAYLE. I do not think we should be. I think that treaty is still there, but that is why we need the research to find out what is necessary, and that is why I think we have already taken a whack at this about $150 million. I think another $150 million the Senator from Illinois is talking about would really be counterproductive.

We have to give a President in the 1990's the options to make these decisions, and I do not think the Senate is going to make these decisions here tonight. We are not going to make them tonight or next year. I do not think we should start turning this thing down.

I know there is a lot of momentum out there to say we have to do something about this, keep referring to "Star Wars." That is strictly a defensive initiative. We are talking about defensive weapons, not offensive weapons. We are talking about defensive weapons and talking about a President's speech, that the Senator from Maine referred to, as having the possibility of rendering nuclear weapons obsolete by such and such a date or a date in the future.

I think that is certainly a worthwhile objective. I think the Senator's amendment would not go in that direction.

Mr. PERCY. Mr. President, before the remaining time I have runs out I wish to correct just one statement that was made. The reduction is $100 million, not $150 million.

Mr. WARNER. Mr. President, if the Senator will use his microphone, I am not sure what the specific request was. The Senator from Virginia is now in tight control of the time for the opponents of this amendment.

Mr. President, will the Chair kindly inform the Senator from Illinois the time that he has remaining?

The PRESIDING OFFICER. The Senator from Illinois has 1 minute remaining.

Mr. PERCY. Mr. President, I ask unanimous consent that Senator NUNN be permitted to have the 1 minute that I have remaining and 3 additional minutes if the manager of the bill would be good enough to yield that time to him.

Mr. WARNER. I am willing to provide some time from the opponents to Senator NUNN.

So at this point I understand the Senator from Georgia now has the floor.

Mr. NUNN. Mr. President, I will not take much time. To me this is not a matter of deep philosophical argument but a matter of economics and efficiency.

The record, as the Senator from Virginia no doubt recognizes, and I must say the Senator from Virginia did a superb job in these hearings—I have never seen a more patient subcommittee chairman. The Senator from Virginia and the Senator from Nebraska did a superb job in giving the administration time after time every opportunity to come up and clarify the record, to set forth reasonable logical goals and concepts. Some days we thought we had arrived at that point and then before the hearings were over most of the testimony had been contradicted or the previous testimony had been contradicted.

The long and short of it is what we have as we launch a new program basically is $28 billion worth of research. The Senator from Texas emphasizes this was just research. It is $28 billion worth of research.

We have a record that is replete with contradictions in goals and objectives, with contradictions in concepts, with contradictions about all sorts of different important parts of this program.

I am not against the program. I think it has considerable promise. It has been grossly overstated to the American people in terms of what it might reasonably be expected to accomplish.

I remember being in a hearing with all the experts from the administration the afternoon before the President made his so-called "Star Wars" speech at which time they testified almost unanimously that they had all the money they could reasonably spend and they were requesting all the money that they could reasonably and prudently spend. The record is replete with that testimony.

The next night the President made his speech. Since that time we have been in a vigorous contest to try to match rhetoric and reality. The scientists have been trying to take the statements about protecting populations and all of that and get it down to a point of reality. Secretary DeLauer went through that. All of them went through it.

Let me just say I think that this program is overfunded. If you cut the $100 million out, you will still have a 50-percent growth, a 50-percent growth from 1984 spending levels to 1985 spending levels. A 50-percent growth in a short time of 1 year with massive changes going on it seems to me is a sufficient growth rate.

I think what the administration needs under this program is more time and less money.

Mr. WARNER. Mr. President, first I wish to thank the Senator from Georgia for his remarks. Indeed the subcommittee did spend many hours on the subject.

Let us make eminently clear that we are talking about programs which are related to systems for the defense of incoming ballistic missiles.

Second, all research on this program is being conducted in compliance with the ABM treaty.

Third, the Department of Defense principal witness, Dr. DeLauer, said it will take this Nation a decade to catch up with the Soviets in this area.

As my distinguished colleague from Indiana pointed out, the President indeed, everyone occupying the Office of President of the United States today, would be compelled out of a sense of responsibility to take the same initiatives that President Reagan has taken. Otherwise, he would foreclose the options of a future President in the 1990 decade.

Mr. President, I rise in opposition to the amendment to reduce funding for the stragetic defense initiative. Let no one mistake the amendment as a mere budget adjustment. The intent of the amendment is to frustrate one of the most important new thrusts in U.S. strategic policy to have occurred in recent times. In addition, approval of this amendment will surely have the result of endorsing the House action on SDI, which cut back on satellite survivability and arms control verification technologies that this Chamber went on record yesterday as supporting.

The President has outlined a program that holds great promise for enhancing deterrence, advancing our efforts to negotiate reductions in strategic offensive forces, and providing a means to save lives rather than avenge them. The President regards the SDI as a personal initiative, and has written to me and other Senators urging that no further reductions be made in the program.

Much of the debate about the SDI has focused on whether or not defenses can be effective, what they will cost, and how they will affect arms control. These are precisely the questions that the SDI is intended to answer. Again quoting from the President's recent letter: "I want the Congress to clearly understand that the SDI is not a decision to develop, or a commitment to deploy, a strategic defense. It is principally a research program."

Mr. President, in response to my distinguished colleague from Maine, who has left the Chamber, while this research and technology program is underway, complementary policy and strategy studies will examine the implications of these technologies for arms control and for the important transition from a purely offensive strategy to a balanced offensive/defensive strategy. The SDI will provide the basis for an informed decision by a future President and Congress on whether or not to begin the development and deployment of a U.S. strategic defense capability. In the meantime, the program has been structured to be in compliance as I have said, with all U.S. arms control commitments, including especially the 1972 ABM Treaty.

The proponents of this amendment argue that it will guarantee that the SDI is approached with appropriate caution, and cite the Scowcroft Commission's recent report. In fact, Scowcroft cautioned against proceeding to engineering development, which has nothing to do with the SDI program now before us. Relative to the research objectives of the program, Scowcroft stated: "In the Commission's view, research permitted by the ABM Treaty is important in order to ascertain the realistic possibilities which technology might offer, as well as to guard against the possibility of an ABM breakout by the other side."

The SDI program is intended to do exactly that.

In response to my distinguished colleague from Illinois, I wish to remind him and other Senators that most of the ongoing programs that have been incorporated into the strategic defense initiative have enjoyed the bipartisan support of Congress in the past and are essential on their own merits, quite aside from their application to the SDI. And the Congress has done that for good reason. The SDI incorporates important technology programs aimed at providing a hedge against a ballistic missile defense breakout by the Soviet Union. In view of Soviet efforts to significantly expand this ballistic missile defense capabilities, efforts that raise serious concern about their compliance with the 1972 ABM Treaty, an aggressive research program on the part of the United States is not only prudent—it is essential.

The SDI also incorporates programs intended to satisfy the requirements for a survivable tactical warning/attack assessment system and a satellite attack warning/verification capability. These programs address the very concerns expressed by Senators yesterday regarding the need for greater satellite survivability and improved verification capabilities. And while it is not the expressed intent of the sponsors of this amendment to cut these programs, that is exactly what will happen if the Senate reduces SDI funding and with it the negotiating leverage we will need in conference to restore House cutbacks in these critical programs.

Those who argue that the requested funding level represents too large an increase over last year should be reminded that several of the technology demonstration programs included in the SDI were in the concept and design phase, and are now moving into the most costly hardware fabrication phase—the natural evolution for any technology development program.

They should also be reminded that the defense technologies study, directed by Dr. Fletcher, which provided the blueprint for the SDI program, recommended a technology-constrained program in fiscal year 1985 almost half again as large as the President's request. Even the fiscally constrained program identified by Fletcher was significantly more robust than the President's request, which reflected overall national defense priorities and budget constraints.

The funding requested this year is, in fact, only $250 million more than was programmed prior to the President's speech and the establishment of a focused and coordinated SDI effort. The approximate 15-percent increase represents modest increases in most program areas, with significant percentage increases in the area of survivability and lethality studies, which have been identified as important areas of uncertainty.

Let me assure Senators that the $150 million reduction recommended by the Armed Services Committee reflected budget constraints. It is not a reflection of committee dissatisfaction with the manner in which the program was presented to the committee. The concerns of the committee have very little to do with the fiscal year 1985 request. Indeed, many of the committee's concerns demand a vigorous program start so that the technological uncertainties, and related policy question, can be resolved.

I ask you to join me in rejecting any amendments that seek to further reduce funding for the SDI. The level of research recommended by the Armed Services Committee is essential

if the program is to get a vigorous start toward its goal of moving away from our current sole reliance on offensive retaliation for deterrence. It is also very important in view of ongoing Soviet efforts to develop expanded ballistic missile defense capabilities.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated June 11, 1984, relating to this matter.

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

DARTMOUTH COLLEGE,
Hanover, NH, June 11, 1984.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, DC.

DEAR SENATOR WARNER: We are writing to you as scientists with experience in a variety of fields of research, to indicate our support for the President's proposal to defend the United States against a Soviet nuclear attack.

In our view, an effective defense of this kind, even if less than perfect, will enhance the security of the American people by magnifying the risks which cautious Soviet leaders must contemplate in assessing the chances for a successful preemptive attack on the United States.

We wish to register a strong disagreement with the judgments reached by a panel of the Union of Concerned Scientists, and by Dr. Ashton Carter in a background paper prepared for the Office of Technology Assessment (OTA), to the effect that such a defense against Soviet missiles is technically infeasible. Research results already in hand indicate several promising technologies for the implementation of an effective missile defense. Further research will be required to determine which technology or combination of technologies will be most effective at minimum cost. However, no fundamental scientific or technical obstacles stand in the way of achieving the President's objectives. A long and careful study by a highly qualified group of experts in this area, reported to the House Armed Services Committee by Dr. James C. Fletcher, has concluded that "a robust multi-tiered ballistic missile defense system can eventually be made to work." The same language would have applied in the mid 1930's to the promise of radar as a revolutionary new defense technology.

The reports by the Union of Concerned Scientists (UCS) and by Dr. Carter state that the goal of an effective defense against Soviet missiles is unattainable. We find that this pessimistic judgment is based on an analysis which is seriously in error in several critical respects.

For example, the UCS report exaggerates by a very large factor the number of satellites needed to counter a massive Soviet ICBM attack in its boost phase. According to the UCS study, 2400 laser-equipped satellits are needed for a boost-phase defense, whereas the correct number of satellites is less than 100.

This extreme exaggeration of the required number of satellites has the effect of surrounding the President's proposal with an aura of costliness and impracticability. In particular, it brings the cost of the boost-phase of the defense to well over one trillion dollars. When the UCS calculation is corrected, the cost of satellites deployed in the boost-phase defense comes down to an amount which, when spread over a number of years, as well within the current annual level of U.S. expenditures for strategic forces, as Dr. Keyworth and other Administration spokesmen have indicated.

The exaggerations in Dr. Carter's OTA background paper are not as extreme as in the UCS report. However, they are still substantial. According to Dr. Carter's analysis, up to 500 laser-equipped satellites are needed for an effective defense, depending on whether the attacking Soviet ICBMs are spread out across the Soviet Union or concentrated in one area. Again the correct number in either case is under 100.

We find that statements by UCS spokesmen also exaggerate the effectiveness of Soviet countermeasures, and underestimate the penalty that would have to be paid by the Soviets in implementing these countermeasures. For example, one proposed countermeasure is a coating of ablative material, spread over the surface of a Soviet SS-18 to protect the skin from laser energy. The thickness of the coating must be at least two grams per square centimeter, equivalent to the thickness of about one-half inch for likely materials, to protect the Soviet missiles against the lasers planned for deployment in the U.S. strategic defense. In a panel discussion of defense issues sponsored by the American Association for the Advancement of Science, a scientist active in UCS discussions of missile defense stated that the necessary protective coating would weigh 660 pounds. Actually, this coating, spread over the upper two-thirds of a Soviet SS-18 missile, will weigh 4.8 tons. (The SS-18 is twice the size of the MX and is the most menacing weapon in the Soviet arsenal. The U.S.S.R. has deployed 308 SS-18s carrying a total of 3000 warheads with the same accuracy as the best U.S. warheads and considerably greater destructive power.) Since the payload of the SS-18 is eight tons, such a Soviet countermeasure would reduce the effectiveness of this largest element of the Soviet ICBM arsenal by 60 percent.

Furthermore, the specifications for laser brightness in the U.S. Strategic Defense Initiative can be upgraded if the result promises to be a substantial gain in effectiveness. An increase in laser brightness would require an additional increase in the thickness of the ablative coating applied by the Soviets to their ICBMs, even further reducing the payload of the SS-18 and making this terrible weapon far less effective than it was before the defense was constructed. That would be a major plus for American security, and an important step toward the achievement of the President's objective of making these weapons "impotent and obsolete."

One of the most promising possibilities for an effective defense against Soviet missiles is the X-ray laser, whose basic principle has been successfully tested several times by the Lawrence Livermore Laboratory. According to a widely quoted proposal discussed in detail by both the Union of Concerned Scientists and by Dr. Ashton Carter in the OTA background paper, the Soviet Union could circumvent an X-ray laser defense by replacing its present ICBM arsenal with a new generation of ICBMs designed to burn out quickly at altitudes below about 40 miles, well within the earth's atmosphere. These fast burn ICBMs would be protected against X-ray laser beams because X-rays do not penetrate through the atmosphere; their energy is absorbed by collisions with air molecules. As a result, Dr. Carter concludes, "Fast burn boosters would therefore be a potent, even decisive, countermeasure against almost all concepts for boost-phase intercept." The UCS report states, "The X-ray laser is not a viable BMD (Ballistic Missile Defense) weapon."

This proposed countermeasure to the X-ray laser is appealing to the theoretical scientist, but has no practical value when tested against the reality of Soviet ICBM capabilities. In order for an ICBM booster to burn out at altitudes below 40 miles, it must complete its burning within about 50 seconds. However, the boost phase of the SS-18 lasts 300 seconds. As a consequence, the Soviet SS-18 arsenal is extremely vulnerable to an X-ray laser defense. Furthermore, nearly all Soviet ICBMs currently deployed are, like the SS-18, liquid fueled and therefore, relatively slow burning; all have burn times in the neighborhood of hundreds of seconds. Consequently the entire ICBM Soviet arsenal, in its present form, is vulnerable to an X-ray laser defense.

As for the possibility that the Soviets will be able to develop new, solid-fueled ICBMs with shorter burn times, the fastest burning ICBM in existence at this time—either operational or about to be deployed—is the MX, which has a burn time of 180 seconds. Experts who advised Dr. Fletcher's panel stated that it may eventually be possible to build a still more advanced rocket than the MX, with a burn time as short as 50 seconds, but this would be a new generation of ICBMs which would not be available to U.S. strategic forces until the period 1995 to 2000. The Soviet Union is a generation behind the U.S. in solid-fueled rocket development. According to Dr. Carter's background paper, the U.S.S.R. will still be relying on a missile similar to the MX 15 to 20 years from now. The Soviets will not have a fast-burn, 50-second ICBM before the first decade of the next century—25 years into the future. This means that the entire present generation of Soviet missiles—and the generation after that, will be useless against an effective X-ray laser defense. Surely that would be a worthwhile response from the American community of defense scientists to the President's appeal for new defense technologies that could render nuclear missiles "impotent and obsolete."

In concluding this statement of support for the President's Strategic Defense Initiative, and rebuttal of some of the objections raised by the Union of Concerned Scientists, we wish to express our concern that as a consequence of the unquestioning acceptance of a seriously flawed analysis conducted by a group of scientists without working experience in present-day problems of missile defense, and yet speaking out in opposition to the judgments of the most qualified defense scientists in the country, the American people may be deprived of the opportunity to protect themselves against the most serious threat to their existence that has existed in the lifetime of this nation.

Sincerely,

Signed by:

ROBERT JASTROW,
Founder and Director (Ret.), NASA's Goddard Institute for Space Studies and Professor of Earth Sciences, Dartmouth College.

WILLIAM A. NIERENBERG,
Director of Scripps Institution of Oceanography, Member of the Defense Science Board, Member of the National Science Board, and Former Chairman of the NASA Advisory Council.

FREDERICK SEITZ,
President emeritus of Rockefeller University, Past Chairman of the Defense Science

Board, Past President of the National Academy of Sciences, and Past President of the American Physical Society.

Mr. RUDMAN. Mr. President, will the Senator from Virginia yield for a question?

Mr. WARNER. I yield briefly.

Mr. RUDMAN. It will be very brief.

I believe I am the only Member in the Chamber who serves on the Defense Appropriations Subcommittee.

Could the Senator from Virginia tell me how much of the money that we appropriated last year in outlays has actually been spent to date or will be spent by the end of the fiscal year?

Mr. WARNER. I do not have that figure at this time. I will try and supply it before the debate is complete.

Mr. RUDMAN. I believe that if the Senator checks he will find that he might be surprised at what he finds. Could the Senator from Virginia tell me whether or not——

Mr. WARNER. Will the Senator perhaps intimate what the answer is since obviously he possesses it?

Mr. RUDMAN. I would not like to put it in the RECORD without having the numbers, which I looked at weeks ago. I think the Senator from Virginia will find the money has not been spent at the rate we appropriated it.

I do support the program.

My second question is: Does the Armed Services Committee feel confident that if in fact this $1.5 or $1.445 billion is authorized and appropriated by the committee that it can reasonably be spent under programs presently contracted for by DOD?

Mr. WARNER. In response, the answer is in the affirmative.

Mr. RUDMAN. I would only say to my friend from Virginia that if that is so that will be the fastest gearing up of spending this kind of R&D money that I have ever seen.

Mr. WARNER. I remind the Senator from New Hampshire that this relates to ongoing programs.

At this time I yield 5 minutes to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I thank my colleague from Virginia and, as no surprise, stand in opposition to my colleague's amendment.

Let me first take on the argument that strategic defense is destabilizing. There can be no more fatuous argument made. If strategic defense is destabilizing why is this country not mobilizing in response to the building of the ABM X-3 nationwide and of the SA-12 local ballistic missile defense system, and of the ABM battle-management radars in the Soviet Union? If it is destabilizing to do something in our defense, what happens to the argument that because we can kill each other so many times over, no one would dare go to war in the first place?

The strategic defense initiative is not destabilizing, rather, it seeks to provide protection from the things which terrorize the world, both free and captive.

Does anyone in here argue that the people of the United States should not be defended, if that is within our capability? Who would make that argument?

Now it is true that maybe some of the things we are funding here will turn out to be good, and be deployable, but that in some future time someone will be able to counter them.

Let me answer that argument by asking who in here feels that it is not worth eating tonight because tomorrow morning he will be hungry at breakfast?

We are buying time in safety. We are buying capability, buying safety for the American people in our time.

The Senator from Maine said this is an awful lot of money for a brandnew program starting up. Well, strategic defense is not a brandnew program starting up. As of now it is the sum of programs that have been funded by this Congress for a long time. They have now been put under one roof. Certain of them were descoped, that is, reduced in scope by some members of this administration. That is why the Senator from New Hampshire is finding some moneys that have not been spent. Very recently, since the administration has placed a single person in charge of the program, the organization has improved.

We hope that this person will make sense of all these various programs which have been suddenly thrust under one umbrella called SDI. This is not for the purpose of Star Wars or ground wars or anything else. This is for the defense of the American people. They are entitled to it. Protection of the population is the first obligation of government.

Now, the Senator from Maryland said that we ought not do this thing because space has always been a peaceful place. What poppycock. The Germans were the ones who made space unpeaceful when they first started sending missiles to Great Britain, long before sputnik. Since that time, the Soviets have deployed weapon after weapon in space—we talked about one of them yesterday—this antisatellite weapon that goes up and explodes in space. We also use space for military purposes now, but the Soviet Union spends 70 percent of their space budget on the military. An additional 20 percent of that space budget is primarily military.

I again ask what Senator in here, knowing that this country has within its capability, or could have if we devoted ourselves to it, the ability to defend American people, would turn down the option not to build more weapons of destruction, not to go down and add to the nuclear throw-weight of the world, but to take care of some of the nuclear throw-weight of the world, to stop the threat to the people and stop this crazy program that we have been indulged in since McNamara's time called mad where two great powers hold each other hostage to the blinking of the eye of the other. Well, we have this capability. Let's not turn it down.

What we are trying to do is something that is decent and respectable, and the obligation of Government: That is, protect the people of the United States.

The Senator from Illinois wants to cut strategic defense and the Senator from Georgia says strategic defense is overfunded. Neither of them will say where it is overfunded, and what the alleged overfunding is for because they do not know. They cannot know. You cannot know where a program is underfunded if you have not studied the whole program and know what can and cannot be done.

I know in detail that the program is nothing like overfunded. In fact it is underfunded. I will tell you where it is underfunded. It is underfunded in the space-based laser program that the Carter administration put in place. The Reagan administration, whose original platform, upon which it was elected, was for an active defense, is spending less on the space-based laser than the Carter administration projected. Now these Senators seek to reduce that spending even further. Why?

I think that is a mistake. The American people will not forgive us if the ability to protect ourselves was turned down on a night when somebody thought that turning it down would be a nice gesture, to go along with the other gestures that we have just made to Konstantin Chernenko.

I thank the Senator from Virginia.

Mr. PERCY. Does the Senator from Virginia have a minute to yield to me?

Mr. WARNER. I will yield a few seconds, but I will control the seconds as each one goes by.

Mr. PERCY. May I simply say to my distinguished colleague that I sat for 18 years as head of a multinational corporation reviewing budgets. I fought very hard for the budget procedure in the Senate for years.

All I can say is this program is a soft program. It had many, many questions raised about it. And if we are serious about reducing this budget, we better reduce it where we can reduce it. This is not going to terribly hurt that program. The House has determined that. It is not going to cut into it. It is not going to cut the program out.

But if you cannot find $100 million in this—they will spend it—but you can find $100 million here and cut that out. And if we are going to start to cut the budget, we better start on just this kind of program.

Mr. WARNER. In reply to the distinguished Senator from Illinois, why did he not cut $500 million out of this program? How did he arrive at $100 million?

Mr. PERCY. I arrived at it very simply because two members of the Armed Services Committee said they could support $100 million. I had $257 million in the original figure.

Mr. WARNER. I think that is not a very constructive manner in which to override the judgment of many hours of hearings of the subcommittee and the collective judgment of a full committee. If the Senator wishes to cut $100 million out, why does he not amend his amendment and just cut it out totally as to the defense budget and then let us assign the priorities?

Mr. PERCY. The Senator from Illinois consulted with two members of the Armed Services Committee who are highly respected. Both of them came to the conclusion that $100 million, in their judgment, could be cut out of this program. That is the figure I agreed on.

Mr. WARNER. Mr. President, I at this time yield 5 minutes to my distinguished colleague from California.

Mr. NUNN. Will the Senator yield for a brief comment?

Mr. WARNER. The Senator will not yield any more time. It is going to be rough and tumble from here on.

The PRESIDING OFFICER. The Senator from Virginia has less than 5 minutes remaining.

Mr. NUNN. I just wanted, if the Senator would yield for 10 seconds—I am not going to ask a question.

It is going to be very difficult to get any more time agreements if a Member on the minority side cannot get 10 seconds. It is going to be very difficult to get any more time agreements in this body, I assure you.

Mr. WARNER. Mr. President, I say to my distinguished colleague, I will be glad to yield him 10 seconds. I apologize.

Mr. NUNN. I do not want it.

Mr. WARNER. Mr. President, if I may address my colleague from Georgia, I was engaged in a colloquy with the Senator from Illinois. I would be happy to yield to the Senator from Georgia such time as he wishes.

Mr. NUNN. I just want to serve notice that there will be no more time agreements on amendments until the attitude changes, because if I cannot get the floor—I have no time—then there will not be any more time agreement. It is that simple.

Mr. TOWER. Mr. President, I ask unanimous consent that the Senator from Georgia be given 3 minutes and the time to be charged to neither side.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Virginia has the floor.

● Mr. DENTON. Mr. President, I am discouraged that so many of my colleagues appear to have been persuaded that the Strategic Defense Initiative is nothing but "Star Wars," laser battle stations in orbit, bristling with weaponry, "zapping" Soviet missiles at the least provocation, under the command of esoteric computers so advanced that they can win at chess and still destroy everything in flight even with one chip tied behind their back. I congratulate those in our society who oppose the program for having succeeded in giving that impression. It is truly a public relations triumph.

It does, Mr. President, raise the question of whether we are going to work to provide the security of our country through Madison Avenue or the wit of editorial cartoonists rather than through considered examination of the facts and debate on the merits. The sad truth is that much of this debate and most of the public comment on Strategic Defense is devoid of consideration of much of anything other than making debating points.

Let me point out to my colleagues that, in fact, the great weight of the program is not focused on "Star Wars," lasers, and the like. It is concentrated on some considerably more mundane things. Command and control, technology for surveillance, tracking and discrimination. Destruction of ballistic missile warheads by conventional means in the middle or at the end of their flight.

As an example of the kind of thing that we can expect the program to accomplish, in the interest of our Nation's security, consider the successful test the other day of the homing overlay experiment, or HOE. In that test, reported in the press yesterday, we launched an experimental vehicle that intercepted and destroyed an inert ballistic missile warhead far outside the atmosphere. The destruction of the warhead did not require a nuclear explosion, or indeed an explosive of any sort. It was brought about by a physical intercept, by the one vehicle hitting the other. That feat has never been accomplished before. It was a considerable achievement, and I am proud that the experiment was conducted under the auspices of the Army's Ballistic Missile Defense Organization, located in Huntsville, AL.

Consider, Mr. President, that the conventional technology included in the experiment is allowed under the ABM Treaty to which many of my colleagues attach great importance. Consider that, if we wished, we could deploy a system of 100 such interceptors in full accordance with the terms of that treaty. Consider that the high altitude of the intercept means that interceptors of that type could destroy warheads targeted over a very large area on the ground. It implies that we can do something that is far more useful, far more contributive to the national security, than was the case with the terminal intercept, point defense systems that we developed earlier.

The SDI includes many such promising technologies, as well as the more esoteric ones that have received so much attention. Let me say, however, that over the course of a long-term, carefully considered research and development program, even some of those advanced technologies will, I am confident, show great promise. I am equally sure, of course, that some of those technologies will prove to have little utility.

I am not in a position to say which technologies—various kinds of lasers, particle beams, kinetic energy weapons, and so forth—will fall into which category. Nor, I submit, is anyone in this Chamber. Nor, I submit, are even the best scientists in our country, even those now working on those technologies.

Yet, for some reason, Members of this body and of the public at large are willing to conclude, and to argue as an article of faith, that the technologies will not work and that it is impossible to provide a means to defend our country, and our allies, against ballistic missile attack. Those same people, of course, thereby put themselves in the odd position of advocating a continuation of the policy of "Mutual Assured Destruction," or "MAD" as the acronym appropriately reads. Perhaps they should consider upon the resulting conundrum.

Mr. President, given the possibilities of rapid technological development, given the stakes, given the great possible—possible—benefits of our science and technology, we clearly must conduct an active program of research and development that is much broader than just lasers and "Star Wars." I believe that the President's Strategic Defense Initiative is just such a program, and I doubt that we, in this Chamber, have the capability to start micromanaging technological development, as we are dangerously close to doing.

Mr. President, I remind my colleagues that 40 years ago, people, including respected scientists, ridiculed the notion that we could have satellites in space, that we could put men into orbit, that we could send Americans to the Moon. That was laughed at. It was called science fiction. Well, we know what has happened, and our distinguished colleague from Ohio [Mr. GLENN] can testify to it firsthand, as could our distinguished former colleague from New Mexico [Mr. Schmitt]. I ask my colleagues to support the committee position, and to give a solid start to a program that will certainly benefit every American

and that may well be the key to our survival.

Thank you, Mr. President.●

● Mr. SYMMS. Mr. President, President Reagan's Strategic Defense Initiative is one of the most important new thrusts in U.S. defense policy in recent time. I fully support President Reagan's historic Strategic Defense Initiative as one of the most important U.S. defense programs in our entire military budget.

The level of research recommended by the Senate Armed Services Committee is essential for a vigorous start to move away from sole dependence on nuclear offensive retaliation for deterrence. The SDI request is only $250 million more than was planned for related programs in fiscal year 1985 prior to the President's speech announcing the SDI on March 23, 1983. Any reduction in this $250 million Presidential add-on would vitiate the President's initiative significantly.

The other body has already reduced aspects of the SDI that are important to strategic warning, satellite survivability, and arms control monitoring. This is already going to be difficult to correct in conference.

The SDI will provide a future President and Congress with the technology and policy assessments required to make an informed decision regarding the development of a strategic defense system for deployment. The SDI will, in the nearer term, provide a research hedge against an ongoing Soviet ABM breakout. Such a hedge is especially important in view of extensive Soviet ABM deployment and research and development, including an almost certain Soviet violation of the 1972 SALT I ABM Treaty. And the Soviets are already 10 years ahead of the United States in ABM technology. The Soviets also have a significant lead in directed energy technologies.

In sum, Mr. President, research for SDI included in the bill is already well below levels that experts believed were necessary and prudent.●

Mr. HEFLIN. Mr. President, almost three decades ago, research and development was initiated on ballistic missile defense [BMD] by the Army in Huntsville, AL. During most of that time, the United States has pursued a modest research and development program, deferring any move to begin a BMD engineering and development program until circumstances and technology supported such a decision. This continues to be the nature of the BMD Program today.

This year the BMD Program has been included in the budget for the Strategic Defense Initiative. I estimate that approximately half the amount recommended by the Armed Services Committee in the next fiscal year for strategic defense is dedicated to the continuation of conventional BMD research and development. I heartily endorse the Strategic Defense Initiative Program, which I believe signals a welcome shift in strategic policy from one of extreme dependence on nuclear offensive weapons to one designed to eventually make nuclear offensive weapons obsolete. I am also delighted that the Armed Services Committee's Strategic Defense Initiative proposal recognizes the importance of an evolutionary approach of strategic defense systems combining emphasis on near- and far-term concepts which I have long advocated. As I have stated many times before this body, the United States must maintain the option of deploying a BMD system, of relatively mature technology, within a decade. Based on the demonstrated progress of the BMD development program, I believe this is an achievable goal.

In the years since it was initiated, the Army's BMD Program has gone through major changes in emphasis from a concentration on advanced technology to actual development and deployment of a system at Grand Forks, ND. In all of that time, in spite of the shifting direction, the defense expertise centered in BMD-Huntsville has produced a technology that has maintained pace with developments that have taken place in the much more costly Soviet BMD Program.

Far from being a never-ending series of paper studies, the research conducted by the BMD organization has produced significant technologically advanced defense components in software and radars, optics, missiles, data processing, communications, tactics, and systems. The results of this research has been of immeasurable benefit to the United States. First, through the technological advancements that have been realized from this vigorous research and development, we have successfully maintained pace with the Soviet Union. In my judgment, if the Soviet Union and the United States decided today to develop and field a BMD system, the system fielded by the United States would be technologically superior to that of the Soviet Union. It would likely incorporate modern phased array radars, airborne and spaceborne optical equipment, distributed high speed data processing, and high acceleration nonnuclear interceptor missiles.

Second, the experiments, demonstrations, and studies performed by the Ballistic Missile Defense Office have been invaluable in preventing technological surprises in Soviet Union ballistic missile defense. By pursuing feasible alternatives for BMD system components, the Soviet Union kept the intelligence reports coming from the United States in perspective. Only by looking at U.S.S.R. research and development against a backdrop of U.S. research and development have we been able to understand the significance of much of the work on BMD in the Soviet Union.

Third, a major responsibility of the BMD organization is the very critical one of readiness. That is, the United States must have the capability to produce and deploy a modern, effective BMD system quickly. Three times in the past, the BMD system command, on short term, has been told, "Get a defense system out," once with Safeguard and twice with Site Defense and Sentry. In every case the team in Huntsville was able to develop the organization, plans, designs, and facilities and to assemble a Government/contractor organization which could successfully produce and deploy a modern defense.

Of course, only with Safeguard did the project go to completion with the deployment of the most complex military system ever fielded by the United States, a system which, I might add, would be extremely effective against anything in the Soviet inventory today, a decade later. The ability to respond to unforeseen national and international developments quickly and effectively constitutes, in my opinion, one of the greatest reasons for pursuing BMD research and development and, I believe, is the primary reason that Congress has supported and continues to support a Ballistic Missile Defense Program.

Just last Monday, the very expertise I have alluded to was clearly evident in the successful demonstration of the new BMD long-range interceptor. Hundreds of miles above the Earth a nonnuclear BMD missile guided by infrared optics and advanced miniature computers collided with a simulated Soviet ICBM, effectively destroying it. This historic event, the first actual kill of an ICBM with a BMD missile, is clear evidence that our national commitment to a nonnuclear defense system is beginning to bear fruit and the potential of defending the United States without the use of nuclear weapons is realizable.

If we are to maintain this momentum, it is essential that we continue a vigorous BMD research and development program. Important demonstrations of other pivotal technologies are underway now in BMD. A small nonnuclear missile guided only by an infrared sensor, advanced performance interceptors, and an aircraft equipped with long-range detection and tracking optical sensors, will be demonstrated in this decade. These experiments and demonstrations are the keystones of a program which will continue to provide the three advantages I outlined earlier:

First, maintaining pace with the Soviet Union;

Second, preventing technological surprises;

Third, providing a hedge for the near-term deployment, if required, of a BMD system.

As I said earlier, this year the BMD program has been included within the larger program called the Strategic Defense Initiative [SDI]. The SDI is a research and development program for advanced defense against ballistic missiles. Coupled with maintaining the option to deploy a near-term BMD system, I believe the SDI program offers great promise of putting an end to the threat of nuclear missiles.

Much of the criticism of the SDI program has been that certain key components of the system are infeasible and, thus, the system is not doable. It is unfortunate that the vision of the day when nuclear offensive weapons would be obsolete could be obscured by a premature examination of the means to that end. Who is to say that an advanced technology system employing laser, neutral particle, free electron beam, and conventional weapons cannot be made to meet the President's goal? After 6 months of study, a team of experts from all over the country under the direction of Dr. James C. Fletcher concluded that the United States must go forward in the research of this technology and demonstrate some of the advanced components before any conclusion of feasibility can be made. The money requested for the Strategic Defense Initiative Program for 1985 is to gather the scientific evidence necessary to determine whether the advanced long-range BMD concepts are indeed doable.

Another criticism of the program is that the pursuit of an effective counter to offensive missiles will interfere with arms limitation efforts. It is perplexing to me that effective defense can be interpreted as a threat to nuclear disarmament rather than what it actually is: a valuable inducement to ballistic missile disarmament. Defense is not provocative—it is the opposite.

If each side neutralizes the other's offensive ICBM capability, the threat of ICBM aggression must be reduced. The history of our country discloses proudly that ours is not an aggressor nation. But many times, we have been caught, with almost tragic results, with our guard down. I believe that far from being destabilizing, development of a strategic defense system would accelerate and guarantee a nuclear ballistic missile disarmament. It seems clear to me that the incremental employment of a highly effective defense against offensive missiles will ultimately drive those missiles to extinction.

Mr. President, in conlusion, I hope that the humorous label of "Star Wars" which has popularized the strategic defense issue does not disparage the serious and responsible nature of this important research and development. I believe that this program, which couples demonstration of conventional ballistic missile defense and advanced strategic defense technology is needed, timely, promising, and should be approved as presented to this body by the Armed Services Committee.

Thank you, Mr. President.

Mr. MATTINGLY. Mr. President, the recent debates on the future direction of the United States antisatellite [ASAT] defense program, the Strategic Defense Initiatives, and the arms control implications of those efforts, serve to emphasize the importance of the amendment that was offered to this legislation last week by the distinguished senior Senator from Idaho, Senator McCLURE, and which I cosponsored.

That amendment, which was approved, called on the President to transmit to Congress the report entitled, "A Quarter Century of Soviet Compliance Practices Under Arms Control Commitments: 1958-1983." That report, prepared by the President's General Advisory Committee on Arms Control and Disarmament, will be of much value to the Congress as it attempts to make informed judgments on such matters as the much discussed test moratorium on the ASAT systems and on the other, related arms control and reduction questions with which Congress continues to grapple.

As one Senator who has tied much of his previous support for the President's strategic modernization programs to a demonstration of administration intent to pursue true and verifiable arms reduction agreements with the same vigor that it has used to seek approval of its defense budget requests, I can state that I am very interested in receiving and reviewing the contents of the Advisory Committee's report.

If the report indicates a general Soviet effort to comply with the letter and spirit of the agreements to which it is a party, then we should vigorously renew our efforts to reach new arms accords with the Soviet Union. Otherwise, obviously, we would need to take a close look at where we are with the Soviets in regard to arms control agreements and, more importantly, in what direction we should go.

So, Mr. President, I congratulate Senator McCLURE for his effort and urge the attention of my colleagues to the report when it is transmitted to the Congress.

Mr. WARNER. Mr. President, I now yield to my distinguished colleague from California.

Mr. WILSON. Mr. President, this amendment seriously undermines the strategic defense initiative. The Senator from Illinois may not recognize that. It, in fact, does. If he wants to know what can intelligently be spent, the Fletcher Commission has told us that something in the neighborhood of $2.6 billion could be intelligently spent for research and development in this fiscal year.

To the extent that it so seriously undermines this program, his amendment does indeed relegate us to continued dependency upon the deterrent of "mutually assured destruction."

Research into strategic defense initiative does offer the hope, if not the sure promise, of allowing us to escape from that potentially very dangerous dependency.

Reference is made in the Senator's letter to an admonition of the Scowcroft Commission urging caution with respect to proceeding to "engineering development." This is not engineering development. We are a long way from that. What is at stake here is not engineering but research. Even the harshest critics of the SDI effort, the Union of Concerned Scientists, have advocated research and development, saying:

> It is needed to protect us from Soviet surprises and might uncover concepts which could actually provide a viable defense.

There is concern expressed in the Senator's letter about the arms control implications of SDI. He fears that this program of research may be destabilizing. The Senator from Illinois said that he fully appreciates the substantial investment the Soviets have been making in their own strategic defense.

Does he recognize, as do Keith B. Payne and Colin S. Gray, writing in the current issue of Foreign Affairs, that there is a great jeopardy if, in fact, that substantial Soviet investment in strategic defense research leads them to "even a limited effective unilateral Soviet [BMD] system." This is what these gentlemen say in the current issue of Foreign Affairs:

> A unilateral Soviet [BMD] system of even limited effectiveness could be highly destabilizing in the context of existing Soviet offensive first-strike capabilities and extensive air defense and civil defense preparations: the U.S. deterrent threat could be severely degraded by the combination of the Soviet first-strike potential to destroy American strategic nuclear forces and a Soviet defense against surviving American forces.
>
> This combination of Soviet offensive and defensive capabilities could increase first-strike incentives during a crisis if Soviet leaders were persuaded that the U.S.S.R.'s defenses might be capable of largely absorbing the much-diminished U.S. retaliatory capability.
>
> Thus, early deployment by the United States of a ballistic missile defense for its retaliatory forces would not only help to ensure the survival of U.S. strategic weapons, but would also assist in preserving the credibility of the U.S. offensive deterent . . .

Mr. President, what they are saying is that if we allow the Soviets to gain so substantial a lead that, in fact, they can deploy, as they say, a system of

"even limited effectiveness," they will be tempted to use it.

Mr. President, we dare not lose the opportunity to "help to ensure the survival of U.S. strategic weapons . . . [thereby] preserving the credibility of the U.S. offensive deterrent during an otherwise potentially unstable transition period."

We dare not, Mr. President, but we are in grave danger of doing precisely that by stinting further on the research and development program recommended by Dr. Fletcher (former director of [NASA]) and his technological panel. We are in danger of destabilizing the nuclear balance by inviting a Soviet first strike. We are tempting them to further accelerate their effort to achieve what Payne and Gray call "a unilateral Soviet [BMD] system of even limited effectiveness." Because, Mr. President, if they achieve such a unilateral defense, we can no longer accurately speak of mutually assured destruction.

Oh, no, Mr. President. To the contrary, we must come to the grim realization that our destruction from a Soviet first strike is—if not assured—threatened to a much greater degree than at any time since Hiroshima, precisely because it will no longer be deterred by Soviet—belief or fear that they will share in the destruction we suffer.

The destruction will not be mutual. It will be unilateral U.S. destruction that we assure if for want of adequate funding, we fall farther behind the Soviets in research in this critical area. We all know the timeworn parable that for want of a nail, a shoe was lost, and for want of a shoe, a horse, a battle and a kingdom were lost.

Mr. President, much is at stake here. The additional $100 million which the Senator from Illinois seeks to cut will provide no cure for the deficit, as he suggests. Indeed, even if not spent elsewhere, it will have negligible effect on the deficit. But it is a high cost for America to pay. It will cost us time, Mr. President, precious time. It will send the wrong signal, but one gratefully received by war planners in the Kremlin. They will be encouraged if his amendment succeeds.

Mr. President, my friend from Illinois seeks a small saving where the cost may be the hope offered by the Fletcher panel—the hope, Mr. President, that we can in time—through long and vigorously pursued research, one day step off the treadmill to a nuclear Armageddon set off by design or by accident.

Mr. President, the Senator from Illinois urges that we spend for this priceless hope—in his words—"The minimum level consistent with our national security interests. "But his amendment proposes a cut far below our national security interest, a cut that undermines and threatens our security. His amendment must be defeated.

If we are to err, let it be on the side of hope. Let us spend not the uncertain bare minimum but what we must to achieve, if we can, escape from the anxiety of dependency on the deterrent of mutually assured destruction. That way lies a realistic hope of real and lasting peace.

The PRESIDING OFFICER. The time is under the control of the Senator from Texas.

Mr. WILSON. Mr. President, I ask unanimous consent that I may have an additional 2 minutes to complete this statement.

Mr. TOWER. Mr. President, I object.

Mr. WARNER. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Fifty-one seconds.

Mr. WARNER. Mr. President, I yield the remaining time.

The PRESIDING OFFICER. Excuse me. Fifty-one seconds remain under the control of the Senator from Illinois.

Mr. WARNER. Mr. President, again I ask unanimous consent that the time be extended under this agreement to provide the Senator from Georgia such time as he may wish to take.

Mr. President, I withdraw that request.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, we thank the managers of the bill, however.

The PRESIDING OFFICER. Does the Senator from Illinois wish to use time?

Mr. PERCY. Mr. President, I yield back the remaining time.

The PRESIDING OFFICER. All time has expired.

Mr. TOWER. Mr. President, I move to table the amendment of the Senator from Illinois.

Mr. NUNN. I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Illinois. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STAFFORD (when his name was called). Mr. President, I have a live pair with the distinuished Senator from Tennessee [Mr. BAKER]. If he were present and voting, he would vote "aye." If I were at liberty to vote, I would vote "nay;" Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Tennessee [Mr. BAKER], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Delaware [Mr. ROTH] are necessarily absent.

I further announce that, if present and voting, the Senator from Wisconsin [Mr. KASTEN] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Massachusetts [Mr. KENNEDY], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Massachusetts [Mr. TSONGAS] are necessarily absent.

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

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

The result was announced—yeas 47, nays 45, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—47

Abdnor	Grassley	Nickles
Armstrong	Hatch	Packwood
Boren	Hawkins	Quayle
Cochran	Hecht	Rudman
D'Amato	Heflin	Simpson
Danforth	Helms	Specter
DeConcini	Hollings	Stevens
Denton	Humphrey	Symms
Dole	Jepsen	Thurmond
Domenici	Kassebaum	Tower
East	Laxalt	Trible
Evans	Long	Wallop
Garn	Lugar	Warner
Glenn	Mattingly	Wilson
Goldwater	McClure	Zorinsky
Gorton	Murkowski	

NAYS—45

Baucus	Eagleton	Metzenbaum
Bentsen	Exon	Mitchell
Biden	Ford	Moynihan
Bingaman	Hart	Nunn
Boschwitz	Hatfield	Pell
Bradley	Heinz	Percy
Burdick	Huddleston	Pressler
Byrd	Inouye	Proxmire
Chafee	Johnston	Pryor
Chiles	Lautenberg	Randolph
Cohen	Leahy	Riegle
Cranston	Levin	Sarbanes
Dixon	Mathias	Sasser
Dodd	Matsunaga	Stennis
Durenberger	Melcher	Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stafford, against.

NOT VOTING—7

Andrews	Kasten	Tsongas
Baker	Kennedy	
Bumpers	Roth	

So the motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, with regard to the debate on the matter that was just voted upon, I wish to extend my apologies to the distinguished Senator from Illinois and to the distinguished Senator from Georgia if, in the controlling of the time, I

in any way exhibited conduct which was inconsistent with the traditions of this Chamber. I extend my apologies to both. It was my intention to complete a dialog with the Senator from Illinois and then yield such time as I had remaining to my distinguished friend from Georgia, whose judgment and friendship I value so much.

Mr. NUNN. Mr. President, the Senator has no reason or need to apologize. We all get caught in a time squeeze. When both sides of the argument are being controlled on that side of the aisle and we do not have an opportunity over here, it does mitigate against willingness to participate in time agreements without clear understanding on how we are going to allocate time. It was certainly not any problem and was certainly not personal. I thank the Senator from Virginia for his kind and gracious comments.

Mr. TOWER. Mr. President, we have about four amendments which we can now accept. We do expect further RECORD votes this evening.

The PRESIDING OFFICER. Is the Senator from Texas giving up the floor?

Mr. TOWER. Yes.

AMENDMENT NO. 3197

(Purpose: To require a report to certain committees of the Congress regarding the strategic defense initiative)

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER], for himself, Mr. PERCY, Mr. MATHIAS, and Mr. BOSCHWITZ, proposes an amendment numbered 3197.

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

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

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following new section:

REPORT ON STRATEGIC DEFENSE PROGRAMS

SEC. . At the time of the submission by the Secretary of Defense to the Congress of his annual budget presentation materials for each fiscal year beginning after September 30, 1985, and ending before October 1, 1990, but not later than March 15 of the calendar year in which such fiscal year begins, the Secretary of Defense shall prepare and transmit to the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Foreign Relations of the Senate a report on the strategic defense initiative, including—

(1) details of all programs and projects included in the strategic defense initiative and administered by any department or agency of the United States;

(2) a clear definition of the objective(s) of the strategic defense initiative;

(3) an explanation of the relationship between that objective(s) and each program and project associated with the strategic defense initiative;

(4) an identification of technology base efforts being conducted by the Department of Defense and the Department of Energy having a relationship to the objective(s) of the strategic defense initiative.

(5) details on the funding of programs and projects for the strategic defense initiative, including—

(A) prior and current year funding levels for all such programs and projects in the strategic defense initiative budgetary presentation materials;

(B) the amount requested to be appropriated for such programs and projects for the fiscal year for which the budget is submitted; and

(C) the amount programmed to be requested for the following fiscal year.

Mr. PRESSLER. Mr. President, this amendment is noncontroversial. It calls for a report which will help clarify the objectives of the strategic defense initiatives [SDI] and will help to identify all programs related to the SDI's objectives and the full cost of this endeaver. Senators PERCY, MATHIAS, and BOSCHWITZ join me as cosponsors.

First, this amendment asks for a clear definition of the objective or objectives of the SDI. Some people cannot help but be confused on what the SDI seeks to accomplish since different officials, or even the same official speaking on different days, have suggested a myriad of goals for the SDI. Is it a program that seeks to protect people from nuclear attack, as some contend? Is the SDI designed to protect U.S. missile silos, as others claim? Is the SDI designed to deal with all nuclear delivery systems, including cruise missiles and bombers, or does it aim to defeat intercontinental ballistic missiles alone, as proposed by the Fletcher panel? Is the SDI directed at a long term goal, decades away from completion, or does it intend to deal with the more immediate concern of Soviet breakout as well, as General Abrahamson states?

It should be evident to all Senators that we need a clear definition of the SDI's objective or objectives. This amendment will require that a clear definition be provided.

Second, this amendment requires that the DOD explain the relationship between this objective and all programs and projects in the SDI. It would also require that other programs and projects serving this objective be identified, independent of whether or not they are currently associated with the SDI. This would include programs and projects administrated by the Department of Energy.

Mr. President, in this regard, I wish to bring to Senators' attention a recent Congressional Budget Office study, entitled "Analysis of the Costs of the Strategic Defense Initiative—1985-1989," conducted at my request. I ask unanimous consent that this study together with Dr. Penner's transmittal letter to me be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit No. 1.)

Mr. PRESSLER. Mr. President, this CBO study has identified a number of programs that would appear to be distinctly related to the goals and objectives of the SDI. Such programs and projects include research on particle beam technology, research on high energy lasers, a laser weapons technologies project, the Army's Ballistic Missile Defense Program, and the DOD high energy laser facilities. The CBO looked only at Defense Department programs. Programs such as those conducted by the Energy Department's nuclear weapons laboratories were not considered. Still the CBO found programs costing the taxpayer some $357.9 million that are SDI related but are not included in the $1.77 billion SDI budget request.

The CBO study represents only a preliminary assessment. There may be yet other SDI-related programs not identified by CBO. This amendment would require that all DOD and DOE programs and projects related to the SDI be identified to Congress.

Finally, this amendment requires that this SDI report provide detailed budgetary information on the SDI, including past, present, and future funding levels I believe that the American taxpayer deserves to know the full scope and the detailed cost of this very expensive program. Americans have every right to know what these expenditures will buy. I believe that a report providing a full disclosure of the details of this effort is required, if we in the Congress are to serve the interests of the American people.

Mr. President, this amendment requires a full and open presentation of the factual details and the cost of the strategic defense initiative. I believe it deserves the support of every U.S. Senator.

The managers of this bill have recognized the value of a detailed report on the SDI. This amendment represents a refinement of printed amendment No. 3157. I believe that the bill's managers will agree to accept this new language.

We have very carefully worked this amendment through the Foreign Relations Committee, and the Armed Services Committee, the majority and minority. I understand it has been agreed to on all sides.

With that, I thank the manager of the bill for his courtesy, and the minority manager and their staffs and

my staff for their work on this amendment. I ask its adoption.

EXHIBIT 1

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, May 23, 1984.

Hon. LARRY PRESSLER,
Chairman, Subcommittee on Arms Control, Oceans, International Operations and Environment, Committee on Foreign Relations, Washington, DC.

DEAR MR. CHAIRMAN: In your recent letter, you asked that the Congressional Budget Office (CBO) examine cost trends in Administration spending plans for the Strategic Defense Initiative (SDI). You also asked that CBO address the question of whether these plans include all the programs needed to support strategic defense. The attached paper presents our results.

In making our examination we relied primarily on data furnished by the Department of Defense (DoD) in submitting the President's budget in February 1984. (There were no major changes in the May revision of that budget.) We did not attempt to go beyond these documents to assess the long-term costs of the SDI or to evalute its potential effectiveness in defending against missile attacks.

I hope the attached information is useful. If we can be of further assistance, please let me know.

With best wishes,

RUDOLPH G. PENNER,
Director.

Attachments.

ANALYSIS OF THE COSTS OF THE ADMINISTRATION'S STRATEGIC DEFENSE INITIATIVE, 1985-89

[Note: Unless otherwise indicated, all years referred to in the text are fiscal years. All dollars are budget authority dollars that include anticipated inflation using the Administration's economic assumptions.]

INTRODUCTION AND SUMMARY

Last year President Reagan called for the exploration of defensive technologies that would render nuclear weapons "impotent and obsolete." The resulting Administration plan—called the Strategic Defense Initiative (SDI)—has sparked intense debate on the technological and arms control implications of creating a novel strategic defensive system based largely in space.

Many in the Congress are also interested in the costs of SDI. This paper, prepared at the request of the Arms Control, Oceans, International Operations and Environment Subcommittee of the Senate Foreign Relations Committee, examines near-term cost trends. It also discusses whether current SDI plans include all the efforts needed to support a strategic defense.

In summary, the paper finds that:

The Administration plans substantial growth in SDI spending over the next two years; from $991 million in 1984 to $3,790 million in 1986. Press reports suggest continued though slower growth through 1989. While such rapid growth is not atypical of newly started research and development (R&D) programs, the SDI will consume an increasing share of DOD R&D resources, growing from about 4 percent in 1984 to about 16 percent by 1989.

Everything else being equal, growth in SDI funds between 1984 and 1985 would have been larger had the Administration funded the Army's Ballistic Missile Defense (BMD) program at levels planned in its February 1983 budget. Changes in BMD funding plans were probably tied to the shift in basing plans for the MX missile. BMD changes not only offset growth in SDI but may also portend a more fundamental shift in the Army's BMD effort, emphasizing development of a capability to defend entire areas of the United States sometime in the future rather than emphasizing the defense of specific military installations in the nearer term. This could be of concern to those who feel the United States may need to deploy a near-term ballistic missile defense in response to a potential Soviet deployment.

There are questions about the inclusiveness of the Administration's current definition of SDI. The broad definition of strategic defense implied by the President and stated explicitly by others in the Administration embraces defense against all forms of nuclear attack. But the SDI currently contains funds for research on defense against ballistic missiles. Important components of a more comprehensive defense—most notably air defense—are missing. In addition, there appear to be a number of relevant programs that are not currently included in SDI even by the narrower definition of defense against ballistic missiles.

In accordance with the mandate of the Congressional Budget Office (CBO) to provide objective and impartial analysis, the paper makes no recommendations.

Lawrence J. Cavaiola and Bonita J. Dombey of CBO's National Security Division prepared this paper under the general supervision of Robert F. Hale. Francis Pierce edited the manuscript.

BACKGROUND

On March 23, 1983, President Reagan called for the United States to develop the means of rendering nuclear weapons "impotent and obsolete." It would do this, he said, by developing defenses against enemy nuclear weapons capable of destroying them after their launching but before they reached this country. Currently, the United States relies largely on the deterrent capability of its strategic offense, which is designed to discourage an attack by maintaining substantial retaliatory capability that could survive an enemy's first strike.

With this speech the President set in motion a consolidation and expansion of ongoing research programs for defense against nuclear weapons. The resulting long-term research and development plan—known as the Strategic Defense Initiative (SDI)—calls for devoting nearly $26 billion over the next six years to determining the applicability of technologies and systems concepts to the strategic defense mission.[1] Many of these technologies involve such exotic approaches as destroying missiles with directed energy or "beam" weapons and establishing new space-based surveillance and weapons platforms. Systems concepts include the deployment of novel, multilayered defenses that would engage weapons not only as they approached their targets but also at other points along their trajectories, including shortly after launch. SDI also continues existing development efforts like the Army's Ballistic Missile Defense program, with an emphasis towards integration into a multilayered defense.

Full-scale development of most SDI weapons would probably not occur until the 1990s, and deployment of most weapons would not take place until early in the next century. Nonetheless, the SDI would be a first step toward creating an ascendancy of strategic defense over offense, in line with President Reagan's call for a "break out of a future that relies solely on offensive retaliation for our security."

PLAN OF THE PAPER AND SOURCE OF DATA

Many have expressed concern both about the feasibility of this plan and about its cost. This paper examines in detail the 1984-1986 spending plan for SDI that was submitted with the Administration's February 1984 budget. (There were no major changes in the May revision to that budget.) As part of that examination, the paper notes changes in a major, ongoing strategic defense program—the Army's Ballistic Missile Defense (BMD) effort—which offset some of the growth in SDI funding between 1984 and 1985. Finally, the paper raises some questions about the total cost of the SID program by indicating types of research that are related to SDI but apparently not included in the Administration's current estimates of the cost of the SDI.

The paper does not attempt to project the ultimate costs of designing and deploying a strategic defense system. It is too early in the research and development process to do more than speculate on what those might be. Nor does the paper attempt to evaluate the potential of defensive systems to protect the United States against attacks. Such analyses are, however, being attempted in other studies being done for the Congress, such as the ongoing effort by the Office of Technology Assessment.

Data for the paper were drawn primarily from the descriptive summaries of research, development, test, and evaluation (RDT&E) programs that accompanied the 1983-1985 budget submissions. These included RDT&E programs run by the individual services, defense agencies, and the Office of the Secretary of Defense. All these data provide information only through 1986; official budget figures beyond 1986 are unavailable because the DoD typically does not provide details, future RDT&E budget plans to the Congress. But the paper notes estimates for years beyond 1986 that have been reported in the press.

TRENDS IN COSTS

Growth and sources of funding in 1984 and beyond

The latest Administration budget calls for a steep growth in SDI funding: from $1,777 million (79 percent growth) in 1985 to $3,789.8 million (113 percent growth) in 1986 (see Table 1).[2] While large, these

[1] Although the Department of Energy will be involved in specific aspects of SDI research, the Department of Defense (DoD) will be the focus for the SDI and will spend the large majority of SDI funds. Overall program management has been consolidated within the Office of the Secretary of Defense (OSD), with the program manager, Lt. Gen. James A. Abrahamson, reporting directly to the Secretary. Each of the services and certain defense agencies, however, will continue to carry out the actual research efforts.

[2] These figures are based on proposals submitted to the Congress in the Administration's February 1984 budget plan. In recent testimony before the House Appropriations Defense Subcommittee, Lieutenant General Abrahamson indicated that internal DoD plans—formulated before creation of the SDI—would have funded SDI-type research efforts at about $1,527 million in 1985, $2,600 million in 1986, and $15,000 million for period 1985-89. Note also that in its report on the 1985 authorization bill the House Armed Services Committee recommended the deletion of $407 million from the SDI.

growth rates are not uncharacteristic of new RDT&E efforts. In 1984, all SDI funds except for a $50 million contingency fund come from programs in existence before the President's speech. By 1986, however, new funds comprise 52 percent of total SDI funding.

TABLE 1.—GROWTH AND SOURCES OF FUNDING FOR SDI, BY FISCAL YEAR

[In millions of nominal dollars of budget authority]

	1984	1985	1986
Funds from existing program elements	941.0	1,527.0	1,809.4
New funds	50.0	250.0	1,980.4
Total	991.0	1,777.0	3,789.8

Detailed plans for SDI spending beyond 1986 are not routinely made available. But estimates published by the press show SDI funding continuing to grow through 1989, though at a decreasing rate. According to these reports, SDI funding grows an average of 25 percent per year from 1987 to 1989 (see Table 2).

SDI will soon be a substantial part of DOD research budget

With its substantial growth, SDI will consume an increasing share of DOD research funds. Table 2 compares funding for SDI through the five-year defense plan with overall funding for DOD research and development. In 1984—the first year of the program—funding for SDI comprises only 4 percent of the DOD RDT&E budget; by 1989, SDI takes up 16 percent, or more than one-sixth, of the total DOD research budget.

Change in Army BMD funding and growth in SDI

Everything else being equal, growth in SDI funding between 1984 and 1985 would have been larger had the Administration followed the plans in its February 1983 budget for the Army's Ballistic Missile Defense (BMD) program. Army BMD is a major part of SDI; in 1984 it makes up 52 percent of the SDI budget. But in its February 1984 budget plan, the Administration requested some $572 million less for Army BMD in 1985 than projected in the February 1983 plan (see Table 3). This may reflect elimination of plans to deploy a ballistic missile defense to aid in the survivability of the MX missile now that the decision has been made to base the MX missile in existing Minuteman silos.[3] Whatever the reason, the decrease in planned spending for BMD offsets some of the growth in the SDI between 1984 and 1985.

TABLE 2.—COMPARISON OF FUNDING FOR SDI AND FOR DOD RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, BY FISCAL YEAR

[In millions of nominal dollars of budget authority]

	1981 actual	1982 actual	1983 actual	1984 plan	1985 plan	1986 plan	1987	1988	1989
DOD RDT&E	16,634	20,103	22,825	26,868	33,985	37,797	38,426	43,717	47,099
Annual percent growth		21	14	18	26	11	2	14	8
SDI				[1] 991	[1] 1,777	[1] 3,790	[2] 4,989	[2] 6,260	[2] 7,406
Annual percent growth					79	113	32	25	18
As percent of DOD RDT&E				4	5	10	13	14	16

[1] From 1985 President's budget (submitted in February 1984).
[2] From Defense Daily, Feb. 3, 1984, p. 192.

TABLE 3.—CHANGE IN SPENDING PLANS FOR ARMY BALLISTIC MISSILE DEFENSE, FISCAL YEARS 1984–86

[In millions of nominal dollars of budget authority]

Plan	1984	1985	1986
February 1983:			
Requested	709.3	1,564.1	NA
Appropriated [1]	517.3	([2])	([2])
February 1984: Requested [3]		992.1	1,104.6

[1] As amended by additional SDI funds in 1984.
[2] The Congress does not appropriate funds beyond the budget year.
[3] Excludes money that is not part of SDI.
Note.—NA—Not available.

Potential Shift in BMD Priorities in SDI

The new SDI budget structure also appears to change the funding of the Army BMD program in ways that shift priorities toward longer-term rather than near-term systems. In recent years, substantially more funds have been devoted to the BMD systems technology program—efforts directed at the state-of-the-art technology needed for a deployable BMD—rather than the more basic research efforts of the advanced technology program. Under the reallocation of resources for SDI in the February 1984 plan, however, there has been a shift away from this pattern. February 1983 plans for Army BMD in 1984 would have allocated roughly 30 percent of total BMD dollars to advanced technology and 70 percent to systems technology; February 1984 plans change these shares to 45 percent and 55 percent, respectively. Published data do not indicate whether this shift will continue beyond 1984. If it does, it may represent an emphasis—consistent with the SDI goal of a more comprehensive but long-term strategic defense—on longer-term development of the capability to defend entire areas of the United States rather than specific targets like missile silos. But it could delay—though not foreclose—the option of deploying in the relatively near term a BMD system to defend hardened missile silos or other strategic assets in the event of a Soviet BMD deployment, which some analysts fear.

Changes in SDI Budget Structure That Preclude Estimating Spending Planned Before 1984

In light of the planned growth in SDI and shifts in priorities, it would have been useful to know whether planning for SDI-type projects before 1984 anticipated substantial funding increases later on. This might have indicated how much change the formulation of the SDI actually caused in funding.

Estimates of spending on SDI-type projects planned before 1984 cannot readily be made, however, because of changes in the budget structure. Starting with the 1985 budget plan, the DoD created five new program elements—all under the control of the Office of the Secretary of Defense—that form an umbrella under which future SDI research is to be conducted. (Program elements are the basic building blocks used to structure and describe the defense budget.) The new program elements are:

SDI Surveillance, Acquisition, and Tracking (Program Element 63220D),

SDI Directed Energy Weapons (Program Element 63221D),

SDI Kinetic Energy Weapons (Program Element 63222D),

SDI Systems Analyses and Battle Management (Program Element 63223D),

SDI Support Programs (Program Element 63224D).

Beginning with the budget submitted by the President in February 1984, all DoD SDI funds for the years 1985 and beyond have been placed in these five program elements. In budgets submitted earlier, funds are still spread through 27 military service and defense agency program elements. Because many of the 27 program elements are broad in scope, anywhere from a few percent to all of any given program element may be subsumed in the new SDI structure. For 1984 DoD provided a "roadmap" of how the 1984 SDI-applicable funds in each older program element would match up with the five new SDI program elements. Table 4 shows how one of the five new SDI program elements was created (the remaining four are shown in the Appendix).

TABLE 4.—*Example of change in budget structure for program element 63220D*

[In millions of nominal dollars]

Program element and name	*Associated with SDI*
1984 budget structure:	
63304A—Army ballistic missile defense—advanced technology	82.0
63308A—Army ballistic missile defense—systems technology	172.4
62101F—Geophysics	5.1
63424F—Missile surveillance technology	7.7
63424F—Advanced warning systems	20.8
63428F—Space surveillance technology	22.5
61101E—Defense research sciences.	6.3
62301E—Strategic technology	31.2

[3] The February 1983 budget showed substantial growth in BMD funding for 1985, predicated largely on systems development for possible defense of the MX missile in Dense Pack. Many felt that, had the Administration and the Congress elected to deploy the MX missile in Dense Pack, some sort of ballistic missile defense system would be associated with it to improve the survivability of the MX missile. Now that the Administration has chosen instead to place the missiles in 100 existing Minuteman silos, it is unlikely that—given the constraints of the Anti-Ballistic Missile (ABM) Treaty—any of the Army's current BMD programs could substantially improve their survivability.

Program element and name	*Associated with SDI*
62711E—Experimental evaluation	10.0
62715H—Defense nuclear agency	8.5
1985 budget structure:	
63220D—SDI/surveillance, acquisition and tracking	366.5

NOTE.—For other SDI program elements, see the appendix.

TABLE 5.—COMPARISON OF FUNDING FOR SDI-ASSOCIATED PE'S AND DOD RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, FISCAL YEARS 1981-84

[In millions of dollars of nominal budget authority]

	1981 actual	1982 actual	1983 actual	1984 plan
DOD RDT&E	16,634	20,103	22,825	26,868
Annual percent growth		21	14	18
SDI-associated PE's [1]	1,529	1,973	2,199	2,646
Annual percent growth		29	12	20
As percent of DOD RDT&E	9	10	10	10

[1] From 1984 President's budget (February 1983), according to DOD. Includes funds that do not become associated with SDI in the 1985 budget, and excludes new SDI funds.

No such roadmap is available, however, for years prior to 1984; thus estimates of SDI-type spending in earlier years cannot be made. Nor can CBO estimate the amount of SDI-type spending in 1985-1989 that was planned in earlier budgets.

To provide some notion of trends in spending before 1984, CBO compared the historical growth in the 27 program elements from which the SDI funds were transferred with historical growth in the overall DoD research and development budget. Table 5 shows that, from 1981 to 1984, these associated program elements grew at about the same rate as the overall RDT&E budget and represented a relatively constant 9-10 percent share of the research and development effort. While this may suggest that SDI-type funding was not increasing rapidly in earlier years, it is not conclusive evidence. In most cases only a portion of each of the 27 program elements is assigned to SDI; so growth in all the 27 program elements may not accurately reflect growth in SDI-type funding.

HOW INCLUSIVE IS THE DEFINITION OF SDI COSTS?

There are, of course, many programs that could contribute in whole or in part to strategic defense. The Administration has chosen a set to define as SDI, and these programs were the basis for the above discussion. But there are other programs that many might argue should be included in SDI but are not.

The choice of programs to be included—and hence total cost—largely depends on the scope and goals of the SDI effort, and some of the Administration's statements regarding the goals of SDI have been ambiguous. Funding for SDI currently includes research and development on antiballistic missile capability. However, on March 27, 1984, Secretary Weinberger said that the goal of the program is to create a "thoroughly reliable and effective defense against both ballistic missiles and cruise missiles."[4] This, together with President Reagan's call for rendering nuclear weapons "impotent and obsolete," implies the goal of a more comprehensive strategic defense system that could defend against all major types of nuclear attack, including attack by strategic bombers and cruise missiles.

[4] Dr. George A. Keyworth, Science Advisor to the President, also noted in recent testimony before the Senate Foreign Relations Committee that the Congress should not infer "that we consider submarine, air breathing, or tactical nuclear weapons any less deadly. They are also to be addressed with the Defense Initiative."

TABLE 6.—EXAMPLES OF PROGRAMS NOT INCLUDED IN SDI BY THE BROADER DEFINITION

[In millions of dollars of budget authority]

Program element and name	1984	1985	1986
64406F—Anti-satellite (ASAT) R&D [1]	203.6	143.3	101.7
63226E—Air defense surveillance/warning (teal ruby)	31.5	30.0	30.0
63401F—Research on satellite power and survivability (advanced spacecraft technology)	6.3	31.0	29.0

[1] The ASAT program also includes the following funds for procurement and construction: $19,300,000 in 1984, $117,600,000 in 1985, and $153,000,000 in 1986.

Table 6 gives major examples—though not a comprehensive list—of programs that could arguably be part of the SDI by the broader definition. For example, SDI funding excludes the costs of the "Teal Ruby" program to develop a new system for warning against attack by bombers and cruise missiles. SDI funding also excludes costs for the anti-satellite program (ASAT)—a system designed to shoot down enemy satellites in low-earth orbits. The ASAT program would almost certainly be a necessary part of a system to defend comprehensively against nuclear attack. Among other roles, it might be needed to defend U.S. satellites that are assuming increasingly greater importance for tactical warning and command and control. Moreover, ASAT technology could be useful in the development of a ballistic missile defense system.

More generally, the Administration's current definition of SDI excludes much of the cost associated with defending the United States against attacks by enemy bombers. yet air defense would be an important part of any comprehensive strategic defense. Indeed, the House Armed Services Committee, in its report on the 1985 defense authorization bill, expressed its concern regarding overall air defense efforts and their relationship to the SDI.

Even by the narrower definition of SDI that limits it to ballistic missile defense, a number of projects closely related to SDI could have been included in the funding estimates. The summaries that accompany the 27 program elements from which SDI funds are drawn describe projects that relate to SDI but are not included in SDI funding. The basis upon which portions of these program elements are included or excluded is not readily apparent, particularly since the funds transferred to SDI are rarely associated with a particular project or projects. Table 7 provides some examples, most of them pertaining to research in basic beam weapons or laser weapons. For example, the descriptive summary for Particle Beam Technology states that surface-based particle beam research and development is not part of SDI, but space-based particle beam research is. But there is likely to be a surface-based component in any sort of layered defensive system since most such concepts envision attacking incoming missiles again just before they reach their targets in the United States.

TABLE 7.—EXAMPLES OF ASSOCIATED RESEARCH NOT INCLUDED IN SDI FUNDING

[In millions of nominal dollars of budget authority]

Program element and name	1984	1985	1986
63650F—Advanced radiation technology	46.7	12.4	37.1
62301E—Strategic technology	NA	53.7	80.4
62707E—Particle beam technology	33.1	17.4	32.4
61102A—Research on missiles and high energy lasers	4.5	8.0	7.6
62307A—Laser weapons technology	15.6	21.2	22.3
63304A/63308A—Army BMD	NA	1.5	38.2
63424F—Missile surveillance technology	NA	7.0	10.0
65806A—DOD high energy laser facility	36.2	39.4	38.9

NA = Not available.

Table 7 also provides other examples of other programs or parts of programs that are excluded from SDI but seem to support it. For instance, in the plan for 1985 all but $1.5 million of the Army BMD program is subsumed under SDI; indeed, the Army BMD program is a conspicuous part of SDI. In 1986, however, $38.2 million of Army BMD research is funded outside of the SDI effort. Likewise, Missile Surveillance Technology is included in SDI in 1984 but not in 1985 or 1986, although its technology supports the Advanced Warning System, which is part of the SDI.

Together, Tables 6 and 7 raise questions about the inclusiveness of the current definition of SDI and hence about the total cost of strategic defense.

APPENDIX

TABLE A-1.—*Example of change in budget structure for program element 63221D*

[In millions of nominal dollars]

Program element and name	*Associated with SDI*
1984 budget structure:	
63304A—Army ballistic missile defense—Advanced technology	8.5
63308A—Army ballistic missile defense—systems technology	12.8
62101F—Geophysics	.7
63402F—Space test program	4.9
62601F—Advanced weapons	6.4
63605F—Advanced radiation technology	28.2
61153N—Defense research sciences	5.2
62768N—Directed energy technology	7.9
62107E—3d generation nuclear weapons	8.0
62301E—Strategic technology	72.5
62707E—Particle beam technology	10.0
62711E—Experimental evaluation	127.6
65805E—Tri-service laser range	25.0
Total	317.7
1985 budget structure:	
63221D—SDI/directed energy weapons	322.5

TABLE A-2.—*Example of change in budget structure for program element 63222D*

[In millions of nominal dollars]

Program element and name	*Associated with SDI*
1984 budget structure:	
63304A—Army ballistic missile defense—Advanced technology	117.0
63308A—Army ballistic missile defense—systems technology	63.3
62602F—Conventional munitions	1.3
63438F—Satellite systems survivability	5.5
61101E—Defense research science	1.0
62702E—Tactical technology	7.7
Total	195.8

Program element and name	*Associated with SDI*
1985 budget structure:	
63222D—SDI/kinetic energy weapons	195.8

TABLE A-3.—*Example of change in budget structure for program element 63223D*

[In millions of nominal dollars]

Program element and name	*Associated with SDI*
1984 budget structure:	
63304A—Army ballistic missile defense—Advanced technology	18.2
63308A—Army ballistic missile defense—Systems technology	30.1
63603F—Space laser program	29.2
62715H—Defense nuclear agency	5.2
Total	82.7
1985 budget structure:	
63223D—SDI/systems analyses and battle management	82.7

TABLE A-4.—*Example of change in budget structure for program element 63224D*

[In millions of nominal dollars]

Program element and name	*Associated with SDI*
1984 budget structure:	
64711F—System survivability (nuclear effects)	3.6
63211F—Aerospace structures and materials	7.3
63314F—Strategic laser	2.8
62715H—Defense nuclear agency	3.3
63304A—Army ballistic missile defense—Advanced technology	3.5
61101E:	
Defense research sciences	3.0
Other reprogramming	10.0
Total	33.5
1985 budget structure:	
63224D—SDI/support programs	33.5

Mr. TOWER. Mr. President, on behalf of the majority manager of the bill, I am prepared to accept the amendment of the Senator from South Dakota. I believe it has been cleared by the opposite side of the aisle.

Mr. DIXON. Mr. President, the minority is prepared to accept this amendment.

Mr. WARNER. Mr. President, I believe this amendment has been cleared on both sides. The amendment is consistent with the interest of the Armed Services Committee that the Congress be fully informed of the relationship of the various technology research and technology demonstration programs included in the SDI, and the objectives of the program. This information should contribute to informed debate on future SDI funding requests, and will serve to preclude confusion about what is and is not included in the SDI program. Although the amendment calls for quite detailed funding summaries, it is not intended to impose requirements beyond those already in place for important programs like the SDI.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment No. 3197 was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3198

(Purpose: To enhance the status of the Award of the Purple Heart)

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3198.

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

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

The amendment is as follows:

On page 68, between lines 6 and 7, insert the following section:

SEC. . (a)(1) Chapter 57 of title 10, United States Code, is amended by adding at the end of thereof the following new section:

"1127. Precedence of the Award of the Purple Heart"

"In the case of a member of the armed forces who has been awarded the Purple Heart, the armed force concerned shall afford the Purple Heart a position of precedence, in relation to other awards and decorations authorized to be displayed on the uniform of such member, not lower than that immediately following the lowest position afforded any award or decoration for valor made to such member, or if there is no such award or decoration for valor, the highest precedence.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1127. Precedence of the Award of the Purple Heart."

Mr. WARNER. Mr. President, it is my understanding that the distinguished minority manager of this bill is in concurrence with the purport of this amendment and will accept it.

Mr. President, on May 30, 1984, our traditional Memorial Day, the Military Order of the Purple Heart dedicated a plaque and a cherry tree in Arlington Cemetery in honor of all recipients of the Purple Heart.

Congressman SONNY MONTGOMERY and I had the honor of participating.

Subsequently, at the invitation of the President, I participated in the ceremonies in Normandy, commemorating the 40th anniversary of D-day.

Many heroic soldiers, sailors, marines, and airmen who participated in that historic event paid the ultimate sacrifice for our freedom.

No one can visit either of these honored places without being moved by the dramatic evidence of sacrifices made by so many who have preceded us.

Memorial Day is testimony that America cherishes the sacrifices of its heroes.

It is because of those sacrifices that we here today can enjoy freedom in our Nation and elsewhere in the world.

As we consider the defense authorization bill for fiscal year 1985, it seems appropriate at this time that we address an issue which affects those Americans who have been killed or wounded in the service of our country.

The Purple Heart is the decoration used by the military to recognize those who were injured or killed in battle.

The award was created by George Washington on August 7, 1782, as the "Badge of Military Merit" to recognize soldiers with unblemished records and who performed a singularly meritorious act.

At that time there were only three recipients of the original badge, and for the next 150 years there were no additional awards.

In 1932, in honor of George Washington, the Purple Heart was revived with new conditions for the award added, including the occurrence of wounds received in action with the enemy.

Additional changes to the regulations governing the Purple Heart have occurred since 1932, the most recent of which broadens the criteria for eligibility to include those wounded or killed by terrorist attack. President Reagan executed this new policy by Executive order this year.

I take some pride in having played a modest role in that change.

Today, the Purple Heart is one of many decorations available to members of the military.

Unlike other decorations which are based on judgment of circumstances and the form and content of recommended written citation, the Purple Heart is awarded on "prima facie" evidence; either a combat wound or a fatality.

This aspect of the Purple Heart makes it unique among military decorations.

More than any other award, the Purple Heart symbolizes the willingness of our young men, throughout our history, to risk their lives in defense of freedom.

The significance of the Purple Heart in recognizing personal sacrifice during battle is not, however, reflected in its relative ranking compared to the other military decoration.

Through the years following the establishment of the Purple Heart, many other decorations have been established to recognize valor or meritorious service.

Today, the Purple Heart ranks 17th among decorations available to its

members, preceding only the Good Conduct Medal in rank.

Mr. President, the amendment I am offering would direct the Department of Defense to restructure the relative ranking of military decorations to formally increase the recognition accorded the Purple Heart.

Specifically, the amendment would cause the Purple Heart to be ranked in precedence immediately after the lowest award for valor.

Most commonly, this would place it in rank following the Bronze Star.

Mr. President, medals are awarded in part to recognize the contribution of those who serve their country.

The current ranking of the Purple Heart does not reflect appropriate recognition for the sacrifices of our military personnel who are wounded or, in many cases, make the ultimate sacrifice for freedom.

A nation cannot, during peacetime, forget the sacrifices of its defenders.

We are indebted to those veterans of wars from our Nation's past.

We are especially indebted to those whose sacrifices included scars, disabilities, and the ultimate—their lives—as a result of enemy action.

I, therefore, ask that my colleagues support this amendment which would more appropriately recognize the sacrifices of our military personnel through restoration of the significance of the award of the Purple Heart.

Mr. President, I should like to single out for special recognition Col. John Campbell, who has been associated with the U.S. Senate for many years, formerly as a military liaison officer to the Senate with the Department of the Army. He then served on my staff with distinction and is now a member of the staff of the Senate Armed Services Committee. He has been awarded the Purple Heart in two instances, and his guidance to me on this matter and others has been invaluable.

Mr. DIXON. Mr. President, I wonder if my friend from Virginia could make available to us, prior to the conference, the position of the Secretaries of the various branches of service, regarding the amendment by the Senator from Virginia.

Mr. WARNER. I will be pleased to make that available to the conferees.

Mr. DIXON. I thank my distinguished friend.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 3198) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3199

(Purpose: To require a report by the President regarding Americans captured or missing-in-action in Southeast Asia as a result of the Vietnam conflict)

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Nebraska [Mr. EXON] proposes an amendment numbered 3199.

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

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

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following new Section:

REPORT ON UNACCOUNTED FOR AMERICANS CAPTURED OR MISSING IN ACTION IN INDOCHINA

SEC. . (a) The Congress finds—

(1) that the President has declared the issue of 2,489 Americans missing or otherwise unaccounted for in Indochina a matter of highest national priority and has initiated high level dialogue with the governments of the Lao People's Democratic Republic and the Socialist Republic of Vietnam on the issue;

(2) that the United States Congress, on a bi-partisan basis, fully supports these initiatives to determine the fate of Americans still missing in Indochina and realizes that the fullest possible accounting can only be achieved with the cooperation of the Indochinese governments;

(3) that the government of the Lao People's Democratic Republic has pledged to cooperate with the United States Government resolving this humanitarian issue, separate from other issues dividing our two countries, and has recently taken some positive actions to assist the United States Government in resolving the status of missing Americans;

(4) that during a recent visit by a U.S. delegation to Hanoi, the Government of the Socialist Republic of Vietnam pledged to redouble its efforts to account for those servicemen still missing or unaccounted for in Southeast Asia;

(5) that despite this pledge, the Socialist Republic of Vietnam has repeatedly postponed setting a date for the next series of technical meetings and the transfer to the U.S. government of eight additional sets of remains;

(6) that these repeated postponements risk destroying the progress which has been achieved, and

(7) that the POW/MIA issue is strictly a humanitarian matter which must not be linked to other issues.

(b) The Congress strongly urges the Socialist Republic of Vietnam to set an early date for the next technical meeting and repatriation of remains.

(c) The Congress hereby strongly urges the President—

(1) to ensure that officials of the United States Government consciously and fully carry out his pledge of highest national priority to resolve the issue of 2,489 Americans still missing and unaccounted for in Indochina, and

(2) to work for the immediate release of any Americans who may still be held captive in Indochina and the immediate return of all American servicemen and civilians who have died in Indochina whose remains have not been returned.

(d) The President shall submit a report to the Congress on the POW/MIA problem which describes current actions being taken by the Federal government in carrying out subsection (c) of this section. This report shall be submitted within one hundred and eighty days after the date of enactment of this section.

Mr. EXON. Mr. President, I should like to alert my colleagues that I think we can dispose of this amendment in rather short order, but because of the importance of the subject, several Members have asked for a rollcall vote. At this time, I ask for the yeas and nays on the amendment.

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

The yeas and nays were ordered.

Mr. EXON. Mr. President, I think we can be very brief on this amendment. I know of no opposition to the amendment. I believe it has been cleared on both sides.

I ask unanimous consent at this time that the names of some 30 cosponsors of Senate Joint Resolution 246 be added as cosponsors of this amendment. I also ask unanimous consent that the names of Mr. PERCY, Mr. JEPSEN, and Mr. D'AMATO be added as cosponsors.

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

The cosponsors are as follows:

Senators Glenn, Baucus, Zorinsky, Hollings, Ford, Chiles, Melcher, Sarbanes, Pressler, Heflin, Leahy, Bradley, Randolph, Moynihan, Cranston, Hart, Hatch, Boschwitz, Boren, East, Levin, D'Amato, Long, Proxmire, Bingaman, McClure, Mitchell, Roth, Pell, Bentsen, Huddleston, Percy, and Jepsen.

Mr. EXON. Mr. President, I am offering as an amendment to the defense authorization bill a somewhat changed version of the joint resolution I introduced earlier which calls for a full accounting of all Americans still listed as missing-in-action in Indochina.

Two weeks ago, in the Arlington National Cemetery, this Nation added an unknown soldier from this conflict to his comrades from World War I, World War II, and Korea. Many feared that this act ended the chapter on Vietnam in our history books. This is something we cannot do. There are still 2,489 Americans listed as missing-in-action in Indochina. Their fate is unknown and we as a Nation owe it to them and their families to pursue every avenue to determine their fate. I applaud the congressional intent to award these missing Americans a special commemorative medal, as a result of last year's Byrd amendment, and to honor their families in special ceremonies across the Nation this summer. I am looking forward to the ceremony in my State which will honor those 25

Nebraskans who are still unaccounted for long after their comrades have returned home. But I believe we can and should do more for them and their families. My concern is further heightened by the fact that to date there have been over 200 sighting reports—which remain unverified—of Americans being held against their will in Indochina.

Our Government, including the State Department, Defense Department, and National Security Council, has been working to obtain a full accounting of our servicemen missing-in-action. The Congress has been supportive of these efforts and I personally have been kept up-to-date on developments in this area. This amendment, which I originally introduced as Senate Joint Resolution 246, calls upon the President to act immediately to secure from the governments of Indochina a full accounting of our missing Americans. It also calls for the President to work for the immediate release of any living American still being held and the return of the remains of all Americans who died in action or captivity. Additionally, it calls for a Presidential report to Congress on actions to be taken in the near future to achieve these goals.

My original joint resolution has some 30 cosponsors. Since the time I introduced it, the Foreign Relations Committee has held a hearing on it. After consulting the Foreign Relations Committee and the Department of State, I have made some wording changes to the original resolution which are reflected in my amendment today.

Mr. President, in view of the fact that I have not had an opportunity to check the language changes with the approximately 30 cosponsors, including the cosponsors added this date, I ask unanimous consent that the names of all the cosponsors of record on Senate Joint Resolution 246 be added as cosponsors of this amendment at this time, with the understanding that any cosponsor has the right to withdraw if he objects to any of the redrafting changes.

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

Mr. EXON. Nonetheless, the intent of the original joint resolution remains unchanged, and this amendment remains simple and straightforward. It reflects the need for Congress to remain involved in the POW/MIA issue. It states that Congress is keeping faith with those 2,489 families who do not know for sure the fate of their loved ones. It reiterates our heartfelt desire that this matter deserves priority attention within our Government and that the passage of time will not diminish its importance to all Americans, and it expresses the resolve of the Congress that these men will not be forgotten.

Many dedicated people in our Government have been working to resolve this matter. My amendment is not meant to reflect adversely on these efforts. It does, however, reflect the desire of Congress to be kept informed of these actions and to work with and support the President of the United States in this matter. The nations of Indochina should know the mandate of Congress to achieve a full accounting of our missing Americans.

As a nation, we must stand behind each and every man and woman who serves this country. We must keep faith with them and their families.

Mr. President, I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I am pleased to join Senator EXON in offering this amendment. I have worked with Senator EXON in suggesting certain modifications to the original text of the amendment. I am delighted that he has responded in such a cooperative manner.

The modifications came as a result of a hearing we held on June 5, in the Foreign Relations Committee, which gave us a detailed briefing on the visit to Hanoi in February of a high-level U.S. delegation that was led by Assistant Secretary of Defense Richard Armitage and joined by Ann Mills Griffiths, executive director of the National League of Families of American Prisoners Missing in Southeast Asia.

During the visit, the Socialist Republic of Vietnam promised to redouble its effort to account for the missing U.S. servicemen, a pledge that was favorably received by the delegation.

Since that time, this pledge has not been fulfilled or followed through on by Vietnam. I have called upon the Vietnamese Government to fulfill the commitment it made. They have said that they have the remains of eight additional service personnel and would turn them over. I now call upon the Vietnamese to turn them over and not to interminably delay the meetings.

What they are dealing with is the anguish of 2,489 families of U.S. service personnel still missing, and perhaps some could be held captive, from the conflict in Southeast Asia.

They must recognize that this is a humanitarian issue. They told the Armitage delegation that this was a humanitarian effort on their part.

And yet they constantly seem to refer to other political matters and then defer and delay the next meeting. I call upon them now to fulfill the pledge that they made and to remove unnecessary anguish from a situation that is already extraordinarily difficult.

I commend Senator EXON for his initiative in offering this amendment and for his deep personal commitment to doing everything possible to help the U.S. Government gain the full accounting for the 2,489 U.S. servicemen still missing and perhaps held captive from this conflict in Southeast Asia.

The POW-MIA issue is truly a bipartisan concern, one on which no nation should ever believe that, for example, divisions on policy matters might exist between Republicans and Democrats.

The solid bipartisan nature of congressional support for all U.S. Government efforts to gain a full accounting will be underscored if the Senate gives its strong approval to this amendment.

In closing, Mr. President, I simply wish to mention that on the evening before Memorial Day in Chicago a most unusual ceremony was held, a banquet where 28 Congressional Medal of Honor winners were brought from all over the United States to appear together.

I must say everyone in that audience of 600 people was deeply moved by the story of every one of those veterans. One of them, 90 years of age, was a veteran of World War I, one of five living Congressional Medal of Honor winners from World War I.

To a person, they pledged themselves in every way they could to assist in connection with the MIA-POW problem, which will remain a great problem for all Americans until we resolve it. Hundreds of live sightings of U.S. servicemen have been reported to us by refugees. None have been definitely verified.

I support and back the President in the decision that he has made that the possibility does exist that some servicemen are still alive in Southest Asia and being held as prisoners of war. As long as there is one single American there, we will not give up hope.

I was very delighted and pleased that Anne Mills Griffiths paid tremendous tribute to President Reagan and the administration for developing a strategy which is fully supported now by the families of the MIA and POW families.

I commend the administration, and I commend Senator EXON for his staunch leadership in this field.

Mr. EXON. Mr. President, I thank very much the kind words that have been said so well by my friend and colleague, the chairman of the Foreign Relations Committee. I thank him for his help. I thank him for his support.

Mr. President, I ask unanimous consent at this time that my colleague from Nebraska, Senator ZORINSKY, be added as a cosponsor of the amendment before us, and also Senators SYMMS, CRANSTON, and DENTON.

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

Mr. EXON. Mr. President, I know of no further speakers on this amendment. If there are none, I believe we are ready to vote.

Mr. TOWER. Mr. President, let me say that I support the amendment of the Senator from Nebraska. I am de-

lighted to note that he and Senator PERCY have worked out a suitable compromise on what was Senate Joint Resolution 246 and now has become the Exon amendment to this bill.

I think it is a commendable amendment and it does, I might add, have the support of the administration, and the administration, I might say, feels that a full accounting of POW's and MIA's is of enormous importance.

I know the President has great personal interest in it and, therefore, am delighted to express the support of the administration of this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. SPECTER. Mr. President, I rise to commend the distinguished Senator from Nebraska [Mr. EXON] and the distinguished Senator from Illinois [Mr. PERCY].

I ask unanimous consent to be added as a cosponsor. I think this is an excellent move to give this very appropriate recognition. I support the amendment.

The PRESIDING OFFICER. Without objection, it is ordered.

If there be no further debate, the question is on agreeing to the amendment of the Senator from Nebraska.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Tennessee [Mr. BAKER], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Delaware [Mr. ROTH] are necessarily absent.

I further announce that, if present and voting, the Senator from Wisconsin [Mr. KASTEN] would vote "yea".

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Massachusetts [Mr. TSONGAS] are necessarily absent.

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 128 Leg.]

YEAS—93

Abdnor	Domenici	Inouye
Armstrong	Durenberger	Jepsen
Baucus	Eagleton	Johnston
Bentsen	East	Kassebaum
Biden	Evans	Lautenberg
Bingaman	Exon	Laxalt
Boren	Ford	Leahy
Boschwitz	Garn	Levin
Bradley	Glenn	Long
Burdick	Goldwater	Lugar
Byrd	Gorton	Mathias
Chafee	Grassley	Matsunaga
Chiles	Hart	Mattingly
Cochran	Hatch	McClure
Cohen	Hatfield	Melcher
Cranston	Hawkins	Metzenbaum
D'Amato	Hecht	Mitchell
Danforth	Heflin	Moynihan
DeConcini	Heinz	Murkowski
Denton	Helms	Nickles
Dixon	Hollings	Nunn
Dodd	Huddleston	Packwood
Dole	Humphrey	Pell
Percy	Sarbanes	Thurmond
Pressler	Sasser	Tower
Proxmire	Simpson	Trible
Pryor	Specter	Wallop
Quayle	Stafford	Warner
Randolph	Stennis	Weicker
Riegle	Stevens	Wilson
Rudman	Symms	Zorinsky

NAYS—0

NOT VOTING—7

Andrews	Kasten	Tsongas
Baker	Kennedy	
Bumpers	Roth	

So Mr. EXON's amendment (No. 3199) was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

Mr. STEVENS. Mr. President, would the Senator yield for a moment?

Mr. TOWER. I yield.

Mr. STEVENS. Mr. President, it is my understanding that the majority leader announced this morning that we would be in session until about midnight. I inquire of the distinguished Senator from Texas what the intentions of the managers of the bill are now with regard to further amendments?

Mr. TOWER. I believe that we will be in until about that time, and possibly slightly beyond it.

And we already have some amendments in sequence. We do expect more rollcall votes.

Mr. STEVENS. Tonight?

Mr. TOWER. Tonight.

Mr. STEVENS. Is the Senator planning to be on the bill again tomorrow, and into the evening tomorrow?

Mr. TOWER. And on into the evening tomorrow evening. That seems to be the only way to get Senators to come to the floor and offer their amendments.

We have had pretty good luck this evening in getting Senators to agree to offer their amendments. We have disposed of some very critical amendments. There is still a big one yet to go on MX. Unfortunately, the people who were going to offer that amendment are not here this evening—one or two of them are not here. Hopefully, though, they will be ready by around noon tomorrow. We will get on that then. Once we get beyond that, once we dispose of the far-reaching motion of the Senator from Illinois [Mr. DIXON], to recommit the bill to committee with instructions, we will have gotten over the major amendments. Then we will be on those of less controversy and critical importance. Hopefully, we can finish tomorrow night.

I have already had some indications that some Senators will not offer all of the amendments that they had originally proposed to offer.

Let me clear up one misconception. The word seems to be floating around town that "Tower is leaving town on Friday", and, therefore, we can still take our time, go out tomorrow night, and not come back until next week to continue on the bill.

Well, the fact is the Republican State convention is being held this weekend and I would like to be there. However, I have some recent assurances that even if I am absent I will be elected a delegate to the national convention. Therefore, it is not absolutely essential that I go. So I will say that I am prepared to stay here all night tomorrow night, Friday, Saturday, whatever it takes. We must finish the bill this week because otherwise we cannot get it in conference and get the conference report acted on by the time we break for the Fourth of July recess.

Then the appropriations process starts to overtake us.

I lament the bureaucratic system that we have devised for ourselves here in the Senate that forces this on us. We could have had this bill to the floor a month earlier than we did, probably 6 weeks earlier. But we had to wait for the budget process to run its course. It is getting increasingly problematical around here that the authorization process is being squeezed out between the budget and the appropriations process. We are desperately in need of reform in this body. I hope that everybody is not perfectly content and satisfied with the system we have now because we cannot get our work done.

A few years ago, I think it was back in about 1976, we changed the date of the ending of the fiscal year from June 30 to September 30 because we could not get the appropriations bills done by then. Now we cannot even get them done by September 30. We operate under continuing resolutions.

Do you think that the public has great admiration for the way that we do our business here? Quite frankly, they do not. We are not really held in extremely high esteem.

I am sorry to impose this on the Senate. I do not like to stay here late at night. I do not like it to be an imposition on my colleagues. But the fact is that we are up against a deadline and we have to meet it.

I recognize that I will take serious risks because a number of Members will be absent, perhaps, on Thursday night or on Friday, a number who might vote with me on my positions on the issues. But I have to take that risk for the sake of getting an authorization bill or else at least the authorizing process for the Department of Defense becomes somewhat irrelevant.

Let me suggest to other committee chairmen here, too, that if you are not

concerned about this situation, you should be, because it is going to get to the point where the only relevant committees in the Senate are the Budget Committee and the Appropriations Committee, and service on the rest of them is not going to be worth what John Nance Garner once said the Vice Presidency was worth, a pitcher of warm spit. That is not actually what Cactus Jack said, but that is the way it was printed. [Laughter.]

Now we can proceed to the consideration of my amendment, Mr. President. We do expect more record votes tonight, at least one more and probably two.

AMENDMENT NO. 3178

(Purpose: To enhance certain special pays for enlisted members of the uniformed services)

Mr. TOWER. Mr. President, I call up my amendment numbered 3178 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. TOWER] proposes an amendment numbered 3178.

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

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

The amendment is as follows:

At an appropriate place in Title I of the bill insert the following:

SEC. (a) The table relating to rates of special pay for enlisted members in section 305a(b) of title 37, United States Code, is amended to read as follows:

ENLISTED MEMBERS

Pay grade	Years of sea duty								
	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5	Over 6	Over 7	Over 8
E-4	$50	$60	$125	$160	$175	$175	$175	$175	$175
E-5	60	70	140	175	185	190	205	220	220
E-6	125	135	170	190	210	215	225	235	245
E-7	135	145	215	235	255	260	265	265	270
E-8	165	180	225	255	265	270	280	285	290
E-9	175	195	235	265	280	290	310	310	310

Pay grade	Years of sea duty							
	Over 9	Over 10	Over 11	Over 12	Over 13	Over 14	Over 16	Over 18
E-4	$175	$175	$175	$175	$175	$175	$175	$175
E-5	220	220	220	220	220	220	220	220
E-6	255	265	265	280	295	310	325	340
E-7	275	280	300	310	330	350	370	390
E-8	300	310	310	320	340	360	380	400
E-9	310	320	330	350	370	390	410	410

(b)(1) Section 307 of title 37, United States Code, is amended to read as follows:

"307. Special Pay: special duty assignment pay for enlisted members.

"(a) An enlisted member of a uniformed service who is entitled to basic pay and is performing duties which have been designated as extremely difficult or as involving an unusual degree of responsibility in a military skill of the uniformed service concerned may, in addition, to other pay or allowances to which he is entitled under this title, be paid special duty assignment pay at a monthly rate not to exceed $275.

"(b) The Secretary concerned shall determine which enlisted members of a uniformed service under his jurisdiction are to be paid special duty assignment pay under subsection (a). He shall also designate, from time to time, those skills within each uniformed service under his jurisdiction for which special duty assignment pay is authorized, and shall prescribe the criteria under which members of that uniformed service are eligible for special duty assignment pay in each skill. He may, when he considers it necessary, increase, decrease, or abolish such pay for any skill.

"(c) This section shall be administered under regulations prescribed by the Secretary of Defense for the Uniformed services under his jurisdiction, and by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

(2) The item relating to such section 307 in the table of sections at the beginning of Chapter 5 of such title is amended to read as follows:

"307. Special Pay: special duty assignment pay for enlisted members.".

(3) A member of the uniformed services who, on the day before the effective date of the amendments made by this section, was entitled to special pay under section 307 of title 37, United States Code, as it existed on the day before such effective date, may continue to be paid the special day authorized by such section 307 as though the amendments made by this subsection had not been made. However, a member may not be paid the special pay authorized by such section 307 as it existed on the day before the effective date of the amendments made by this section and the special pay authorized by such section 307 as amended by this section.

(c) Section 308 of title 37, United States Code, is amended—

(1) in subsection (a)(1), by striking out ", or $20,000, whichever is the lesser amount";

(2) by adding after subsection (b) the following:

"(2) Not more than 10 percent of the bonuses paid under the authority of this section to members of any uniformed service in any fiscal year may exceed $25,000"; and

"(3) by inserting "(1)" after "(b)".

Mr. TOWER. Mr. President, I am offering an amendment to give the services increased authority to better target certain special pays for enlisted members. Each of the changes my amendment would make was recommended by the fifth quadrennial review of military compensation.

First, my amendment would slightly increase the rates of career sea pay for enlisted members in grades E-6 through E-9 and would provide for incremental increases in this pay for sea duty beyond the 12-year point.

Mr. President, there is no question in my mind that sea duty is unusually arduous. I can personally attest it is arduous because I spent some substantial number of months in my life as a deck ape on an amphibious gunboat that drew 4 feet forward and 6 feet aft. We went all over the world in that thing. How we all got out of it alive, I do not know. We should have been swamped.

But, of course, it has its compensations, too. One enjoys the camaraderie fo fellow sailors, a very collegiate atmosphere, very congenial.

Too, it is very intimate because you have to take saltwater baths but only once or twice a week.

Well, I will not go into all my experiences as a deck ape in the U.S. Navy, though I am sure it would be terribly edifying and interesting to most of the people here.

The fact is that sea duty is demanding and it does take people away from their families. When a ship goes to sea, the whole ship works, and it works around the clock.

This enhanced career sea pay is designed to aid the Navy in retaining the senior petty officers who make our seagoing Navy work. This change would effect approximately 900 enlisted members.

Second, my amendment would replace the existing authority for proficiency pay with a new authority for the services to pay special pay of up to $275 a month to enlisted members who are required to perform extremely demaning duties or duties demanding an unusual degree of responsiblity. For example, the Navy assigns petty officers as surface nuclear propulsion plant operators. The responsibility placed upon these young men is tremendous and far exceeds that expected of most midlevel enlisted personnel. This new authority would permit the Secretaries of the military departments to discretely target limited manpower dollars to those people qualified to perform the unusually demanding duties, thereby increasing the liklihood of retaining these personnel on active duty.

Finally, my amendment would remove the present statutory ceiling on the selective reenlistment bonus. That bonus is designed to retain highly qualified and experienced personnel in critical skills on active duty. The amount of the bonus is based upon a formula involving the basic pay of the member at time of reenlistment, the number of years of service for which the member reenlists, and a factor based upon how critical the skill is in which the member is qualified.

The fifth quadrennial review on military compensation has identified the removal of the statutory ceiling on this bonus as being a cost-effective means of increasing the overall value of the program. The total amount of a bonus would still be controlled by statutory formula.

This enhanced bonus will enable the services to eliminate shortages in certain critical areas. For example, there is a decreasing retention rate in the Navy among nuclear-trained submariners and nuclear-trained surface

technicians. The retention rates in these fields are 42 percent and 33 percent respectively. I believe that this change in the bonus program will go a long way in overcoming these declining retention rates.

Finally, Mr. President, it is my intent that the changes which would be made by my amendment be accomplished without any increase in funds from the amounts already budgeted for these special pays in 1985. My amendment is not designed to funnel new money into these programs. Rather, it is designed to permit better use of that money.

Let me reemphasize, Mr. President, the budgetary impact is zero, it is neutral. It simply would end the currently available funds for bonuses and permit the service more flexibility to target retention the very, very critically needed personnel, particularly in the nuclear engineering field where it is very difficult to retain these people when the compensation they could get in the private sector would be enormously greater.

I urge the Senate to adopt this amendment.

Mr. DIXON. Mr. President, I wonder if my friend, the manager of the bill, would be kind enough to answer a couple of questions for this side.

I do not have any problem at all with the increases in pay for those doing sea duty and things of that character, but there are some questions over here about removing the statutory ceiling on reenlistment bonuses.

As I understand it now, the reenlistment bonuses are restricted to a maximum of $16,000 a year or $20,000 for Navy nuclear power personnel. Is that correct?

Mr. TOWER. I believe that is correct, yes, Mr. President.

Mr. DIXON. Mr. President, we understand that the nature of the manager's amendment is to remove the cap altogether, thus leaving to the Navy the discretionary authority to pay whatever they believe is a suitable reenlistment bonus. Is that correct?

Mr. TOWER. That is correct. However, not more than 10 percent of the bonuses can be in excess of $25,000. Let me say it would be possible for a few personnel—I think very, very few personnel—to go as high as $39,000. That would be about the ceiling. That would apply to only a handful of people.

Mr. DIXON. Mr. President, I wish to say to my friend, the chairman of the committee, that as the ranking member on the Manpower and Personnel Subcommittee, frankly we did not go into this at all. There were not any hearings on it in the subcommittee nor were any particular questions raised with at least this Member. I cannot speak for the chairman, the Senator from Iowa, who is not, as I look across the floor, present at this time.

I would like to suggest to my friend that we had quite a bit of discussion in the committee about salary increases. A great deal of time was spent on that. A great deal of time was spent on reenlistments, particularly of Navy pilots and others in connection with the hearings there. No time at all was spent on this.

Of course, we are advised that the services have recently been accused by the Grace Commission and others of abusing the authority to pay the selective reenlistment bonus by paying it to people reenlisting in skills where there are no shortages. I wonder whether the Senator feels that that could be a continuing problem in connection with what the amendment proposes.

Mr. TOWER. Quite to the contrary, Mr. President, the added flexibility would mean that the service—let us say the Navy, for example—could actually target the bonuses to a fewer number of people with higher bonuses.

It sounds like an awful lot of money when we say that it could go as high as $39,000. What we have to consider is that if we fail to do this, the retention rate is going to go down. The cost of training these people is enormous, recruiting and training them. Too, not just everybody who walks in and joins the Navy could qualify for one of these nuclear ratings.

I know I certainly could not. I barely passed my minimum requirements when I took physics in college. I took a course known as moron physics, given to those who know nothing about the subject of physics, so I could meet the minimum requirements to graduate. So I could not qualify for one of these jobs. It takes a young man with a fine mind to do it, and it is awfully difficult to get them to enlist in the Navy in the first place. Once they are trained in nuclear engineering, what they could command in the private sector is pretty handsome indeed.

What we have to do is maintain some kind of comparability of compensation with the private sector, or we are out of the nuclear business.

Mr. DIXON. Mr. President, let me say to my friend that I do not have any problem generally with what he is doing. But I think candor requires me to suggest that the chairman's saying this is revenue-neutral exhibits some license. It may be revenue-neutral at this point in time, but I think to take off the cap of $16,000 and $20,000 for Navy nuclear power personnel and permit the reenlistment bonus to rise to as high as what I am informed can be $40,000 suggests, in the course of some time, a substantial sum of revenue. I do not know whether I would want to quarrel with the issue of the benefits involved. It might be a worthwhile thing to do.

Mr. TOWER. I do not want to mislead the Senator, so let me say in the first year, fiscal 1985, it would be revenue-neutral. They would operate within existing budgeted funds. It is estimated that in the following fiscal year of the program, there would probably be an additional cost in the neighborhood of $5 million, which is relatively small when you think of the types of people we are trying to retain and the cost of training their replacements.

Mr. DIXON. Mr. President, may I say out of consideration for the manager of the bill, who is an excellent chairman of the committee and for whom I have great personal regard, I shall not suggest a rollcall or anything of that kind. I would like to suggest that my subcommittee is the jurisdictional committee. I think it would have been an appropriate thing for the Navy to come to us and make their case before the subcommittee. I think we probably would have treated them generously there; perhaps not so generously as in this amendment.

I think the policy is a bad policy. In the last session, a similar policy was employed with respect to Navy pilots in the 6- to 10-year window, as I recall, with respect to reenlistment bonuses. I happen to be a Navy person myself. I do not want to be here being critical of that, but I think the policy is bad.

I think our subcommittee is the appropriate subcommittee to pass on the proposal in the first instance. My high regard for the chairman causes me to sit down after making that statement. But I think there is a better method of reaching the kind of attempted result that has been obtained here through the use of the chair.

Mr. TOWER. Mr. President, may I say that this was included in the whole package of proposals that came to the subcommittee and we somehow overlooked the subcommittee's deliberation.

Mr. DIXON. Of course, the subcommittee had a bogey, as the chairman knows.

Mr. TOWER. I understand that, Mr. President. May if say that the matter will be in conference, because there is no similar provision in the House bill. But I think that we have to be somewhat careful in trying to micromanage there bonuses ourselves. There may be shifting demands for talent, shifting requirements, shifting urgencies on retention. I think the Senator will agree that we have to give them some flexibility in the system so that they can target on those skills that are in particular shortfall or in which the retention rate is poor.

Mr. NUNN. Mr. President, will the Senator from Texas yield?

Mr. FORD. Mr. President, will the chairman yield for a question?

Mr. TOWER. Yes, Mr. President; I yield.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I could not help listening to the floor manager and the chairman of the committee say it was only a handful of people that would receive this bonus. Coming from Texas, a handful to him might be a bushel to somebody else. Does he have an idea how many individuals would be involved as it relates to the $40,000 bonus?

Mr. TOWER. Let me check with staff.

Mr. President, I cannot give the precise figure. Probably around 100 or less.

Mr. FORD. Would it be in order, Mr. President, and I am asking the question as simply as I can put it: Since apparently the subcommittee did not have a hearing on it. Maybe it was overlooked, but the indication is that there was not a hearing. Is there some way we could add to the amendment that a report will be given at the end of the fiscal year as to how many would receive it, how the selection process was made, and what judgment was made, would there be any kind of restriction on it?

Mr. TOWER. Let me say to the Senator that I shall direct and get Senator NUNN to join with me in directing the Department to furnish us with a report. That we can do by letter. We will have a report on it.

I hope we can go ahead and approve this in this fiscal year and take a closer look at it before we go further into it in the next fiscal year. This program would only have a budgetary impact of around $5 million in the second year of the program, and it would have no impact the first year.

Mr. NUNN. Will the Senator yield for a couple of questions?

Mr. TOWER. I yield to the Senator.

Mr. NUNN. First, Mr. President, on the first part of this, where we remove the present statutory ceiling of $20,000 on selective reenlistment bonus, would there be any cap on it at any stage if we pass this amendment? We are removing the statutory ceiling of $20,000. Does that mean they could pay $100,000 or $250,000 or $50,000?

Mr. TOWER. Mr. President, I am informed the present statutory formula would produce only a maximum of $39,000.

Mr. NUNN. That is based on the statutory formula of multiples of the skill, pay, and so forth?

Mr. TOWER. That is correct.

Mr. NUNN. Mr. President, do we really want that large a reenlistment bonus? When we get up into the $40,000 range for reenlistment—I guess it is a policy question, but does the chairman believe it is appropriate to have that much of a reenlistment bonus?

Mr. TOWER. The question is, if you do not get that high, you start losing these people. How much does it cost to train their replacements? You are drawing from a very small pool of people who have the mental qualifications to do this kind of work.

Mr. NUNN. I have not studied this proposal very carefully, but one of the things the Grace Commission pointed out was what they called abuse of the authority to pay the selected reenlistment bonus. They say the services are paying it to people reenlisting in skills where there are no shortages.

We hear an awful lot about the Grace Commission and how much we are going to save, and it seems to me that what we are doing with this amendment is making what they have already described as a problem a worse problem. I do not know because I have not studied the amendment as it relates to the Grace Commission report. I know President Reagan has put a great deal of emphasis on how much we are going to save by the Grace Commission report. I have asked the Secretary of Defense and others questions about which parts of that report they are willing to accept as it pertains to the Defense Department. Almost every one of the recommendations they have rejected as it applies to the Department of Defense, and that is a big hunk of the total Grace savings.

So I wonder, since they criticized this area, are we really making a worse problem than now exists?

Mr. TOWER. I would think not. The figure $39,000, the bonus you pay to retain a man for another 6 years, works out at what, a little better than $6,000 a year. If you consider that maybe he could get $6,000 more per year going into the private sector—and he would not have to go to sea—I wonder if we might be pennywise and pound foolish, because these bonuses do sound high, saying, "No, we are not going to pay them" and then have a declining retention rate in these much needed skills where the training costs are very high.

Mr. NUNN. It just seems to me that going from $20,000 to $40,000 in 1 year is a pretty big hunk. You are doubling the bonus.

Mr. TOWER. Yes; that is true. So you are going from roughly, on a 6-year enlistment, a little better than $3,000 a year to $6,000 a year.

Mr. NUNN. Has the Navy presented testimony, or the services, that would show the critical skills where they are having a problem, where they are going to have to raise it to up to $40,000?

Mr. TOWER. Yes. The Navy has been very specific in this request because of primarily the retention rate among the nuclear ratings, the submariners.

Mr. NUNN. Would the Senator from Texas consider, instead of being permanent law, having it limited to 1 fiscal year so we might have the subcommittee look at the whole thing next year and they can make it permanent if they so choose?

Mr. TOWER. You can do it anyway. You have to look at it every year in the authorization bill. I think the matter can be revisited next year.

Mr. NUNN. I would prefer not to have to repeal the law. Would the Senator consider an amendment to his amendment that would make it 1 fiscal year? Then we would have it in conference. We can take a closer look at it in conference and, if need be, next year it can be revisited without having to repeal something that is in the permanent law.

Mr. TOWER. Let me consider that. In the meantime 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. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. HECHT]. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I have had a little discussion during the quorum call with my colleagues, and I think they are prepared to let this amendment be acted upon as is, without efforts to amend it.

Let me simply say that we estimate the cost of training these nuclear personnel at around $100,000. So if you are paying a premium to keep one in—and one that is experienced, in particular—it means that is one less you have to go out and recruit and train at great expense.

I think that, really, it is a prudent way to do business. However, I think some valid points have been made, and it is a matter that the committee can look into in some depth during the authorization process next year.

Before we go to conference with this measure, we will undertake to get information that expresses itself to the concerns expressed by the distinguished ranking minority member of the subcommittee and the distinguished ranking minority member of the full committee on this matter.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment No. 3178 was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.38031059

AMENDMENT NO. 3200

(Purpose: To provide authorizations of appropriations for the impact aid program under Public Law 874 of the Eighty-first Congress, and for other purposes)

Mr. ABDNOR. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. ABDNOR], for himself and others, proposes an amendment numbered 3200.

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

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

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following new section:

SEC. —. (a)(1) Section 502(a)(1) of the Omnibus Budget Reconciliation Act of 1981 is amended—

(A) by inserting "(A)" after the paragraph designation;

(B) by striking out "for each of the fiscal years 1984 and 1985" in the matter preceding clause (A) and inserting in lieu thereof "for the fiscal year 1984, and $700,000,000 for the fiscal year 1985 and for each succeeding fiscal year ending prior to October 1, 1989 plus the amount authorized in subparagraph (B)";

(C) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively;

(D) by striking out "for each of the fiscal years 1984 and 1985" in clause (i) (as redesignated by this section) and inserting in lieu thereof "for the fiscal year 1984 and $30,000,000 for the fiscal year 1985 and for each succeeding fiscal year ending prior to October 1, 1989"; and

(E) by adding at the end thereof the following new subparagraph:

"(B)(i) Not later than November 15 of each fiscal year (beginning with the fiscal year 1985), the Secretary of Education shall publish in the Federal Register the percentage change in the price index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

"(ii) If in any fiscal year the percentage change published under division (i) indicates an increase in the price index, then the amount authorized to be appropriated under subparagraph (A) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under division (i) increased by such precentage changes, but in no event may the percentage change be more than 5 percent.

"(iii) If in any fiscal year the precentage change published under division (i) does not indicate an increase in the price index, then the amount authorized to be appropriated under subparagraph (A) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under division (i).

"(iv) For purposes of this subparagraph, the term 'price index' means the Consumer Price Index for all Urban Consumers, published monthly by the Bureau of Labor Statistics.".

(2)(A) Section 505(a)(3) of such Act is amended by striking out "fiscal year 1982, 1983, 1984, or 1985" and inserting in lieu thereof "for any fiscal year for which the amount of authorizations is specified in paragraph (1) of subsection (a)".

(B) Section 505(b) of such Act is amended by striking out "fiscal year 1982, 1983, 1984, or 1985" and inserting in lieu thereof "for any fiscal year for which the amount of authorizations is specified in paragraph (1) of subsection (a)".

(b) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out "October 1, 1983" each place it appears in sections 2(a), 3(b), 4(a), and 7(a)(1) and inserting in lieu thereof "October 1, 1989".

(c)(1) Section 3(d)(2)(E)(ii) of such Act is amended by striking out "1983 or 1984" and inserting in lieu thereof "1984 and each fiscal year thereafter".

(2) Divsion (iii) of section 3(d)(2)(E) of such Act is repealed.

The cosponsors are as follows:

Senators Abdnor, Pell, Moynihan, Symms, Stennis, Pressler, Sarbanes, Warner, Boren, McClure, Matsunaga, Trible, Huddleston, D'Amato, Zorinsky, Tsongas, Lautenberg, Inouye, Levin, Heflin, Mathias, Melcher, Cochran, Tower, Exon, Johnston, Chiles, Hatch, Pryor, Garn, Thurmond, Dodd, Kennedy, Randolph, Bentsen, Hollings, Riegle, Stevens, Ford, Bradley, Nunn, Bingaman, Baucus, and DeConcini.

Mr. ABDNOR. Mr. President, on behalf of myself, Senator PELL, and 43 of our colleagues, I am today offering an amendment to reauthorize for 5 years the Impact Aid Program (Public Law 81-874).

On February 29, the distinguished ranking member of the Labor and Human Resources Subcommittee on Education, Arts, and Humanities, Mr. PELL, and I introduced S. 2378, a bill to reauthorize impact aid. With the exception of a technical change, the language of this amendment is identical to that of the bill.

Mr. President, this amendment increases from $565 million to $700 million the authorization for Public Law 81-874 beginning in fiscal year 1985, increases from $20 million to $30 million section 2 authority, and repeals the third and final year of the category "B" phaseout—leaving at one-third of entitlement the authorization for section 3(b) of the statute. In the absence of this provision, authority for funding category "B" expires at the end of the current fiscal year.

I wish to emphasize, Mr. President, that this amendment is not a fiscally irresponsible one. We are simply seeking to restore to an adequate level funding for impact aid. The Omnibus Reconciliation Act of 1981 reduced drastically funding authority for impact aid. In contrast to other major education programs, which were reduced by 7 to 10 percent, impact aid was cut by more than 40 percent. If enacted, our amendment will restore to a roughly commensurate level support for federally impacted school systems.

It is also worth noting that administration witnesses, from the Department of the Interior, have stated in testimony before the Select Committee on Indian Affairs, that if the Bureau of Indian Affairs became responsible for educating the native American children currently enrolled in our Nation's public schools, it would cost the Federal Government more money than it contributes to their education under the Impact Aid Program. I believe, Mr. President, that the same would be true of the dependents of our military personnel, were the Department of Defense solely responsible for those currently attending public schools.

Last year, the distinguished chairman of the Armed Services Committee, Mr. TOWER, agreed to consider during the debate on the DOD authorization measure, a similar amendment Senator PELL and I initiated. That language called for increasing the authority for Public Law 81-874 to $625 million. That amount was subsequently reduced to $565 million in the conference committee.

This year, the other body has incorporated in its omnibus education bill language similar to that included in our amendment. Consequently, I believe that we will find our colleagues on the other side of the Hill sympathetic to our proposal.

Mr. President, the amendment I am offering is on a very important subject to a great many Senators from a number of States—it deals with impact aid.

A total of 43 Senators have joined Senator PELL and I in sponsoring this amendment. It is a straightforward reauthorization which increases overall the program funding authority.

I have discussed this amendment with the chairman of the committee and the ranking minority member of the committee, and they have been more than willing to accept this amendment. Before I move the adoption of the amendment, I want to offer a modifying amendment, and I send it to the desk at this time.

The PRESIDING OFFICER. The amendment will be stated.

AMENDMENT NO. 3201

(Purpose: To strengthen the provisions of section 3(d)(2)(B) of the Act of September 30, 1950, and to assure that proper regulations on comparability and the contribution rate be used to carry out that Act, and for other purposes)

The legislative clerk read as follows:

The Senator from South Dakota [Mr. ABDNOR], for himself and others, proposes an amendment numbered 3201 to amendment numbered 3200.

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

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

The amendment is as follows:

At the end of the amendment add the following new subsections:

(d)(1) Section 3(d)(2)(B) of such Act is amended by inserting at the end thereof the following new sentence: "In carrying out the provisions of this subparagraph, the Secretary shall not prorate the amounts computed under this subparagraph attributable to the number of children determined under subsection (a) or (b), or both.".

(2)(A) The second sentence of section 3(d)(2)(B) of such Act is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (h) of this section, the".

(B) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"SPECIAL PROVISIONS

"(h)(1) Any local educational agency for which the boundaries of the school district of such agency are coterminous with the boundaries of a military installation and which is not eligible to receive payments under subsection (d)(2)(B) shall receive 100 percent of the amounts to which such agency is entitled under subsection (a) of this section.

"(2) Any local educational agency which is eligible to receive payments under subsection (d)(2)(B) and which is making the maximum tax effort permitted under State law shall receive at least an amount under subsection (d) with respect to that local educational agency for any fiscal year which is the product of—

"(A) the amount the Secretary determines to be the average per pupil expenditure in the State during such fiscal year,

multiplied by—

"(B) the number of children served by such agency for such year.".

(e)(1) Notwithstanding any other provision of law, the regulations of the Department of Education relating to generally comparable local educational agencies and the local contribution rate under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) issued March 30, 1984, shall not take effect and shall not be used to implement the provisions of that Act. The Secretary of Education shall not issue regulations relating to generally comparable local educational agencies and the local contribution rate under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) which are substantially similar to the regulations prohibited by this paragraph.

(2) The regulations of the Department of Education relating to generally comparable local educational agencies and the local contribution rate under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) issued on April 8, 1975, as in effect on July 1, 1983 (34 C.F.R. 222.30) shall be used to implement the provisions of such Act.

(f)(1) The last two sentences of section 5(c) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) (as added by section 23 of the Education Consolidation and Improvement Act of 1981) are redesignated as subsection (h) of section 5 of that Act.

(2) The amendment made by paragraph (1) of this subsection shall be effective December 8, 1983.

Mr. ABDNOR. Mr. President, the amendment I am offering in the second degree directs the Secretary of Education to use the existing regulations to determine districts' local contribution rates versus those proposed on March 30, 1984. Earlier this year the Senate adopted an amendment offered by the Senator from Montana [Mr. MELCHER] to prevent the Department from implementing its proposed regulations during the current fiscal year. Although sympathetic to our objectives in this regard, the House conferees were not convinced that the Melcher amendment should be included in the urgent supplemental bill—it was deferred without prejudice.

In the report accompanying the Senate's fiscal year 1984 Labor-HHS and Education appropriations bill, the committee made clear its opposition to any regulatory changes in the impact aid program which would result in reduced payments to districts in States which utilize individually selected comparable districts to determine their rates. The Department, unfortunately, has not only chosen to ignore this language, but sought to impose the changes during the middle of the fiscal year, and the end of the current school year. At present, not only have federally impacted school districts failed to receive their final payments for the current school year, most of them have little or no idea of what their final payment will be.

I find totally unacceptable the excuse the Department of Education has used in defense of its regulatory proposal. I am advised that Department representatives have finally admitted that the Office of Impact Aid does not have sufficient staff to make the subjective determinations necessitated under current law and regulations. What these same indviduals neglect to mention is that last year, on the premise that category "B" payments would no longer be made, the staff in the Impact Aid Office was cut in half. This decision was not prompted, I might add, by congressional action. If we allow the proposed regulations to take effect, a number of school systems in almost 20 States stand to lose much-needed funds.

Mr. President, my second degree amendment also clarifies what I believe to be the intent of section 3(d)(2)(B) of the statute. Further, it ensures that six school systems in the Nation, which have no local tax base whatsoever, will receive funding adequate to maintain operations. Finally, it includes a change necessary to allow the State of Hawaii to benefit from a provision enacted last year as part of the Education Consolidation and Improvement Act technical amendments package.

Mr. President, I wish particularly to thank Mr. TOWER, the most able chairman of the Armed Services Committee, who has worked diligently during his tenure in the Senate on behalf of our Nation's federally impacted schools, and my most able cosponsor, Mr. PELL. I wish also to thank the staffs of these Senators, especially Rick Finn with the Armed Services Committee, and David Evans, with the Labor and Human Resources Committee, who have been tremendously helpful to me and my staff.

Finally, I wish to thank the National School Boards Association [NSBA], the National Education Association [NEA], the American Association of School Administrators [AASA], the National Parent Teachers Association [PTA], and the National Association of Federally Impacted Schools, all of which have played an important role in this effort to restore adequate funding for the Impact Aid Program.

I strongly urge my colleagues to adopt both these amendments.

We are asking that the proposed regulations be rescinded so that payments are distributed in accordance with the present regulations which have been in effect since April 8, 1975. We do not preclude the Department from issuing new regulations at a later date.

The two amendments are very necessary.

Mr. MOYNIHAN. Mr. President, I am pleased to join my distinguished colleagues, Senator ABDNOR and Senator PELL, in offering this amendment to reauthorize the Federal Impact Aid Program (Public Law 81-874) through the 1989 fiscal year. Our amendment would increase the program's total authorization for the coming fiscal year from $565 million to $700 million and would increase the section 2 authorization from $20 million to $30 million. These authorization levels would be indexed to changes in the Consumer Price Index for fiscal years 1986-89.

Congress enacted the Impact Aid Program in 1950 to provide financial assistance to school districts in federally affected areas—including military bases, Indian lands, and Federal low-rent housing projects. Such properties generally are exempt from local tax levies that go to support education, and Congress determined to compensate the school districts affected in this way and therefore unable to raise sufficient funds for their schools. Over the years, this fine program has provided financial assistance to thousands of local educational agencies across the country, including some 150 school districts in my home State of New York.

This program has been immensely important for local school districts responsible for educating children whose parents live and/or work on properties producing no property tax. The Highland Falls-Fort Montgomery School District in the Hudson Valley of New York exemplifies the plight of federal-

ly impacted areas. Property taxes to support the school district have risen more than 150 percent over the last decade—in large part because the district lies adjacent to the U.S. Military Academy at West Point, and 95 percent of the district's land is owned by the Federal Government. The school district is forced to operate on property tax revenues raised from just 5 percent of the district's total land—operations including the education of children whose parents live and work on the Academy's tax-free grounds.

The plight of school districts such as Highland Falls has been exacerbated by the Reagan administration's cuts in the Federal Impact Aid Program. Between fiscal years 1980 and 1983, the program's authorizations fell 35 percent, from $707 million to $455 million. New York State suffered even more severely: 150 New York school districts received some $41 million in impact aid in the 1980 fiscal year; but 3 years later, in fiscal year 1983, fewer than 85 New York school districts received only $11.2 million. That is a reduction of 73 percent over 3 years. New York City has 133,000 federally impacted students, nearly 7 percent of the national total; however, its share of impact aid fell from $26 million in fiscal year 1980 to $5 million in fiscal year 1983.

The downward trend was reversed, if ever so slightly, in the current fiscal year. On July 26, 1983, during consideration of the previous Department of Defense authorization bill, I offered an amendment with Senator ABDNOR to raise the impact aid authorization to $625 million for fiscal year 1984. The Senate adopted our amendment, but the House of Representatives regrettably approved a much smaller increase. A compromise measure later signed into law provided $565 million in overall program authority—$60 million less than the Senate approved under my proposal, but $110 million more than the fiscal year 1983 authorization.

Had the moneys under this authorization been appropriated equitably, all federally impacted school districts would receive modest increases in funding. Unfortunately, the appropriations were not so allocated. Some districts with very high concentrations of impacted children will received significant funding increases this school year. Other districts, with only slightly fewer impacted children, will not gain any additional funds and may even have their allocations reduced.

Even if the appropriations for the current fiscal year were distributed more equitably, the program's overall authorization would remain well below its 1980 funding level. New York State still would fall some $20 million to $25 million short of its fiscal year 1980 allocation, even without adjusting for inflation. It is time to rectify this situation, and we can begin to do so by raising the total authorization to $700 million and the section 2 authorization to $30 million. The authorization also would be extended for category B students, whose parents either live or work on Federal property. This provision, which the administration unfortunately has opposed, is a matter of equity and of particular importance to many New York districts, including Highland Falls.

I would emphasize that this amendment will not redress the damage done over the last 4 years. Even if approved, the measure will leave the Impact Aid Program some $7 million below its fiscal year 1980 level. It does not restore revenues already lost by thousands of federally impacted districts. Nor does it, nor could it, rectify the loss of educational opportunities by thousands of students under the President's cuts in impact aid. But this legislation will move the Federal Impact Aid Program in the right direction, and I urge all of my colleagues to support it.

I also would urge my colleagues to support an additional amendment that my distinguished colleague, Senator ABDNOR, plans to offer to this legislation. This amendment would require that during fiscal years 1985-89 the Department of Education must distribute payments under section 3 of the Impact Aid Program in accordance with regulations now in effect.

The Department of Education's recent efforts to implement new regulations governing local contribution rates under the Impact Aid Program have necessitated this amendment. Local contribution rates—the share of education costs assumed by each school district—are used to determine impact aid entitlements for eligible districts. The proposed regulations, which first appeared in the March 30, 1984, edition of the Federal Register, would alter significantly the current methods for determining a school district's contribution rate.

I understand the Department has proposed these new regulations, because it no longer has enough staff assigned to administer the Impact Aid Program under the current regulations. I would posit that the Department's unwillingness to fullfill its obligations regarding the Impact Aid Program is not sufficient reason to change those regulations. There is little doubt the Department's proposed regulations would adversely affect hundreds of local school districts. Federally impacted school districts already have lost large amounts of Government assistance under the current administration. The Department has yet to provide a valid reason to disrupt further the education of American schoolchildren in federally connected areas. Any changes in the methods used by school districts to calculate their entitlements should not be implemented at the expense of the very children the guidelines are intended to serve.

Finally, I would mention my intention to offer an amendment, with my distinguished colleague, Senator D'AMATO, to the next supplemental appropriations bill. This amendment would provide an additional $20 million for those districts which received reduced impact aid entitlements last year. Although Congress appropriated increased funds for fiscal year 1984, many school districts in New York State and across the Nation lost money. This amendment would redress that inequity and insure that these districts are properly compensated for educating children from federally impacted areas.

Mr. ABDNOR. Mr. President, I am happy to have the remarks of the Senator from New York. He has been very helpful, as has Senator D'AMATO.

We think the proposed amendments will work out to the benefit of all the States involved. They are very reasonable amendments.

Mr. President, I yield to Senator NUNN, the ranking minority member of the committee.

Mr. NUNN. Mr. President, I have a couple of questions. I understand that the Senator has two amendments. Is that correct?

Mr. ABDNOR. Yes. I modified my first amendment by my second amendment.

Mr. NUNN. What is the pending business, then, I ask the Chair?

The PRESIDING OFFICER. The amendment of the Senator from South Dakota in the second degree.

Mr. NUNN. So we have two amendments pending. We have a second-degree amendment to the Senator's first-degree amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. NUNN. Will the Senator explain again his second-degree amendment? The first-degree amendment, as I understand it, relates to the impact aid funds themselves, and the second-degree amendment relates to regulations that are being overturned. I am not sure I understand the second-degree amendment.

Mr. ABDNOR. The second-degree amendment directs the Secretary of Education to use the existing regulations that are in effect today to determine the local contribution rates versus those proposed on March 30, 1984. As the Senator from Montana [Mr. MELCHER] pointed out to the Senate earlier, the proposed regulations are unworkable and unreasonable, and we have no objection to working with the Department on an alternative. I wish to point out to my colleagues, however, that a recent meeting arranged by staff from the House Education and Labor Commit-

tee with my staff, Senator MELCHER's staff, Senate Education Subcommittee staff, and representatives, from the Department of Education was canceled—by the Department.

Mr. President, the new regulations have not been published in final form, yet the Department intends to utilize them relative to fiscal year 1984 payments—payments which the school districts anticipated receiving during the 1983-84 school year. The second-degree amendment instructs the Department to use the regulations currently through this modifying amendment. We are just saying that until they can come up with a reasonable set of regulations that can be used across the country without adversely affecting districts which utilize comparables, let us continue with the regulations which have been in effect for the past 9 years.

Mr. NUNN. I thank the Senator. I have a couple of other questions.

"Special provisions," paragraph 2, relates to computations. It seems to me that paragraph 2 basically sets up a floor for a minimum payment to a local education agency, saying that they are eligible for at least a minimum amount. Does this create any new expenditure, or is this a shifting of funds?

Mr. ABDNOR. It is a shifting of funds. It is not a new expenditure. That is what we have been trying to point out to the Department of Education. This provision insures that desperately needy districts will receive funding sufficient to maintain services for their students. It gives the Department the latitude to place the money where it is most needed.

Mr. NUNN. Can the Senator explain where the money is shifted from?

Mr. ABDNOR. This amendment simply clarifies what we always thought was the intent of section 3(d)(2)(B). This is an important part of the statute. In addition, it insures that six school systems in the Nation which have no local tax base whatsoever will receive funding adequate to maintain operations.

Also, it includes a change necessary to allow the State of Hawaii to benefit from the provision enacted last year as a part of the Education Consolidation and Improvement Act technical amendments package.

Mr. NUNN. What I am trying to get at is are there winners and losers in this amendment? If there is a shifting of funds, the funds come from somewhere else, and those funds come from other districts within the State; or are we shifting funds from one State to another State?

Mr. ABDNOR. No; we are not shifting funds that districts currently receive—any increased funds that the few districts which may benefit from these special provisions would receive would not result in reduced funding for other districts. As the Senator from Georgia is aware, the first degree amendment increases the overall funding authority by $135 million.

Mr. NUNN. Are there additional funds in the second-degree amendment? Is there a cost in the second-degree amendment?

Mr. ABDNOR. Not in the second-degree amendment, but in the first-degree amendment there are additional dollars.

Mr. NUNN. Are all the dollars for the second-degree amendment in shifting of funds available by reason of extra funds provided in the first-degree amendment?

Mr. ABDNOR. It is the Department which is seeking a significant shift in funds through its proposed regulations. The second-degree amendment would maintain the status quo.

Mr. NUNN. Are any States going to get less than they receive now by reason of the second-degree amendment?

Mr. ABDNOR. No; definitely not.

Mr. NUNN. But, for instance, if I were asked by the people of the State of Georgia, and occasionally they do ask these kinds of penetrating questions, whether the second-degree amendment would shift funds from out of my State, what would my answer be?

Mr. ABDNOR. In reply to the Senator from Georgia, the second-degree amendment does not change anything from the previous year. Payments will be computed on the basis of regulations in effect for the past 9 years. But it does ensure that several of the most heavily impacted districts will be funded adequately.

Mr. NUNN. I do not have any objection to that. I am just trying to find where the funds are shifted from.

Mr. ABDNOR. We are increasing the program authorization. No funds are being taken away from any districts.

Mr. GOLDWATER. Mr. President, if the Senator will yield so I might try to explain this, because we have a comparable situation in many of the Western States, although the situation I am going to describe is not covered by defense funds, but it could be, we have one county in Arizona that is one-third non-Indian and two-thirds Indian. We cannot tax the Indian land, so the non-Indian or the white man has to pay for the schooling of two-thirds of the children, and we get money to compensate us for that from Indian funds.

Now, there are occasions in my State where a school district might get money from the military, but that is usually provided in the general military funds. For example, schools down in a little town named Oho, where the Luke Air Force Gunnery Range is located, there are no taxes paid by the Federal Government on hundreds of thousands of acres. So we get compensated funds.

It has been going on for years and years, and the moneys come either from defense or from Indian funds or sometimes from agriculture.

Mr. ABDNOR. If I could add to that, I wish once again to reiterate that no school district is going to receive any less than they did the previous year. Quite the contrary. In every case they should receive additional dollars, but those specific school districts that are so depressed that I mentioned here are the six districts plus a couple of others which at the very most would receive a little special consideration. We think it is very necessary and very adequate, and we urge acceptance of the amendment.

Mr. MELCHER. Mr. President, will the Senator yield for a moment?

Mr. ABDNOR. I yield to the Senator from Montana.

Mr. MELCHER. Mr. President, I commend the Senator from South Dakota for his continued interest in making such impacted aid and making sure that the school districts are given the proper amounts as Congress wants them to have.

We are caught in the bind, and that is part of the reason for the Senator's second-degree amendment. If the Department of Education goes ahead and implements these regulations that they propose, they absolutely are going to defy the procedure and the formula that Congress has enacted.

In addition, to that, they chose to try out their new regulations at a time when they could not get them implemented and finalized and through all the revisions prior to the time that the school districts need the money because this is budget time for school districts for this coming school year; and without the assurance that they are going to continue as they thought they were going to continue, some school districts simply are not going to have enough money to pay their bills.

This is absolutely essential that this amendment be adopted and the second-degree amendment is the same amendment that was adopted earlier by the Senate and fell through the cracks in the conference on the urgent supplemental, not out of prejudice but only on the basis that they would pick it up in the next supplemental.

Time has gone by and time is wasting as far as these school districts are concerned.

Mr. ABDNOR. I thank the Senator from Montana.

I only wish to say while he probably had the same experience I had and I wish everyone in the Chamber might have had to know what we are talking about when you have your school closed down in the middle of the year because they run out of money, and you go home and face all the mothers

and fathers who are ready to run you out of the area thinking it is your fault. I do not know why it is so difficult for the Department of Education to understand this and the proposed regulations they would have implemented would have completely destroyed what we are trying to accomplish here, simply to give the basic education to these school districts that the Federal Government has caused to be impacted.

Mr. MELCHER. Mr. President, if the Senator will yield further, I think we could reassure the Senator from Georgia and all other Senators that we are not attempting to in any way delete funds from any State or any school district, just to make sure that we just carry it out as Congress has intended.

Mr. ABDNOR. Absolutely.

Mr. NUNN. Mr. President, I understand the first-degree amendment. There is no doubt about that. The second one is the only problem I have, and I wish to support the Senator. But could I ask this question: Is there an amount of money that we could peg down that is involved in the second-degree amendment? Do we know what the totals are and where those funds go?

Mr. ABDNOR. We cannot give the Senator the exact figures no one can at this time.

Mr. NUNN. Are we talking about $10 million or $100 million?

Mr. ABDNOR. No; we are not talking about $100 million. It is more like the first figure of $10 million, I believe.

Mr. NUNN. Would that be primarily in Western States?

Mr. ABDNOR. Not necessarily. It could very well be in air bases, for instances, or military bases anywhere in the United States.

Mr. NUNN. I know the first-degree amendment is everywhere where we impacted aid. I still do not know what the second-degree amendment is.

Mr. ABDNOR. New York definitely would be one of those that would enter into it. As a matter of fact, I now have something here that I can be more specific on, I say to the Senator from Georgia. The States that use the comparable needs, this comparable means of figuring are California, Colorado, Connecticut, Illinois, Indiana, Massachusetts, Michigan is equal, Montana, Nebraska, New Hampshire, New York, Pennsylvania, Rhode Island, South Dakota, Texas, Vermont, Virginia, and Wyoming.

Mr. NUNN. I think the Senator has already named enough States to pass the amendment whatever he does.

Mr. ARMSTRONG. Are those helped or hurt?

Mr. ABDNOR. Helped.

Mr. NUNN. I still do not know how much money is involved. I am puzzled by what amount of money we are talking about.

Mr. FORD. Mr. President, will the Senator yield?

Mr. ABDNOR. I yield.

Mr. FORD. I wish to ask the distinguished Senator a question. I have both copies of the amendments, and I do not see any money in either one of them. In the amendment in the first degree, the Senator had a large number of cosponsors.

Mr. ABDNOR. That is right.

Mr. FORD. On the second-degree amendment he has about four compared to about 40 of the first one. In neither amendment, particularly the second-degree amendment, I do not see any amount of money, and I am trying to read it as best I can.

It says the amount the Secretary determines to be the average per pupil for expenditure in the State during such fiscal year and the number of children served by such agency for such year notwithstanding the provision of law, et cetera.

I do not understand what the Senator is trying to do. I have a large constituency in my State that gets impacted aid. I am getting ready to vote for an amendment, and I do not know what it does.

Mr. ABDNOR. In my initial amendment, we increase from $565 million to $700 million the authorization for Public Law 81-74. In this body last year we authorized $625 million. We got into a conference committee and it was reduced down this $565 million.

We have increased from $20 million to $30 million in section 2 authority and we repealed the third and final year of category B. There was a great demand in this body and from others, particularly on the House side. And this would have been phased out this year. But we repeal that in the original amendment which has 43 cosponsors in addition to Senator PELL.

I do not know how many would have cosponsored the second amendment, the secondary one. But I know we did not complete the amendment. It took a lot of study and a lot of research and we just put it together.

Frankly, I do not think my assistant, who I wish was here on the floor to verify this, has had the time to try to call back and contact everyone. As we mentioned, there are at least 16 or 17 States that are affected. I can almost assure you they would be more than happy to put their name on it if we had the time to go back and make the contacts, but we have not had that time.

Mr. NUNN. Will the Senator yield for a brief observation?

Mr. ABDNOR. Yes.

Mr. NUNN. I think everybody I know of would like to support both of the Senator's amendments. I do not know of any opposition. It is just a matter of not having an explanation at this hour of the night. We just saw what is in the second-degree amendment.

I would suggest to the Senator that he might want to consider withdrawing the second-degree amendment, going ahead with the first-degree amendment tonight, and giving us time to staff that tomorrow and bring that amendment up tomorrow. We will be on this bill at least all of tomorrow.

Mr. ABDNOR. Does the Senator want me to postpone both amendments?

Mr. NUNN. I do not have any objection to going ahead, unless someone else does, with the first-degree amendment. I would hate to come in tomorrow morning and have about half the Senators here say that they found out from their State people that the amendment, the second-degree amendment, has taken money from States and given to other States. I do not know whether it does that. If there is a shifting of funds, it has to be shifted from somewhere.

Mr. ABDNOR. I know the Senator is very sincere in his concern. I would be willing to state my assurance to the Senator that no one is going to get cut. But if that is a problem, maybe we should start all over and offer the first one, adopt that one tonight, and let us review the second part, if that would make the Senator rest easier. We are not trying to pull the wool over anyone's eyes or pull any fast trick.

Mr. NUNN. I know the Senator is not. I think if he did that, we could expedite the matter and get the first amendment passed tonight and we will have time tomorrow to take up the second amendment and perhaps it will go right on through.

Mr. ABDNOR. I guess with all the study my assistant did here I was so convinced that it was just the natural and proper thing to do. I think the Senator will conclude the same about it if we can visit with him about it tomorrow and we will arrest any fears he may have because I assure him no one is going to lose dollars. But, as the Senator from Montana pointed out, it points a little direction to how it ought to be handled from the Congress and not from a bureaucrat down in the Department of Education.

So I ask unanimous consent that my secondary amendment be withdrawn and return to the original amendment.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is withdrawn.

Mr. MOYNIHAN. Mr. President, I move the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. EXON. Mr. President, I am pleased to cosponsor the amendment offered by Senator ABDNOR to reauthorize the Impact Aid Program.

The Federal Government has a responsibility to assist school districts that are directly affected by the presence of Federal installations or properties. It is estimated that there are over 2 million children across this Nation who are served by the Impact Aid Program. A number of school districts in Nebraska are impacted by a military installation or an Indian reservation and the Impact Aid Program assists these school districts in providing a quality education for our young people.

Mr. President, this amendment would reauthorize the Impact Aid Program through fiscal year 1989. It would increase the authorization for Impact Aid from $565 million to $700 million beginning with fiscal year 1985. This increase is necessary to restore some of the drastic cuts in the program that were made in 1981. Between 1980 and 1983, authorization for Impact Aid was cut from $707 million to $460 million, a reduction of 35 percent.

This amendment would also reauthorize category B payments and repeal the phaseout of "B" payments that was included in the Omnibus Reconciliation Act of 1981. While the impact of "B" children—that is, children of parents who work or live on Federal property—is not as great as the impact of "A" children, whose parents both work and live on Federal property, the impact exists nevertheless. Without this amendment, authority for category "B" payments will expire on September 30 of this year.

Payments under the category "B" program are important to school districts in Nebraska and across the Nation, particularly to school districts that are in close proximity to military installations and enroll large number of military "B" children.

I urge my colleagues to support this amendment and to show our commitment to providing assistance to school districts that are impacted by a Federal presence. What we are really talking about is making it possible for the children of our military personnel and others to receive a quality education. The dollars we spend on the Impact Aid Program are an investment in our Nation's future and are dollars well spent.

I thank my friend and colleague from South Dakota for offering a very sound amendment that is backed by many cosponsors. I see nothing wrong with the second-degree amendment that he has offered, but I appreciate the fact that it is a late hour. I think we can probably dispose of that very quickly tomorrow. I appreciate his gentlemanly approach to the situation.

Mr. ABDNOR. I thank the Senator from Nebraska. Let me assure him that I am confident that when everyone understands it, we are not going to have any trouble convincing the Members of the Senate to go along with it. That is why we are willing to do it.

Mr. MOYNIHAN. Mr. President, I am pleased to join my distinguished colleagues, Senator ABDNOR and Senator PELL, in offering this amendment to reauthorize the Federal Impact Aid Program (Public Law 81-874) through the 1989 fiscal year. Our amendment would increase the program's total authorization for the coming fiscal year from $565 million to $700 million and would increase the section 2 authorization from $20 million to $30 million. These authorization levels would be indexed to changes in the Consumer Price Index for fiscal years 1986-89.

Congress enacted the Impact Aid Program in 1950 to provide financial assistance to school districts in "federally affected areas"—including military bases, Indian lands, and Federal low-rent housing projects. Such properties generally are exempt from local tax levies that go to support education, and Congress determined to compensate the school districts affected in this way and therefore unable to raise sufficient funds for their schools. Over the years, this fine program has provided financial assistance to thousands of local educational agencies across the country, including some 150 school districts in my home State of New York.

This program has been immensely important for local school districts responsible for educating children whose parents live and/or work on properties producing no property tax. The Highland Falls-Fort Montgomery School District in the Hudson Valley of New York exemplifies the plight of federally impacted areas. Property taxes to support the school district have risen more than 150 percent over the last decade—in large part because the district lies adjacent to the U.S. Military Academy at West Point, and 95 percent of the district's land is owned by the Federal Government. The school district is forced to operate on property tax revenues raised from just 5 percent of the district's total land—operations including the education of children whose parents live and work on the Academy's tax-free grounds.

The plight of school districts such as Highland Falls has been exacerbated by the Reagan administration's cuts in the Federal Impact Aid Program. Between fiscal years 1980 and 1983, the program's authorizations fell 35 percent, from $707 million to $455 million. New York State suffered even more severely: 150 New York school districts received some $41 million in impact aid in the 1980 fiscal year; but 3 years later, in fiscal year 1983, fewer than 85 New York school districts received only $11.2 million. That is a reduction of 73 percent over 3 years. New York City has 133,000 federally impacted students, nearly 7 percent of the national total; however, its share of impact aid fell from $26 million in fiscal year 1980 to $5 million in fiscal year 1983.

The downward trend was reversed, if ever so slightly, in the current fiscal year. On July 26, 1983, during consideration of the previous Department of Defense authorization bill, I offered an amendment with Senator ABDNOR to raise the impact aid authorization to $625 million for fiscal year 1984. The Senate adopted our amendment, but the House of Representatives regrettably approved a much smaller increase. A compromise measure later signed into law provided $565 million in overall program authority—$60 million less than the Senate approved under my proposal, but $110 million more than the fiscal year 1983 authorization.

Had the moneys under this authorization been appropriated equitably, all federally impacted school districts would receive modest increases in funding. Unfortunately, the appropriations were not so allocated. Some districts with very high concentrations of impacted children will receive significant funding increases this school year. Other districts, with only slightly fewer impacted children, will not gain any additional funds and may never have their allocations reduced.

Even if the appropriations for the current fiscal year were distributed more equitably, the program's overall authorization would remain well below its 1980 funding level. New York State still would fall some $20 million to $25 million short in its fiscal year 1980 allocation, even without adjusting for inflation. It is time to rectify this situation, and we can begin to do so by raising the total authorization to $700 million and the section 2 authorization to $30 million. The authorization also would be extended for category B students, whose parents either live or work on Federal property. This provision, which the administration unfortunately has opposed, is a matter of equity and of particular importance to many New York districts, including Highland Falls.

I would emphasize that this amendment will not redress the damage done over the last 4 years. Even if approved, the measure will leave the Impact Aid Program some $7 million below its fiscal year 1980 level. It does not restore revenues already lost by thousands of federally impacted districts. Nor does it, nor could it, rectify the loss of educational opportunities by thousands of students under the President's cuts in Impact Aid. But this legislation will move the Federal Impact Aid Program in the right direction, and I urge all of my colleagues to support it.

I also would urge my colleagues to support an additional amendment that

my distinguished colleague, Senator ABDNOR, plans to offer to this legislation. This amendment would require that during fiscal years 1985-89 the Department of Education must distribute payments under section 3 of the Impact Aid Program in accordance with regulations now in effect.

The Department of Education's recent efforts to implement new regulations governing local contribution rates under the Impact Aid Program have necessitated this amendment. Local contribution rates—the share of education costs assumed by each school district—are used to determine Impact Aid entitlements for eligible districts. The proposed regulations, which first appeared in the March 30, 1984, edition of the Federal Register, would alter significantly the current methods for determining a school district's contribution rate.

I understand the Department has proposed these new regulations, because it no longer has enough staff assigned to administer the Impact Aid Program under the current regulations. I would posit that the Department's unwillingness to fulfill its obligations regarding the Impact Aid Program is not sufficient reason to change those regulations. There is little doubt the Department's proposed regulations would adversely affect hundreds of local school districts. Federally impacted school districts already have lost large amounts of Government assistance under the current administration. The Department has yet to provide a valid reason to disrupt further the education of American schoolchildren in federally connected areas. Any changes in the methods used by school districts to calculate their entitlements should not be implemented at the expense of the very children the guidelines are intended to serve.

Finally, I would mention my intention to offer an amendment, with my distinguished colleague, Senator D'AMATO, to the next supplemental appropriations bill. This amendment would provide an additional $20 million for those districts which received reduced impact aid entitlements last year. Although Congress appropriated increased funds for fiscal year 1984, many school districts in New York State and across the Nation lost money. This amendment would redress that inequity and ensure that these districts are properly compensated for educating children from federally impacted areas.

Mr. SYMMS. Mr. President, I am pleased to join my colleague, Senator ABDNOR, in his efforts to increase funding for the Impact Aid Program.

Since the 1950's, the Federal Government has provided a program of assistance to local education agencies in areas where Federal presence either through Federal installations or Federal land ownership existed. The Impact Aid Program provides funds to compensate school districts for the cost of educating children when enrollment and availability of revenues from local sources are adversely affected by Federal activities.

Every administration has issued complaints with regard to Impact Aid funding since its inception in 1950. However, I believe it is important to investigate the reasons for the increases. First, due to the expansion of the Federal Government, the total number of tax exempt acres owned by the Federal Government grew from 405 million acres in 1957 to 742 million in 1977. Additionally, the value of federally owned land has tripled since 1953 to $101 billion. Nationwide, the Federal Government owns 33.7 percent of the land; however, in Idaho the facts are worse because the Federal Government owns 64 percent of the land. Second, in 1950, there were 1.9 million civilian service employees and today there are more than 3 million, excluding military personnel. Third, the average per pupil cost rose from $209 in 1950 to about $2,000 plus today.

The concept behind Impact Aid funds was that the Federal Government, a major nontaxpaying enterprise, should pay some measure of fiscal support to offset the demand for local services created by its presence and to offset the lack of taxes generated from land occupied by the Federal Government in prime areas.

To Idaho, Federal impact aid is compensation for the loss of local property taxes that the withdrawal of Federal lands from the local tax rolls engenders. The administration's budget proposal seems to miss the issue of equity.

Impact aid funds are not a supplementary program which can be eliminated from the budget. Impact Aid funds finance the basic operating accounts of the school programs. This program is one of the least costly to administer, it fosters local control in meeting the special needs of school districts, and is much less costly to the Federal Government than a program to make payment in lieu of taxes. Consequently, I believe that the Federal Government, which is a major nontaxpaying employer and landholder, has an obligation to close some of the gap caused by the removal of the value of Federal installations from the local tax rolls.

The Public Land Law Review Commission best summed up the need for this legislation with the following recommendation:

> If the national interest dictates that lands should be retained in Federal ownership, it is the obligation of the United States to make certain that the burden of the policy is spread among all of the people of the United States and is not borne only by those States and governments in whose areas the lands are located.
>
> Therefore, the Federal Government should make payments to compensate State and local governments for the tax immunity of Federal lands.
>
> The situation is similar in county after county across the country; the Federal Government as landowner does not pay what would be required if this land was on the tax rolls; nor does it adequately compensate counties for the burdens associated with the maintenance of local government services on these lands.

Therefore, I would like to urge all of my colleagues to support the amendment that is being offered.

Mr. McCLURE. Mr. President, I am pleased to be counted as one of the original cosponsors of legislation to reauthorize the Impact Aid Program. I would like to commend and thank my colleagues from South Dakota and Rhode Island, Senators ABDNOR and PELL, for their hard work and dedication to this very important education program.

Mr. President, the impact aid is a vital program to many school districts in this country. In Idaho alone, over 60 of our 115 school districts receive Public Law 81-874 funds. This represents nearly 20,000 of Idaho's 215,000 schoolchildren.

The need for impact aid goes much deeper in Idaho than in many areas of the country. The Federal Government owns 66 percent of the land in Idaho. We are only outranked in Federal land ownership by Alaska with 89 percent and Nevada with 86 percent. A school district that is located on or near federally owned property faces the stark reality that it has a very small tax base from which to support its schools. The Federal Government is exempt from both the residential property tax and the business or worksite property taxes that generally support public schools. Therefore, the impact aid program becomes a very important source in helping make up for the lost tax revenue.

I think the issue here is very simple—when the Federal Government has a facility, Indian reservation or places a burden on an area that affects a school's revenue-raising ability, then it has an obligation to make up for those lost revenues.

Mr. President, over the years I have spent in Congress, I have begun to feel like a broken record when I speak about how important Public Law 81-874 is to school districts in Idaho and across the Nation. It seems we have to fight a continual battle to keep the program alive and then to provide adequate funding for it.

Federally impacted school districts have suffered from underfunding long enough. The proposal we are considering now would increase impact aid funding to levels which will help these schools provide a basic education to their students. For too many years, impacted districts have been forced to

operate with diminishing Federal funding and the uncertainty of the program's future.

It is time we end that uncertainty and I urge my colleagues to support the measure now before us.

Mr. PRESSLER. Mr. President, I am pleased to support and cosponsor this amendment to reauthorize impact aid funding for the over four dozen South Dakota school districts which depend on this Federal assistance.

I am also a cosponsor of another amendment which would clarify that controversial new Department of Education regulations should not be used in the determination of impact aid allocations to the most heavily impacted school districts. We simply cannot have a situation in which school districts which are now setting their budgets for the 1984-85 school year are in doubt about the amount of Federal funds they will receive. These funds should be apportioned as Congress intended.

I urge all Senators to support the reauthorization of the Impact Aid Program which provides Federal funds to so many school districts in our Nation.

Senator WEICKER, chairman of the Senate Labor/HHS/Education Appropriations Subcommittee, has personally assured me of his continued support for impact aid appropriations. I very much appreciate his cooperation in this matter. He has been very receptive to the information I have provided him concerning impact aid payments and needs in South Dakota.

Earlier this year, I was also pleased to see the Senate adopt S. 2893, which will require the Secretary of Education to pay the required impact aid appropriations under Public Law 98-139.

Mr. President, let us never forget the obligation this Nation owes those school districts which, by virtue of the large Federal employment presence within their boundaries, could not exist without this assistance. Local property tax base is not enough to sustain a decent education for children in these districts. We must fight to continue this essential Impact Aid Program.

Mr. BOREN. Mr. President, I am proud to be a cosponsor of the Abdnor amendment. It is imperative that the Senate act to reauthorize this essential Impact Aid Program. Failure to do so would result in severe hardships to public schools which are largely impacted by the activities and operations of the U.S. Government.

At a time in which our Nation's future clearly depends upon the development of our human resources through excellence in education and training, we must not fail to keep faith with those in districts which have large Federal installations or Federal tax-exempt properties. I urge my colleagues to adopt the reauthorizing amendment offered by the Senator from South Dakota.

Mr. MOYNIHAN. Mr. President, I would like to commend my distinguished colleague from South Dakota for his diligent efforts over the past 2 years to increase the authorization level for the Federal Impact Aid Program. This program provides financial assistance to local school districts for the operating costs of educating children in areas where local costs and revenues are affected by Federal activity. Last year, I cosponsored the legislation offered by my colleague from South Dakota that increased the authorization level to $625 million. Unfortunately, the authorization was reduced to $565 million in the Senate-House conference. As a cosponsor of the amendment offered today by the Senator from South Dakota, I strongly support a further increase in the overall program authority to $700 million.

I have one concern, however, that I would like to share with my colleague from South Dakota. The Department of Education has advised non-Super "A" school systems that they are likely to receive less money in fiscal year 1984 than they did during the prior fiscal year: As Super "A" districts are to receive 100 percent of entitlement, the amount of money appropriated for section 3(a) is insufficient to fully fund "A" districts.

I quite agree that those school districts with higher concentrations of federally impacted children should be compensated at a higher rate. But I also recognize the burden imposed on all school districts that provide educational services to children in federally affected areas. I am troubled to find that districts such as Highland Falls-Fort Montgomery, in my own State of New York—a district that encompasses the U.S. Military Academy at West Point and provides educational instruction to 222 children from families connected with the service academy—received almost no benefit from the higher authorization approved by Congress last year. Highland Falls has an extremely small tax base; 95 percent of the property located within the district is owned by the Federal Government. Over 50 percent of the district's high school students are federally connected. Yet, because the school system fell just short of qualifying as a "heavily" impacted district, it received a disproportionately small percentage of the higher authorization for the current school year.

Highland Falls is not unique. Hundreds of other districts across the country, significantly impacted by Federal activities, received little or no benefit, or even lost funds, under the increased authorization. These include Anne Arundel, MD; Bourne, MA; South Tampa, IA; Fort Worth, TX; Cumberland County, NC; Oak Harbor, WA; San Diego, CA; and East Meadows, NY.

Knowing of my colleague's commitment to the Impact Aid Program, and knowing of his work on the Appropriations Committee, I would like to ask the Senator from South Dakota whether he thinks that given the increased authority our amendment provides, will we be able to increase the amount of funding available to compensate these districts?

Mr. ABDNOR. I thank my distinguished colleague from New York for his support of my efforts to increase funding for the Impact Aid Program, and his observations on the severe problems of many school districts which provide educational services to children in federally affected areas. Several districts in my State are from 10 to 20 percent impacted with category "A" native American children, so I can appreciate fully the concerns raised by the able Senator from New York.

Last year, as the prime sponsor of a similar amendment to the DOD bill, I was working to provide an increase for all federally impacted school systems suffering as a result of the reductions enacted under the Omnibus Reconciliation Act of 1981. Unfortunately, as the Senator has pointed out, some of these districts may actually lose dollars this year.

It is my hope, however, that with this additonal increase in program authority, we can work together with our colleagues from the other body to ensure an equitable distribution of funding for this program. I can assure the Senator from New York that I look forward to continuing to work with both him and the junior Senator from New York, who has also discussed this matter with me, throughout the appropriations process, to address this matter of great concern to us both.

Mr. MOYNIHAN. I thank my distinguished colleague from South Dakota for his comments and am grateful for his assurance that all federally impacted school districts will be given careful attention in the appropriations process.

Mr. D'AMATO. Mr. President, I am delighted today to join my distinguished colleagues, Senators ABDNOR and PELL, in offering this amendment to reauthorize the Impact Aid Program, Public Law 81-874 through fiscal year 1989. Under this amendment, the overall program authorization for section 2 would be increased to $30 million. This amendment also continues through fiscal year 1989 authority for category "B" children.

The Congress enacted Public Law 81-874 in recognition of the financial burden many school districts bear due to Federal presence. The Impact Aid Program provides financial assistance

to school districts in federally affected areas. By law, these areas are defined to include military bases, Government offices, Indian land, and public low-rent housing projects. We must address the need for assistance for school districts affected by Federal presence. It is the obligation of Congress to help school districts when enrollment and the availability of sufficient revenue from local taxes has been adversely affected by the presence of Federal activities.

Although this reauthorization will benefit many school districts, I am saddened because it is still not enough. I am concerned and outraged by the inadequacies that presently exist in the Impact Aid Program and which will remain even after adoption of this amendment. There are a host of school districts throughout the United States that do not have sufficient revenue to cover the cost of educating federally connected children.

Now is the time to unite and rectify problems that exist within this program. The Impact Aid Program was originated because the Federal Government has a financial obligation to reimburse school districts for lost revenue. The Congress felt then, and should feel now, that federally and non-federally connected children should have the highest standard of education. This law has been in effect for many years, but for the past few years many of our school districts have not received sufficient aid.

Highland Fall-Fort Montgomery School District is an example of a school in my home State of New York that is making every attempt to educate all of its children. However, it is experiencing severe Federal impaction, with sufficient compensation. This school district is being forced to cut back in the acquisition of textbooks and other institutional materials just to keep its doors open. The impaction it is experiencing is causing an undue burden on the children and taxpayers of this fine community. School districts like this should not have to suffer because of Federal presence. Therefore, I will do all that I can to help school districts that are federally impacted.

This year Highland Falls will experience a short fall in impact aid. This is intolerable. There is no reason that our children in Highland Falls, N.Y., or children anywhere else in this great country should suffer academically for lack of fair Federal compensation. If we do not provide the best education possible, we face severe consequences. Our children, our communities, and our country will suffer if there is an inadequate standard of education. I can no longer tolerate this disregard for children for they are the future strength of this Nation.

I ask my colleagues to join me in helping all school districts that are impacted. No child should be denied the very best education, especially when Federal activity contributes to the additional cost our schools must bear. We, in the Congress, must join together and show our commitment to our youth.

Thank you, Mr. President.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 3200) was agreed to.

Mr. MOYNIHAN. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3202

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER) proposes an amendment numbered 3202.

On page 2 line 18 strike the figure "$3,808,500,000" and insert in lieu thereof the figure "$3,800,600,000".

Mr. GOLDWATER. Mr. President, this amendment concerns the UH-60 Blackhawk helicopter.

Mr. President, I ask for the yeas and nays on this amendment.

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

The yeas and nays were ordered.

Mr. GOLDWATER. Mr. President, this amendment is to adjust the funding levels for the procurement of the Army's UH-60 Blackhawk helicopter to permit the Army to execute the procurement contract as agreed upon by the Committee on Armed Services. This amendment would authorize the funding levels for the UH-60A as follows:

Procurement, $280.1 million; advanced procurement, $132.8 million.

Mr. President, I am happy to report that, as a result of recent very favorable contract negotiations, this amendment will result in an additional savings of $7.9 million with no reduction in the number of helicopters purchased.

The amendment has been read. I further ask unanimous consent that this amendment be treated as original text to avoid foreclosing any later amendments to this account which may be offered.

Mr. MOYNIHAN. Mr. President, may we have order? The Senator from Arizona is offering an important amendment.

The PRESIDING OFFICER. The Senate will be in order.

Mr. GOLDWATER. Mr. President, I had a unanimous-consent request, Mr. President, that this amendment be treated as original text to avoid foreclosing any later amendments as to this account which may be offered.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arizona?

Mr. BYRD. What is the request, Mr. President?

The PRESIDING OFFICER. The Senator from Arizona has requested that his amendment be treated as original text for purpose of further amendments.

Mr. GOLDWATER. Mr. President, that is the sum and substance of my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Mr. President, reserving the right to object. Objection to what?

The PRESIDING OFFICER. The Senator from Arizona has made a unanimous-consent request that his amendment be treated as original text.

Mr. GOLDWATER. I thought we had the yeas and nays called for, Mr. President.

Mr. NUNN. I do not have any objection.

The PRESIDING OFFICER. The yeas and nays have been ordered. The Senator is correct. The Senator made a unanimous-consent request which is now pending.

Mr. GOLDWATER. I made a unanimous-consent request. I was talking about the text. I already called for the yeas and nays. I would like to have a rollcall vote.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Reserving the right to object, Mr. President, I was not clear as to what the unanimous-consent request was for.

Mr. GOLDWATER. Let me read this again. I request unanimous consent that this amendment be treated as original text to avoid foreclosing any later amendments to this account which may be offered. This subject will be brought up again. I mean the subject of the UH-60A helicopter, and there may be amendments. I do not want to foreclose the possibility of those amendments being offered. That is why I asked unanimous consent.

Mr. TOWER. Reserving the right to object, may I explain that the Senator is just trying to prevent foreclosing other amendments, if Senators want to offer amendments. That is why he is asking that this be treated as original text. Otherwise, it would foreclose any amendments. It might be a favor to me if somebody would object to that consent request, because if this amendment is adopted, you could not offer any more amendments changing the dollar figures.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered. Is there further debate?

The Senator from Connecticut.

Mr. DODD. I inquire of my friend from Arizona if he might explain what the net effect of this amendment would be. What is intended? As I understand it, it is a $7.9 million reduction in that specific helicopter program. What is the net effect of that on the number of helicopters that would be produced?

Mr. GOLDWATER. It will have no effect on the total number of helicopters to be purchased. This is a very recent contract negotiation that the Army has had with Sikorsky, and will result in a savings of $7.9 million. There is no reduction in the number of helicopters purchased. It is just a little, good break we had that we can save $7.9 million.

Mr. DODD. I thank my colleague from Arizona.

Mr. NUNN. Mr. President, I think the Senator's explanation is clear. I have no objection to the amendment. It is based on a contract negotiations that have been favorable, and there is no adjustment to the number being procured.

Mr. GOLDWATER. I thank my friend from Georgia. I requested the yeas and nays because we want to have a strong position on this to be able to demonstrate to the House that it is not just something that we wished up in a few minutes and injected into the bill. So the yeas and nays have been ordered, and I would suggest now would be a very good time to start.

The PRESIDING OFFICER. If there is no further debate——

Mr. NUNN. Before we have the rollcall, could I inquire of the chairman about his plans for the remainder of the evening? I think a lot of people would probably like to know as we proceed to vote.

Mr. TOWER. I think everybody would be overjoyed to know that this, as far as this bill is concerned, will be the last rollcall for the evening. However, the Senator from Alaska has an unrelated matter on which I understand there may be a rollcall vote. I would yield to him to respond to that.

Mr. STEVENS. Mr. President, we have been attempting to clear the bill pertaining to drinking age. There are still negotiations going on. I understand that it is not possible to clear, however, to have the vote tonight. We had hoped that we might be able to do that because of the tremendous interest that is being expressed here by the Mothers Against Drunk Driving who are here in the city. We hope we might be able to get that done. This would be a time rather than interrupt the bill tomorrow to get it done tonight. But I can say the Senator from Missouri is the mover of this concept, but it has not been cleared yet.

Mr. DANFORTH. Mr. President, if the Senator will yield.

Mr. TOWER. I yield to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I believe the situation is as follows: There have been fairly intense negotiations going on throughout the day involving the House, the Senate, Democrats, Republicans, and the administration on the drinking age bill. As the Senator knows, the House did attach to a highway bill certain drinking age provisions, and the hope was that the Senate would be in a position to pass similar legislation hopefully tonight. We have been working on trying to clear a bill which would be acceptable, and the clear answer has taken place on this side. I think there are, however, some remaining problems. My hope would be that perhaps tomorrow the Senate could find, if we could get cleared a period, maybe 5 minutes where we could set the defense authorization bill aside, take this up, and perhaps have a rollcall vote on it.

Mr. STEVENS. Mr. President, if the Senator would yield to me further, the problem is we have a request for a rollcall vote on the bill. It could not be handled as a routine matter. I do appreciate the willingness of the Senator from Texas to set the pending measure aside to take it up. And based on the comments from the Senator from Texas, this will be the last vote tonight. We will come in tomorrow at 10:30.

Mr. NUNN. Mr. President, before we start the rollcall, I do not want to prolong this, but I think it would help a lot of the Members if we had an idea from the chairman about his plans tomorrow. I know we will try to get the MX amendment up tomorrow, which I hope will be done. If we can complete that, we will also have the Dixon amendment to deal with the funding level.

Mr. TOWER. Yes. Those are two that we plan to have up tomorrow fairly early in the day. I have high hopes. Those are two major amendments. Once those are completed, we will be able to roll along pretty fast.

There are some other amendments, such as the one dealing with sea-launch cruise missiles, and one relating to NATO, which I believe the Senator from Georgia will offer, and maybe some amendments for reallocation of funds in the defense bill. But it occurs to me that if we can get through these important items, we should be able to finish the bill in a timely fashion.

Mr. NUNN. I thank the chairman. I certainly hope we can complete the bill as soon as possible.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Tennessee [Mr. BAKER], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Wisconsin [Mr. KASTEN], the Senator from Delaware [Mr. ROTH], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent

I further announce that, if present and voting, the Senator from Wisconsin [Mr. KASTEN], would vote "yea".

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Louisiana [Mr. LONG], the Senator from Mississippi [Mr. STENNIS], and the Senator from Massachusetts [Mr. TSONGAS] are necessarily absent.

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

And the result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—88

Abdnor	Glenn	Moynihan
Armstrong	Goldwater	Murkowski
Baucus	Gorton	Nickles
Bentsen	Grassley	Nunn
Biden	Hart	Packwood
Bingaman	Hatch	Pell
Boren	Hatfield	Percy
Boschwitz	Hawkins	Pressler
Bradley	Hecht	Proxmire
Burdick	Heflin	Pryor
Byrd	Helms	Quayle
Chafee	Hollings	Randolph
Chiles	Huddleston	Riegle
Cochran	Humphrey	Rudman
Cohen	Inouye	Sarbanes
Cranston	Jepsen	Sasser
D'Amato	Johnston	Simpson
Danforth	Kassebaum	Specter
DeConcini	Lautenberg	Stafford
Denton	Laxalt	Stevens
Dixon	Leahy	Symms
Dodd	Levin	Thurmond
Dole	Lugar	Tower
Domenici	Mathias	Trible
Eagleton	Matsunaga	Wallop
East	Mattingly	Warner
Evans	McClure	Wilson
Exon	Melcher	Zorinsky
Ford	Metzenbaum	
Garn	Mitchell	

NAYS—0

NOT VOTING—12

Andrews	Heinz	Roth
Baker	Kasten	Stennis
Bumpers	Kennedy	Tsongas
Durenberger	Long	Weicker

So the amendment (No. 3202) was agreed to.

[The following proceedings occurred after midnight:]

Mr. TOWER. Mr. President, the Senator from Michigan [Mr. LEVIN] has a technical amendment which he is prepared to offer right now. That

will finish the business on the bill for this evening if it can be dispensed with by voice vote.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

AMENDMENT NO. 3203

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 3203.

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

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

The amendment is as follows:

On page 80, beginning with line 20, strike out all through the matter on page 93, before line 1, and insert in lieu thereof the following:

"§ 2318. Planning for future competition

"(a) To encourage the competitive acquisition of supplies and services to support and maintain a major system during its service life, the head of an agency with responsibility for that system shall ensure that—

"(1) in any competitive solicitation for the award of any development contract for a major system, the following shall be included as evaluation factors, giving due consideration to the purposes for which the system is being procured and the technology to achieve the system's required capabilities:

"(A) proposals to incorporate in the design of the major system, components that are currently available within the supply system of the Federal agency responsible for the major system, available elsewhere in the national supply system, or commercially available from more than one source; and

"(B) proposals to incorporate in the design of the major system, components that are likely to be required in substantial quantities during the system's service life and will permit future competitive acquisitions by the Government;

"(2) in any competitive solicitation for the award of any production contract for a major system, the following shall be included as evaluation factors:

"(A) proposals to identify components in the system that are likely to be required in substantial quantities during the system's service life and whether the technical data for such components will permit future competitive acquisitions by the Government; and

"(B) proposals to identify technical data for sale or license to the Federal Government which the offeror, at its discretion, will identify and separately price so as to permit the Government to competitively acquire future requirements for such components; and

"(3) the evaluation factors specified in paragraphs (1) and (2) of this subsection shall be considered as negotiation objectives when an agency is making a noncompetitive award of a development contract or a production contract for a major system.

"(b) The provisions of paragraph (2) of subsection (a) may be waived in whole or in part if the contracting officer determines in writing that such provisions should not be applicable to such production contract, giving due consideration to the stability of the system's design, or otherwise would not be in the best interests of the United States in attaining the purposes for which the system is being procured, states the reasons therefor, and includes such determination and finding as part of the contract file.

"§ 2319. Encouraging new competitors to broaden the industrial base

"(a) Before establishing any prequalification requirement applicable to an offeror or its product which would be considered as an element of responsiveness to a solicitation, the head of an agency shall—

"(1) prepare a written justification stating the necessity for establishing the prequalification requirement and the reasons why free and open competition is not feasible;

"(2) specify in writing and make available upon request all standards which a prospective contractor, or its product, must satisfy in order to become qualified, such standards to be limited to those least restrictive to meet the purposes necessitating the establishment of the prequalification requirement;

"(3) specify an estimate of the costs of testing and evaluation likely to be incurred by a prospective contractor for that contractor to become qualified;

"(4) ensure that (A) a prospective contractor is provided, upon request, a prompt opportunity to demonstrate its ability to meet the standards specified for qualification, utilizing qualified personnel and facilities of the agency or another agency obtained through interagency agreement, or other methods approved by the agency, and (B) any testing and evaluation services provided under contract to the agency should be provided by a contractor who will not be expected to benefit from an absence of additional qualified sources and who shall be required to adhere to any restriction on technical data asserted by the prospective contractor seeking qualification; and

"(5) ensure that a prospective contractor seeking qualification is promptly informed as to whether qualification has been attained, or in the event qualification has not been attained, is promptly furnished specific information why qualification was not attained.

"(b) Before the head of an agency may enforce any existing prequalification requirement with respect to an offeror or its product, the agency shall comply with the requirements of subsection (a). The head of an agency need not delay a procurement action in order to provide a prospective contractor with an opportunity to demonstrate is ability to meet the standards specified for qualification.

"(c) In the event that the number of qualified sources or qualified products available to actively compete for anticipated future requirements is fewer than two actual manufacturers or the products of two actual manufacturers, respectively, the head of an agency shall—

"(1) periodically publish notice in the Commerce Business Daily soliciting additional sources or products to seek qualification; and

"(2) bear the cost of conducting the specified testing and evaluation, but excluding the costs associated with producing the item or establishing the production, quality control, or other system to be tested and evaluated, only for a small business concern or a product manufactured by a small business concern which has met the standards specified for qualification, and which could reasonably be expected to compete, except that the head of an agency shall bear such costs only if it determines that such additional qualified sources or products are likely to result in cost savings from increased competition for future requirements sufficient to amortize the costs incurred by the agency.

The head of an agency may require a prospective contractor requesting testing and evaluation costs to certify as to its status as a small business concern, and, in good faith, rely thereon.

"(d) Within seven years after the establishment of any prequalification requirement under subsection (a), or within seven years following an agency's enforcement of any existing prequalification requirement pursuant to subsection (b), any such prequalification requirement shall be examined and revalidated in accordance with the requirements of subsection (a) of this section.

"(e) Except in an emergency, whenever the head of any agency determines not to enforce an existing prequalification requirement for a solicitation, the agency may not enforce any such prequalification requirement unless the agency complies with the requirements of subsection (a).

"§ 2320. Technical data management to foster future competition

"(a)(1) An offeror submitting a proposal for a contract shall furnish information in the proposal identifying—

"(A) with respect to all items that will be delivered to the United States under the contract (other than items to which paragraph (2) applies) those items for which technical data will not be provided to the United States; and

"(B) with respect to technical data that will be delivered to the United States under the contract, any of such technical data that will be provided with restrictions on the Government's right to use such data for Governmental purposes.

"(2) With respect to items that will be delivered to the United States under a contract described in paragraph (1) with respect to which it would be impracticable to ascertain, at the time the contract is entered into, the technical data relating to such items that will not be provided to the United States with unlimited rights, the contract shall require that the contractor provide identifying information similar to that required to be furnished under paragraph (1) at a time to be specified in the contract.

"(3) The head of an agency shall ensure that the information furnished under paragraph (1) is considered in selecting the contractor for the contract.

"(b) To foster competition for the acquisition of supplies and services to maintain a major system during its service life, the head of the agency with responsibility for the system shall ensure that the initial and all subsequent production contracts for a major system, developed under Government contract, contain appropriate provisions related to technical data, including—

"(1) specifying the technical data to be delivered under the contract, if any, including delivery schedules therefor;

"(2) establishing criteria for determining the acceptability of technical data to be delivered under the contract;

"(3) establishing separate payment lines for the technical data to be delivered under the contract, if any, and authorizing the withholding of payments for failure to make timely deliveries of acceptable data;

"(4) defining the respective rights of the Government and a contractor or subcontractor regarding any technical data to be delivered under the contract, including therein a definition of the term 'developed at private expense';

"(5) to the maximum practicable extent, identifying, in advance of its delivery, technical data which is to be delivered with restrictions on the Government's right to use such data for governmental purposes;

"(6) requiring the contractor and each subcontractor to be prepared to furnish, within 60 days after a written request directed to the party asserting a restriction, a written justification for any restriction to be asserted limiting the Government's right to use such data for governmental purposes, for as long as such restriction is asserted by the contractor or subcontractor;

"(7) prohibiting a contractor from requiring a subcontractor or the Government to pay a fee, royalty, or other charge for the subcontractor's use of any technical data in the performance of a contract to furnish a component directly to the Government, except that data protected by patent, licensing agreement or any preexisting agreement involving a subcontractor's performance under a commercial contract, if the same data was made available by the contractor to the subcontractor furnishing that component;

"(8) prohibiting the contractor from limiting, either directly or indirectly, a subcontractor from selling to the Government any component which the subcontractor had previously furnished to the contractor without restriction, except that the contractor may restrict a subcontractor from providing to the Government any component restricted by a preexisting agreement involving the subcontractor's performance for the contractor under its commercial contracts;

"(9) ascertaining and documenting the identity of the manufacturer of a component through the annotation of engineering drawings, the maintenance of lists, or otherwise;

"(10) requiring the contractor to revise any technical data delivered pursuant to the contract to reflect engineering design changes and to deliver such revised technical data to an agency within a specified time;

"(11) requiring the contractor to certify, at the time the technical data is made available or delivered, that the technical data is complete, accurate, and adequate for the purpose for which the technical data is procured;

"(12) requiring the contractor to promptly correct any technical data found to be incomplete, inadequate, or deficient to or promptly furnish complete, accurate, and adequate technical data to the agency; and

"(13) authorizing the head of the agency to withhold progress payments under a contract during any period that the contractor does not meet the requirements of the contract pertaining to the delivery of technical data.

The provisions specified in this subsection may be waived in accordance with the single system of Government-wide procurement regulations defined in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)) if the contracting officer determines in writing that any such provision should not be applicable to the production contract, or otherwise would not be in the best interests of the Government in attaining the purposes for which the system is being procured, stating the reasons therefor. Such determination shall be made part of the contract file.

"(c) Nothing in this section or section 2318 of this title prohibits an agency from including—

"(1) in any competitive solicitation for the award of a contract, or

"(2) as a negotiation objective when the agency is making a noncompetitive award.

a provision specifying in the contract the date after which the United States shall have the right to use or have used for any governmental purpose all technical data required to be delivered to the United States under contract.

"§ 2321. Validating proprietary data restrictions

"(a) To encourage the competitive acquisition of components needed to maintain a major system during its service life, a review of the validity of any restriction on the Government's right to use for governmental purposes technical data furnished under contract shall be initiated by the contracting officer, if the contracting officer, an agency advocate for competition, or the representative of the Small Business Administration assigned to the procurement center determines such a review is warranted and the contracting officer determines that compliance with the asserted restriction makes it impracticable to competitively procure the required component.

"(b) Upon the written demand of the contracting officer, the contractor or subcontractor, as appropriate, shall submit its justification for the asserted restriction on the Government's right to use such data for governmental purposes certifying to the current validity of the asserted restriction within—

"(1) 60 days, if the contract contains a provision that requires a contractor or subcontractor to be prepared to furnish a written justification for any restriction limiting the Government's right to use for governmental purposes technical data to be delivered under the contract, or

"(2) 180 days, if the contract does not contain such a provision, except that the contracting officer may extend such time limits for a reasonable period for good cause shown.

"(c) Upon a failure to submit any justification pursuant to the requirements of subsection (b), the contracting officer shall, after giving notice to the party asserting the restriction, promptly cancel the restriction on the Government's right to use for governmental purposes technical data for which justification had been requested.

"(d) If after review of the justification submitted pursuant to subsection (b), the contracting officer determines that the justification for the restriction on the Government's right to use the data for governmental purposes does not adequately support the asserted restriction on the technical data, the justification therefor shall be promptly subjected to technical review and audit.

"(e) If after reviewing the findings of the technical review and audit, it is determined that the restriction on the Government's right to use such data for governmental purposes warrants challenge, the contracting officer shall issue a final decision pertaining thereto which shall be subject to the provisions of the Contract Disputes Act (41 U.S.C. 601 et seq.).

"(f) If the Government's challenge to the restriction on the Government's right to use for governmental purposes technical data as certified pursuant to subsection (b) is sustained, upon final disposition—

"(1) the restriction on the Government's right to use that technical data for governmental purposes shall be cancelled; and

"(2) the contractor or subcontractor, as appropriate, shall be liable to the Government for the Government's cost of technically evaluating and auditing the asserted restriction, and the fees and other expenses, as defined in section 2412(d)(2)(A) of title 28, United States Code, incurred by the Government in challenging the asserted restriction, if the asserted restriction, as certified, is found not to be substantially justified, unless special circumstances would make such awards unjust.".

(2) The analysis of such chapter is amended by adding at the end thereof the following new items:

"2318. Planning for future competition.
"2319. Encouraging new competitors to broaden the industrial base.
"2320. Technical data management to foster future competition.
"2321. Validating proprietary data restrictions.".

On page 93, beginning with line 1, strike out all through page 96, line 11, and insert in lieu thereof the following:

(b) Section 2302 of title 10, United States Code, is amended by adding at the end thereof the following:

"(4) 'Component' means any individual part, subassembly, assembly, or subsystem integral to a major system, which may be replaced during the service life of the system. The term includes spare part and replenishment spare part. The term does not include packaging or labeling associated with shipment or identification of a 'component'.

"(5) 'Major procurement center' means a procurement center that awarded contracts for components other than commercial items totaling at least $150,000,000 in the preceding fiscal year.

"(6) 'Major system' means a combination of elements that will function together to produce the capabilities required to fulfill a mission need. The elements may include hardware, equipment, software or any combination thereof, but excludes construction or other improvements to real property. A system shall be considered a major system if (A) the Department of Defense is responsible for the system and the total expenditures for research, development, test and evaluation for the system are estimated to be more than $75,000,000 (based on fiscal year 1980 constant dollars) or the eventual total expenditure for procurement of more than $300,000,000 (based on fiscal year 1980 constant dollars); or (B) a civilian agency is responsible for the system and total expenditures for the system are estimated to exceed $750,000 (based on fiscal year 1980 constant dollars) or the dollar threshold for a 'major system' established by the agency pursuant to Office of Management and Budget (OMB) Circular A-109, entitled 'Major Systems Acquisitions', whichever is greater, or (C) the system is designated a 'major system' by the head of the agency responsible for the system.

"(7) 'Technical data' means recorded information (regardless of form or method of recording) of a scientific or technical nature, including data resulting from work which was specified and directly funded as an element of performance of a contract from the United States, but does not include—

"(A) computer software;

"(B) financial, administrative, cost or pricing, management data, or other information incidental to contract administration;

"(C) data relating to products, components, or processes developed at private expense; or

"(D) data relating to products, components, or processes developed at private expense and offered for sale to the general public.".

(c)(1) Within one year after the date of enactment of this Act, the head of each agency shall develop a plan for the management of technical data received under contracts for the development, production, modification, or maintenance of major systems within its jurisdiction. At a minimum, the management plan shall address procedures for—

(A) inventorying, indexing, storing, and updating items of technical data into a system;

(B) verifying contractor-imposed limitations on the government's rights to make future use of the data in competitive acquisitions; and

(C) assuring that agency procurement officials and prospective contractors will have timely access to complete and current technical data for the competitive acquisition of supplies and services for the maintenance of the system during its service life.

(2) Within 5 years after the date of enactment of this Act, the head of each agency shall complete implementation of the management plan required by paragraph (1), and include in the system the available technical data for each currently operational major system within the jurisdiction of the head of such agency.

(3) Not later than eighteen months after the date of enactment of this section, the Comptroller General of the United States shall transmit to the Congress a report evaluating the plans of selected agencies for the management of technical data for major systems within the jurisdiction of such agencies. The report shall include an evaluation of the plans.

(4) As used in this subsection, the term "agency" means an agency which is subject to chapter 137 of title 10, United States Code.

On page 99, line 7, strike out "2414", and insert in lieu thereof "2413".

On page 99, line 21, strike out "2414", and insert in lieu thereof "2413".

Mr. LEVIN. Mr. President, this is a technical amendment which was necessitated by the following action. It was intended in committee that four provisions of Senate bill 2489, which is a Small Business Competition Act, be incorporated in toto and verbatim into this pending bill. That was the intention of the committee.

The intention did not quite get carried out perfectly. There were a number of technical errors in transposing the four sections from S. 2489 to the pending bill, S. 2723.

So all this amendment does is make the corrections that are needed in order to be certain that this bill, S. 2723, and these four sections conform as intended to the four sections in Senate bill 2489, which is a Small Business Competition Act, as I indicated, of which Senator WEICKER and Senator DIXON were the principal cosponsors.

I ask unanimous consent, Mr. President, that, if adopted, this amendment be considered as original text for the purpose of any further amendment, because it is a substantial chunk of the bill and as a courtesy to any Senator who might seek to amend it, we should consider it, I think, as original text so it might be open to any further amendment. I do not know of any amendments, but there might be some.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LEVIN. Mr. President, this simply, in other words, will carry out the intentions of the committee. This is a technical amendment totally to make this bill conform to the four sections of the other bill, which we did intend to totally transpose onto the current legislation.

Mr. TOWER. Mr. President, I think everybody on the committee is clear on this one. What the Senator proposes simply carries out the intent of the committee, and therefore, I urge its immediate adoption.

The PRESIDING OFFICER. Is there further debate? If not, then the question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 3203) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

THE ANTISATELLITE AMENDMENT

Mr. DANFORTH. Mr. President, the Senate has undertaken an extended debate about a broad range of arms control measures. I have become increasingly concerned, that in attempts to promote one proposal or another the Senate and the Congress have lost sight of larger principles in our relationship with the Soviet Union. Certainly we can encourage the President to pursue arms control negotiations on all fronts. He must, however, be able to carry to the table the strong and unified support of this Nation. Unfortunately, the Congress has become a platform for the promotion of divisive and, I believe, ultimately counterproductive proposals seeking to push the President into adopting various arms control postures.

The cause of peace is not served by the United States going in several directions at the same time. An active and lively debate does not require the Congress to impose conditions on the administration before we will support its policies. This practice, which has become increasingly common in this Chamber, may express the desires of Congress but it does not bring us any closer to agreements that reduce the threat of war. How can the President effectively negotiate anything with 535 backseat drivers in Congress hounding him to move one way or another? This bickering simply encourages the Soviet leadership to walk away and rely on our own divisiveness to achieve their goals for them.

Last night I voted against the compromise amendment on antisatellite weapons for precisely these reasons. The amendment seeks to impose a moratorium on the testing of a U.S. antisatellite weapon until the President attempts to negotiate limits on these weapons with the Soviet Union. This approach to foreign policy is entirely inappropriate for the U.S. Senate. I share the concern of many of my colleagues about the expansion of the arms race into outer space, and I encourage the President to work with the Soviet Union to reduce the threats posed by this expansion. I do not believe, though, that the passage of this amendment makes an agreement any more likely and, in fact, makes the President's job much more difficult.

ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent there now be a period for the transaction of routine morning business during which Senators may speak for not to exceed 5 minutes.

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

APPOINTMENTS ON BEHALF OF THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. GORTON). The Chair, on behalf of the Vice President, and upon the recommendation of the majority and minority leaders, pursuant to the provisions of Senate Resolution 127, appoints the following Senators to serve on the Temporary Select Committee to Study the Senate Committee System: the Senator from Maryland [Mr. MATHIAS], the Senator from Utah [Mr. GARN], the Senator from Wyoming [Mr. WALLOP], the Senator from Wisconsin [Mr. KASTEN], the Senator from Indiana [Mr. QUAYLE], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Louisiana [Mr. LONG], the Senator from Montana [Mr. MELCHER], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Kentucky [Mr. FORD], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Illinois [Mr. DIXON].

NATIONAL AND DULLES AIRPORTS

Mr. MATHIAS. Mr. President, Elizabeth Dole is right to question the premise that National and Dulles Airports must be operated as proprietary activities of the Federal Government,

and she has expressed her interest in a proper way. She does not assume that any one other method of operation is best, but suggests that a review of the subject be made by a panel of reasonable people.

We must applaud such a decision because the world abounds with examples of various ways to run great metropolitan airports. The closest to home is the new Baltimore-Washington International Airport [BWI] which is owned and operated by the Maryland State Department of Transportation. Another variation in practice is the Schiphol Airport at Amsterdam which is managed by a private contractor. So the possibilities are infinite and should be carefully considered.

At the same time that Elizabeth Dole announced the management study, she also made a proposal to reduce the annual passenger ceiling at National from the current 16 million to 15.2 million. Anyone who has tried to drive to National on a recent Sunday afternoon must know she is right about that, too. Leaving aside the air safety factor, the ground facilities are clearly saturated. Imposing this cap is an important step toward limiting growth at National and ensuring that Dulles and BWI play an important and growing role in serving the Washington region.

There is, however, one disquieting note in these developments. It is implied that Washington is no different from any other municipality in the Nation.

Washington is the National Capital, the focus of American pride and the place where every American is represented. All of us, the whole 225 million, want it to be a special place. It is not just another American city.

Because it is a special place, it has special problems. It has no Governor or State legislature with broad powers to initiate public projects. It has no industrial base to generate revenue to support capital improvements. It was created by the Federal Government as its Capital and it must be maintained by the Federal Government for that purpose. It is not and never will be just another American city to be treated like all the rest. This sometimes works to Washington's advantage and sometimes it works to Washington's disadvantage, but whether good or bad it is a special relationship and it cannot be ignored.

I hope that when the advisory commission meets to discuss the transfer of the two Washington airports, they will take into consideration that Washington, DC, belongs to all the people. When George Washington chose the site on the Potomac for the Nation's Capital he asked the French military engineer, Charles Pierre L'Enfant, to create a "federal city," a symbol as well as a place, for all Americans.

SURVEY OF SOUTH DAKOTA FARMERS

Mr. PRESSLER. Mr. President, a survey was recently conducted in my home State of South Dakota on farmers' views concerning various agricultural and national issues. The survey was based on 480 responses to a randomly selected sample of South Dakota farmers and was conducted by Dr. Mark Edelman and Dr. Larry Janssen, who are agricultural economists at South Dakota State University. The results of the survey were very interesting and several surprises are apparent in the results.

The survey found that only 19 percent of the South Dakota farmers favored the continuation of the present system of Congress and the Secretary of Agriculture making the key decisions on farm policy. Thirty-two percent of the farmers favored an independent board appointed by the President as the farm decisionmaking body and 32 percent supported producers organizing and operating their own management program.

Another very interesting response in the survey occurred on a question about Federal deficits. Sixty-three percent of the farmers surveyed agreed that the Federal budget should be balanced, even if it would mean a substantial cut in all Government programs, including farm price support and income support programs. This illustrates the strong conviction in rural America that we need to balance the Federal budget.

Mr. President, for the benefit of my colleagues, I ask unanimous consent that a summary of the results of the survey be printed in the RECORD.

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

SURVEY RESULTS

[Answers are in percent]

1. What should be the policy toward production and price supports after 1985? (Check one.)

25.6, keep present voluntary programs with minor revisions.

14.0, have a mandatory set aside and price support program in years of excess supply with all producers required to participate if approved in a farmer referendum.

11.9, re-establish acreage allotments and marketing quotas for each farm as a basis for price supports.

28.5, eliminate set aside, price support, and government storage programs.

8.3, undecided.

8.8, other.

2.9, no response.

2(a) If voluntary price support loans and grain reserve programs are continued, should target prices and deficiency payments also be continued in the 1985 farm bill?

66.7 yes, 21.7 no, 8.8 not sure, 2.9 no response.

(b) If target prices are continued where should they be set compared with 1984? ($3.03 for corn; $4.45 for wheat)?

42.5 higher, 40.6 about the same, 5.2 lower, 8.8 no opinion, 2.9 no response.

3(a) Where should price support loans be set compared with 1984? ($2.55 for corn; $3.30 for wheat).

54.6 higher, 27.3 about the same, 5.4 lower, 9.8 no opinion, 2.9 no response.

(b) Loan rates for all price supported commodities should be based on a percent of the average market price for the past 3-5 years.

4.0 strongly agree, 33.1 agree, 21.0 not sure, 24.4 disagree, 14.0 strongly disagree, 3.8 no response.

4. Should payments for acreage diversion be continued in future programs?

60.0 yes, 27.3 no, 11.0 not sure, 1.9 no response.

5(a) The payment-in-kind program should be used again if large stocks reappear.

16.0 strongly agree, 26.5 agree, 11.7 not sure, 24.8 disagree, 18.8 strongly disagree, 2.3 no response.

(b) The payment-in-kind program is basically unfair to livestock and poultry producers.

22.3 strongly agree, 29.2 agree, 19.0 not sure, 22.3 disagree, 4.4 strongly disagree, 2.9 no response.

6(a) Should a farmer-owned grain reserve be continued?

56.6 yes, 23.3 no, 18.3 not sure, 1.9 no response.

(b) If a grain reserve is continued, which policy below would you perfer?

9.8, no limit on the size of reserve.

17.3, let the Secretary of Agriculture set the limit on the amount.

49.4, set a limit based on a percent of the previous year's use.

20.6 not sure.

2.9, no response.

7(a) To help achieve national and state soil erosion control goals, each farmer should be required to follow recommended soil conservation measures for his farm to qualify for price and income support programs.

28.1 strongly agree, 41.0 agree, 8.3 not sure, 13.7 disagree, 7.9 strongly disagree, 0.8 no response.

7(b) How should federal government funds for soil conservation programs be distributed?

10.4, give funds to all states in proportion to number of farms.

31.3, give funds to all states in proportion to the acreage within each state.

42.5, give more funds to those states with the most severe erosion problems.

8.3, not sure.

6.3, other.

1.3, no response.

8. The Farmers Home Administration was established to provide credit to farmers who could not get credit from other sources. Which credit policy should it follow with present borrowers? (Check one.)

48.5, continue the present policy of not foreclosing unless all repayment efforts have failed.

16.0, provide a moratorium on all foreclosures to keep distressed borrowers operating until the economy improves.

10.0, provide a moratorium on foreclosures only for selected young "deserving" farmers.

14.6, set a stricter policy on delinquent loans and increase the number of foreclosures.

2.9, not sure.

7.3, other.

0.6, no response.

9. Which government policy would you prefer to deal with farm production risks from natural disasters? (Check one.)

29.4, continue present all risk crop insurance where producers pay about 70 percent and the government pays about 30 percent of the cost.

31.7, return to disaster payments where government pays all the cost.

23.1, eliminate all disaster payments and Federal Crop Insurance programs.

9.8, not sure.

4.8, other.

1.3, no response.

10. Check your opinions about the new Federal Crop Insurance program: (Check one on each line.)

(a) 9.4 a good buy, 49.0 expensive, 34.2 no opinion, 7.5 no response.

(b) 13.8 adequate coverage, 40.4 inadequate coverage, 33.5 no opinion, 12.3 no response.

(c) 14.4 easy to understand, 34.4 complicated, 40.6 no opinion, 10.6 no response.

11. Future farm programs should be changed to give most price and income support benefit:

(a) To small and medium size farms with gross annual sales under $200,000: 36.0 strongly agree, 33.3 agree, 6.7 not sure, 7.7 disagree, 4.4 strongly disagree, 11.9 no response.

(b) To small farms only (those with less than $40,000 in gross annual sales:) 20.2 strongly agree, 18.1 agree, 9.4 not sure, 19.8 disagree, 10.4 strongly disagree, 22.1 no response.

12. The present limit on direct payments to each farmer is $50,000 per year. What recommendation would you make for the future?

5.6, increase the limit to ——.

49.0, make no change.

33.5, decrease the limit to ——.

8.9, eliminate the limit completely.

2.9, no response.

13. If milk production is excessive in 1985, payments for production cut-back by dairy farmers should be continued.

6.7 strongly agree, 24.4 agree, 26.0 not sure, 23.5 disagree, 16.9 strongly disagree, 2.5 no response.

14. Who should make the major farm commodity policy decisions? (Check one.)

19.0, continue the present system with Congress and the Secretary of Agriculture.

32.3, have the President appoint an independent board or commission operating under Congressional guidelines with farmers, agribusiness and consumers represented.

32.9, let producers organize, control and finance their own supply management program.

8.5, no opinion.

4.8, other.

2.5, no response

15. How should international trade be organized? (Check one.)

26.5, strengthen the General Agreement on Tariffs and Trade (GATT) to provide a relatively open market for all food exporting and importing countries.

18.1, enter more agreements with food exporting nations to control production and raise prices.

30.0, enter more agreements with food importing nations to insure that the U.S. receives a minimal share of the international markets.

19.8, not sure.

5.6, no response.

16. To increase export sales, the United States should: (Check one for each proposal.)

	No response	Strongly agree	Agree	Not sure	Disagree	Strongly disagree
a. Not make any great effort beyond previous policy	11.5	1.9	6.0	9.6	39.4	31.7
b. Provide more food aid to hungry nations	9.8	18.1	42.7	14.0	12.7	2.7
c. Match the export subsidies of our competitors	13.8	11.3	31.3	28.8	12.1	2.9
d. Encourage lower trade barriers for food importing nations by lowering U.S. import barriers	11.5	7.1	23.1	21.3	26.5	10.6
e. Lower U.S. support prices to be more competitive in the world markets	10.8	4.4	15.8	21.3	36.3	11.5
f. Expand farmer financed foreign market development programs	11.5	10.8	39.2	22.7	11.5	4.4
g. Establish an international trade marketing board. (Such as the Canadian Wheat Board.)	10.6	14.0	52.7	18.8	2.9	1.0
h. Lower federal budget deficits to reduce the value of the dollar and make the U.S. more competitive	10.2	27.5	35.4	15.6	9.0	2.3
i. Set up a two price plan with a higher price for commodities used in the domestic market and let exports sell at the world market price	9.3	7.1	27.1	30.4	19.8	6.3

17. If major changes were required in funding government programs, which would you favor?

37.0, a low "safety net" loan and target price program.

33.3, replace commodity programs with a farm income insurance plan with costs shared by farmers and government.

16.7, other.

13.0, no response.

18. Federal deficits have been running $100 to $200 billion per year. (Check your opinion on each proposal.)

	No response	Strongly agree	Agree	Not sure	Disagree	Strongly disagree
a. We should keep things as they are and not worry about balancing the budget	8.3	1.5	1.5	3.8	36.7	48.3
b. We should reduce the deficit in order to reduce interest rates for borrowers	5.6	39.0	44.6	6.3	2.7	1.9
c. We should reduce the deficit in order to reduce the debt burden on future generations	7.5	37.5	47.9	4.5	.8	1.7
d. Freeze present Federal expenditures and raise taxes	9.0	7.9	21.5	21.5	26.7	13.5
e. The Federal budget should be balanced even if it means a substantial cut in all government programs including farm price and income supports	3.8	26.7	36.5	16.1	13.2	3.8

19. If only limited government funds are available for farm programs, which of the following should get top funding priority? (Check one.)

24.2, increased funding for soil conservation and erosion programs.

24.4, increased funding for price and income support programs.

39.4, increased funding for export expansion and international market development.

7,7, other.

4.4, no responses.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following bills and joint resolutions:

On May 17, 1984:

S.J. Res. 220. Joint resolution to designate the week of May 20, 1984, through May 26, 1984, as "National Arts With the Handicapped Week."

On May 21, 1984:

S. 64. An act to establish the Irish Wilderness in Mark Twain National Forest, MO;

S. 597. An act to convey certain lands to Show Low, AZ;

S. 1129. An act to extend and improve the Domestic Volunteer Service Act of 1973, and for other purposes; and

S. 1188. An act to relieve the General Accounting Office of duplicative audit requirements with respect to the Disabled American Veterans.

On May 22, 1984:

S.J. Res. 198. Joint resolution designating April 26, 1985, as "National Nursing Home Residents Day"; and

S.J. Res. 228. Joint resolution to designate the week of May 20, 1984, through May 26, 1984, as "National Digestive Diseases Awareness Week."

On May 24, 1984:

S.J. Res. 252. Joint resolution to designate May 25, 1984, as "Missing Children Day."

On May 31, 1984:

S. 422. An act to amend title 18 of the United States Code to provide a criminal penalty for robbery of a controlled substance;

S. 2079. An act to amend the charter of AMVETS by extending eligibility for membership to individuals who qualify on or after May 8, 1975;

S.J. Res. 94, Joint resolution to authorize and request the President to designate May 13, 1984, to June 17, 1984, as "Family Reunion Month";

S.J. Res. 211, Joint resolution designating the week of November 19, 1984, through November 24, 1984, as "National Family Week"; and

S.J. Res. 239, Joint resolution designating the week of October 21, 1984, through October 27, 1984, as "Lupus Awareness Week."

On June 12, 1984:

S. 518. An act to establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control; and

S. 2413. An act to recognize the organization known as the American Gold Star Mothers, Inc.

MESSAGES FROM THE HOUSE

At 10:09 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3755) to amend titles II and XV of the Social Security Act to provide for reform in the disability determination process; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROSTENKOWSKI, Mr. PICKLE, Mr. JACOBS, Mr. GEPHARDT, Mr. SHANNON, Mr. FOWLER, Mr. FORD of Tennessee, Mr. CONABLE, Mr. ARCHER, Mr. GRADISON, and Mr. CAMPBELL as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4325) to amend part D of title IV of the Social Security Act to assure, through mandatory income withholding, incentive payments to States, and other improvements in the child support enforcement program, that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of their circumstances, and for other purposes; asks for a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROSTENKOWSKI, Mr. FORD of Tennessee, Mr. STARK, Mr. PEASE, Mr. MATSUI, Mr. FOWLER, Mrs. KENNELLY, Mr. CONABLE, Mr. CAMPBELL, Mr. MOORE, and Mr. THOMAS of California as managers of the conference on the part of the House.

The message further announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 296. Joint resolution to designate June 14, 1984, as "Baltic Freedom Day."

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5504. An act to apportion funds for construction of the National System of Interstate and Defense Highways for fiscal years 1985 and 1986, to revise authorizations for mass transportation, to expand and improve the relocation assistance program, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bill and joint resolutions;

H.R. 3921. An act to establish wilderness areas in New Hampshire, and for other purposes;

S.J. Res. 261. Joint resolution to provide for the designation of the last week in June 1984 as "Helen Keller Deaf-Blind Awareness Week"; and

S.J. Res. 289. Joint resolution to designate June 18, 1984, as "National Child Passenger Safety Awareness Week."

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore [Mr. THURMOND].

At 4:33 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 285. Joint resolution to designate June 13, 1984, as "Harmon Killebrew Day."

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4772. An act to grant a Federal charter to the Vietnam Veterans of American, Inc.;

H.R. 5496. An act to amend the Public Health Service Act to rename the National Center for Health Services Research as the National Center for Health Services Research and Medical Technology Assessment, and for other purposes;

H.R. 5565. An act to direct the Architect of the Capitol and the District of Columbia to enter into an agreement for the conveyance of certain real property, to direct the Secretary of the Interior to permit the District of Columbia and the Washington Metropolitan Area Transit Authority to construct, maintain, and operate certain transportation improvements on Federal property and direct the Architect of the Capitol to provide the Washington Metropolitan Area Transit Authority access to certain real property;

H.R. 5600. An act to revise and extend the programs of assistance under titles X and XX of the Public Health Service Act; and

H.R. 5603. An act to amend the Public Health Service Act to revise and extend the authorities of that act for assistance for alcohol and drug abuse and mental health services and to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 1723. An act to authorize appropriations through fiscal year 1986 for the Great Dismal Swamp, Minnesota Valley, and San Francisco Bay National Wildlife Refuge; and

H.R. 5517. An act to amend title 31, United States Code, to provide for certain additional experts and consultants for the General Accounting Office, to provide for certain additional positions within the General Accounting Office Senior Executive Service, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4772. An act to grant a Federal charter to the Vietnam Veterans of America, Inc.; to the Committee on the Judiciary.

H.R. 5496. An act to amend the Public Health Service Act to rename the National Center for Health Services Research as the National Center for Health Services Research and Medical Technology Assessment, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 5600. An act to revise and extend the programs of assistance under titles X and XX of the Public Health Service Act; to the Committee on Labor and Human Resources.

H.R. 5603. An act to amend the Public Health Service Act to revise and extend the authorities of that act for assistance for alcohol and drug abuse and mental health services and to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act; to the Committee on Labor and Human Resources.

MEASURE HELD AT THE DESK

The following bill was ordered held at the desk by unanimous consent:

H.R. 5565. An act to direct the Architect of the Capitol and the District of Columbia to enter into an agreement for the conveyance of certain real property, to direct the Secretary of the Interior to permit the District of Columbia and the Washington Metropolitan Area Transit Authority to construct, maintain, and operate certain transportation improvements on Federal property, and direct the Architect of the Capitol to provide the Washington Metropolitan Area Transit Authority access to certain real property.

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary reported that on today, June 13, 1984, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 261. Joint resolution to provide for the designation of the last week in June 1984 as "Helen Keller Deaf Blind Awareness Week"; and

S.J. Res. 289. Joint resolution to designate June 18, 1984, as "National Child Passenger Safety Awareness Week."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3378. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report on the bank supervisory systems in the group of ten nations plus Switzerland; to the Committee on Banking, Housing, and Urban Affairs.

EC-3379. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to June 6, 1984; to the Committee on Foreign Relations.

EC-3380. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-146 adopted by the Council on May 15, 1984; to the Committee on Governmental Affairs.

EC-3381. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-145 adopted by the Council on May 15, 1984; to the Committee on Governmental Affairs.

EC-3382. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-144 adopted by the Council on May 15, 1984; to the Committee on Governmental Affairs.

EC-3383. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-143 adopted by the Council on May 15, 1984; to the Committee on Governmental Affairs.

EC-3384. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-142 adopted by the Council on May 29, 1984; to the Committee on Governmental Affairs.

EC-3385. A communication from the Chairman of the D.C. Council, transmitting, pursuant to law, D.C. Act 5-141; to the Committee on Governmental Affairs.

EC-3386. A communication from the Chairman of the D.C. Council, transmitting, pursuant to law, D.C. Act 5-140; to the Committee on Governmental Affairs.

EC-3387. A communication from the Chairman of the D.C. Council transmitting, pursuant to law, D.C. ACT 5-139; to the Committee on Governmental Affairs.

EC-3388. A communication from the Administrator for Information and Regulatory Affairs, Office of Management and Budget, transmitting a letter expressing his opposition to the proposal to provide a partial exemption for the International Trade Commission from the Paperwork Reduction Act; to the Committee on Governmental Affairs.

EC-3389. A communication from the Governor of the Farm Credit Administration transmitting, pursuant to law, a report on the Administration's accounting systems; to the Committee on Governmental Affairs.

EC-3390. A communication from the Chairman of the National Credit Union Administration transmitting, pursuant to law, a report on the Administration's accounting systems; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-701. A resolution adopted by the House of Representatives of the State of Pennsylvania; to the Committee on Agriculture, Nutrition, and Forestry.

"A RESOLUTION

"Whereas, Pennsylvania's rural life is an essential ingredient in the State's varied resources as demonstrated by the fact that Pennsylvania has one of the largest rural populations in the Nation, that 70% of the total landmass and 47 of the State's 67 counties have been classified as rural and that the 3,600,000 population exceeds the combined populations of Pennsylvania cities of 30,000 or more persons; and

"Whereas, The policies of the Federal Government have been detrimental in the exteme to the Farmer's Home Administration which, prior to 1981, provided aggressive leadership in rural development through loans and grants; and

"Whereas, The administration has proposed to eliminate grants for domestic farm laborers, for very low-income housing repair and for mutual self-help housing, despite the fact that America still has an unacceptable level of inadequate and substandard housing; and

"Whereas, The administration has also proposed a $1,000,000,000 reduction in rural housing loans, a $2,000,000,000 cut in low-income housing loans, and a $7,000,000 cut in very low-income housing repair loans, all of which would sharply curtail rural housing and rental assistance for the neediest; and

"Whereas, Pennsylvania has led the Nation for the past decade in reported cases of water-related diseases; almost 900 rural communities in Pennsylvania do not have community sewage systems; and at least another 650 communities do not have water systems. Notwithstanding these facts, the administration has proposed a $20,000,000 cut in water and waste disposal loans and an additional $30,000,000 cut in the community facility loan program, combined with the complete elimination of community fire protection grants, even though several Pennsylvania communities have no fire services of their own; and

"Whereas, The Pennsylvania House of Representatives affirms its belief that the economic vitality of our State's and Nation's farms and rural communities is essential to the continued economic health of the larger society, acknowledges the great contribution in food, fiber and sustenance provided by rural America, and it deplores those drastic reductions in funding of programs so vital to the maintenance and enrichment of rural life and to the development of the agricultural economy; therefore be it

"Resolved, That the House of Representatives memorialize the President of the United States and the United States Congress to restore the funding levels for programs that provide for an acceptable standard of living for rural residents and to take all the steps necessary within the power and authority and influence of their offices to maintain loan programs essential to rural communities; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States and to each member of Congress from Pennsylvania."

POM-702. A resolution adopted by the House of Representatives of the State of Pennsylvania; to the Committee on Finance.

"A RESOLUTION

"Whereas, The flood of foreign steel imports continues to have an adverse effect on domestic steel production; and

"Whereas, The decline of the steel industry in Pennsylvania causes great unemployment and attendant hardship for steelworkers, their families, our communities and the economy of Pennsylvania in general; and

"Whereas, Much of the steel imported is made by companies subsidized by foreign governments; now therefore be it

"Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress of the United States to quickly pass House Resolution No. 5081, the Fair Trade in Steel Act; and be it further

"Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania."

POM-703. A resolution adopted by the Senate of the State of Michigan; to the Committee on the Judiciary.

"SUBSTITUTE FOR SENATE RESOLUTION NO. 337

"Whereas, In 1890, Congress enacted the Sherman Antitrust Act (15 U.S.C. 1 et seq.) to prohibit conspiracies 'in restraint of trade or commerce among the several states or with foreign nations'; and

"Whereas, The United States Supreme Court has consistently held that among practices prohibited by the act is that of 'vertical price fixing' or 'resale price maintenance,' wherein manufacturers dictate the price that wholesalers or retailers must charge for their product; and

"Whereas, In 1975, Congress enacted the Consumer Goods Pricing Act of 1975, Public Law 94-145, revoking the states' authority allow resale price maintenance under 'fair trade laws;' and

"Whereas, Assistant Attorney General in charge of the Antitrust Division, J. Paul McGrath, has publicly stated the intention of the Justice Department to vigorously enforce the 'per se' rule on vertical price restraint; and

"Whereas, In view of the fact that the Antitrust Division of the Justice Department is primarily responsible for the enforcement of federal antitrust laws, that public statement should serve as a model for all federal officials responsible the enforcement of vertical price restraint; and

"Whereas, The manufacturer and the retailer have a right to operate in a 'Free Market' with the ability to contract with each other through establishment of a lawful dealer network or franchise systems based upon the 'Colgate Doctrine'; and

"Whereas, The retail industry is in a constant state of change in order to meet the consumer's changing needs and desires, and the basic concept of a free society and a free economy should dictate that the right of a retailer and a manufacturer to contract between themselves for the supply of a particular product should be an activity un-

abridged by unwarranted government intervention or economic threat; and

"Whereas, Vertical price fixing infringes upon the retailer's right to free trade and competition and the consumer's expectation of the best benefits of that competition; now, therefore, be it

"Resolved by the Senate, That the members of this legislative body respectfully memorialize the United States Congress and the President of the United States to continue their understanding that the United States Attorney General and all other appropriate federal officials will continue vigorously to enforce the federal antitrust laws, including the prohibition against vertical price restraint; and be it further

"Resolved, That copies of this resolution be respectfully transmitted to the Office of the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Michigan congressional delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 2324. A bill to amend the Coastal Zone Management Act of 1972 regarding activities directly affecting the coastal zone (Rept. No. 98-512).

By Mr. HATCH, from the Committee on Labor and Human Resources:

Report to accompany the bill (S. 2491) to establish a system for the consolidation of student loans under title IV of the Higher Education Act of 1965, and for other purposes (Rept. No. 98-513).

By Mr. RUDMAN (for Mr. LAXALT), from the Committee on Appropriations, with amendments:

H.R. 5712. A bill making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1985, and for other purposes (Rept. No. 98-514).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

John P. McTague, of California, to be an Associate Director of the Office of the Science and Technology Policy;

Bernadine Healy Bulkley, of Maryland, to be an Associate Director of the Office of Science and Technology Policy;

Clyde A. Bragdon, Jr., of California, to be Administrator of the United States Fire Administration; and

James H. Quello, of Virginia, to be a Member of the Federal Communications Commission for a term of seven years from July 1, 1984.

(The above nominations were reported from the Committee on Commerce, Science, and Transportation with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly contituted committee of the Senate.)

Mr. PACKWOOD. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably nomination lists in the Coast Guard and National Oceanic and Atmospheric Administration (the lists appear in the CONGRESSIONAL RECORDS of May 24 and June 4, 1984) and, to save the expense of reprinting them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

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. KASTEN:

S. 2751. A bill to provide for coordinated management and rehabilitation of the Great Lakes, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HEINZ:

S. 2752. A bill to restrain health care cost, restore the solvency of the medicare program, and enhance coverage and benefits under such program; to the Committee on Finance.

By Mr. HATFIELD (for himself, Mr. CRANSTON, Mr. PACKWOOD, Mr. GORTON, Mr. EVANS, Mr. WILSON, Mr. GOLDWATER, Mr. DECONCINI, Mr. FORD, Mr. STEVENS, Mr. MURKOWSKI, and Mr. THURMOND):

S. 2753. A bill to provide for the buy-out of certain contracts for Federal timber; to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

By Mr. RIEGLE (for himself, Mr. PROXMIRE, and Mr. SARBANES):

S. 2754. A bill to amend the Securities and Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GARN (by request):

S. 2755. A bill to amend title V of the Housing Act of 1949 to permit the sale in "as is" condition of inventory housing held by the Farmers Home Administration; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GARN:

S. 2756. A bill to provide for the striking of a gold medal to commemmorate the 75th anniversary of the Boy Scouts of America; to the Committee on Banking, Housing, and Urban Affairs.

S. 2757. A bill to provide for the striking of a gold medal to commemmorate the 75th anniversary of the Girl Scouts of the United States of America; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KENNEDY (for himself and Mr. TSONGAS):

S. 2758. A bill to provide for the conservation and management of Atlantic striped bass, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRANSTON:

S. 2759. A bill to amend chapter 11 of title 38, United States Code, to provide for periods of trial work (comparable to periods of trial work for Social Security Act disability recipients) for veterans assigned service-connected total disability ratings by reason of unemployability; to the Committee on Veterans' Affairs.

By Mr. CRANSTON (for himself and Mr. DECONCINI):

S. 2760. A bill to amend the Emergency Veterans' Job Training Act of 1983 to extend the period of time during which an eligible veteran may apply for a program of job training and to postpone the date by which such a program must begin, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRANSTON (for himself and Mr. KENNEDY):

S. Res. 403. Resolution expressing the concern of the Senate over continuing communal violence in Sri Lanka; to the Committee on Foreign Relations.

By Mr. KENNEDY (for himself and Mr. TSONGAS):

S. Res. 404. Resolution to join in the Celtic Pride by congratulating the Boston Celtics on winning the 1984 World Championship of the National Basketball Association; placed on the calendar, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KASTEN:

S. 2751. A bill to provide for coordinated management and rehabilitation of the Great Lakes; and for other purposes; to the Committee on Governmental Affairs.

(The remarks of Mr. KASTEN on this legislation appear earlier in today's RECORD.)

By Mr. HEINZ:

S. 2752. A bill to restrain health care costs, restore the solvency of the medicare program, and enhance coverage and benefits under such program; to the Committee on Finance.

(The remarks of Mr. HEINZ on this legislation appear earlier in today's RECORD.)

By Mr. HATFIELD (for himself, Mr. CRANSTON, Mr. PACKWOOD, Mr. GORTON, Mr. EVANS, Mr. WILSON, Mr. GOLDWATER, Mr. DECONCINI, Mr. FORD, Mr. STEVENS, and Mr. MURKOWSKI):

S. 2753. A bill to provide for the buyout of certain contracts for Federal timber; by unanimous consent, referred jointly to the Committee on Agriculture, Nutrition, and Forestry and to the Committee on Energy and Natural Resources.

BUYOUT OF CERTAIN CONTRACTS FOR FEDERAL TIMBER

Mr. HATFIELD. Mr. President, today I am introducing, along with

Senators CRANSTON, EVANS, GORTON, WILSON PACKWOOD, GOLDWATER, DECONCINI, FORD, MURKOWSKI, and STEVENS, legislation designed to prevent the decimation of the independent segment of the western forest products industry, and the severely negative impacts of such a distruption on the communities and workers who rely upon this industry for their economic well-being.

Most small timber companies in the West are heavily dependent upon public timber. They purchase standing timber from the U.S. Forest Service, the Bureau of Land Management or some other agency. Then they either log it or hire a logger to cut the trees, and have the logs trucked to mills for processing into lumber. That process is the backbone of Oregon's economy. The independent companies are intensely competitive and also compete with the giants of the forest products industry. Larger companies often own their own lands, which provide a substantial portion of their raw material, while the independents do not enjoy that advantage.

During the late 1970's, for a variety of reasons which are no longer valid, the forest products industry purchased timber from the Government at prices which, at today's market, mean that the raw material cannot be converted to lumber without incurring terrible losses. In fact, if all the timber purchasers were to go ahead and log that timber and produce the lumber and plywood, they would lose nearly $4 billion. Obviously, that loss is unacceptable and many of the companies will let the trees stand in the forest. The contracts will expire and the Government's policy in that instance is to resell the timber and bill the original purchaser for the damages, which are calculated as the difference between the original price and the new price. With the downturn in the market those damages will be unacceptable to small and medium sized businesses and they will have little option but bankruptcy.

As the other party to those contracts, the Federal Government has two options. It can hold the purchasers feet to the fire, placing them in an untenable position, or it can modify or cancel the contracts. In the 2½ years that I have been involved in this issue, I have urged that the Government be flexible and recognize the devastating impacts of rigid adherence to the contracts. No one gains from inflexibility.

The Government cannot collect its damages from bankrupt companies, workers will lose their jobs, and communities already in precarious situations will be thrust into chaos—all to prove an abstract legal principle that "a contract is a contract."

Mr. President, when two parties to a contract agree, they can jointly modify or cancel a contract. I believe it is in the best interest of the Government to allow purchasers to pay for the cancellation of a portion of these inoperable timber contracts and that is the purpose of the legislation I am introducing today.

I am taking this action following long and difficult discussions within the forest products industry, an industry beset by internal conflict. It is comprised of large companies and small companies who fight over small business programs, of log exporters and domestic processors who fight over export policy, and of several different regions. The West is heavily dependent upon Federal timber. The South is heavily dependent upon private timber. In short, Mr. President, this is an industry which rarely agrees on anything and, until just recently, it has not agreed on the issue of timber contract relief. The measure I am introducing today, however, enjoys broad industry support. It has been endorsed by the Northwest Timber Association as well as the Southeastern Lumber Manufacturer's Association. The Western Forest Industries Association, Industrial Forestry Association, and Southern Forest Products Association have endorsed it. The national industry trade association, which is the National Forest Products Association, has also endorsed the bill. The Western Governor's Association supports it. As a Senator and Governor from Oregon, I have heard a lot from this industry over the past 25 years, but never have I heard such unified support on any legislation.

Mr. President, this bill is not a bailout. It will not resolve all the problems timber purchasers are facing. It will allow purchasers to pay the Government for termination of up to 55 percent of their timber under contract, with a limit of 200 million board feet for any one purchaser. The Government retains the timber, but receives compensation and is then able to resell it. Because of the limitation on the termination allowed, it does not bring the companies out of danger. But it does give them a fighting chance for survival. Mr. President, I ask unanimous consent that the major provisions of this legislation be printed in the RECORD at this point.

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

TIMBER CONTRACT LEGISLATION PRINCIPAL PROVISIONS

1. All holders of contracts for the purchase of federal timber ("purchasers") are entitled to "buy out" certain such contracts held with the Secretary of the Interior or the Secretary of Agriculture.

2. Contracts eligible for buy-out are those bid prior to January 1, 1982. A contract already included in a Forest Service multi-sale program or reformed by the Bureau of Land Management pursuant to the President's program of July 1983 can be bought out.

3. A purchaser may buy out 55 percent of his volume in eligible contracts, subject to a maximum of 200 million board feet, and to a minimum entitlement of 15 million board feet or one contract (whichever is greater). (For a purchaser holding more than 27.3 million board feet, 55 percent provides a greater entitlement than the 15 million board feet minimum.)

4. The cost to the purchaser of a buy-out depends on the relationship of his net worth to his projected loss on eligible contracts held. The projected loss is determined by subtracting the current delivered log value from the delivered log cost based on the original bid price. If this loss exceeds the purchaser's net worth, the cost of buy-out will be $10 per thousand board feet. If this loss is between 50 and 100 percent of net worth, the buy-out charge will be 10 percent of the contract overbid (but no less than $10). If the loss is 50 percent or less of net worth, the buy-out charge will be 15 percent of the contract overbid (but no less than $10). Losses will be determined by the agencies, and net worth will be determined by a CPA.

5. The amounts collected through buy-out are authorized to be appropriated to the Secretaries for timber management.

6. Contracts bought out must be returned in full. Contracts already partially harvested may be returned subject to the purchaser completing operations to logical points as determined by the Secretary. The Secretary can reject return of a contract which has been "creamed".

7. Timber from bought out or defaulted contracts will be offered as part of (not in addition to) the normal sale program, and will be given preference for resale in Forest Service timber sales programs.

8. Forest Service timber sales in Region 6 will not exceed 4.3 billion board feet in fiscal 1984.

9. Beginning in fiscal 1985 and continuing until completion of contact extensions granted under the President's program of July 1983 (but at least fiscal 1991), timber sales in Forest Service Region 6 will be set so that the maximum volume of Region 6 timber under contract at the end of each fiscal year does not exceed 12.3 billion board feet. (It is expected that this will be about the volume that will be under contract after the buy-out of sales under this proposal.) The maximum sale volume in any year during this period could not exceed 5.2 billion board feet.

10. The agencies will publish final rules to implement this program within 90 days after enactment of the act.

11. Purchasers must submit buy-out designations within 90 days after publication of final rules.

12. Affiliated concerns will be considered as a single entity for purpose of calculating net worth and buy-out limitations. "Affiliation" will be determined based generally on principles used by the Small Business Administration.

13. Contracts bid prior to January 1, 1982 and not bought out will not be subject to any further extensions except as permitted under the President's program of July 1983.

14. Contracts extended under the President's program will not be subject to reappraisal, additional provisions for calculating default damages, change in basic scaling procedures, or to addition of standard timber contract provisions not in use as of March 1, 1984.

Mr. HATFIELD. Mr. President, of the nearly 22 billion board feet of Federal timber under contract in the West prior to January 1, 1982, this bill will allow the termination of over 13 billion feet, currently valued at over $2.8 billion. It will leave nearly 9 billion feet of the timber purchased prior to 1982 on the books, which leaves the Western companies with a significant problem. I would have proposed a higher level of termination, but this is the agreement reached by the industry and I will support it.

One point should be clear. That is that legislative action is necessary. The administration's answer has been to simply extend contracts, with the inclusion of rather onerous new provisions. That is not the right answer and will only delay the day of contract default. Relief from high priced Federal timber contracts is absolutely necessary in removing the black cloud of economic uncertainty that covers Oregon.

I urge colleagues to support me on this issue of vital importance to many western communities.

Mr. PACKWOOD. Mr. President, I am pleased to join Senators HATFIELD and CRANSTON in introducing this bill to provide timber contract relief vital to the Pacific Northwest. This legislation will provide significant aid to dozens of communities dependent upon a productive timber industry.

The timber and homebuilding industries across the Nation and especially in Oregon have been sluggish in recovering from the recent recession. It is imperative that these industries gain a strong foothold in our Nation's economic recovery.

As a Senator from a State with a timber-based economy, I am well aware of the dismal condition of the forest products industry.

A healthy housing industry is an integral part of a healthy economy. Our Nation's forest products industry is a key component in revitalizing the economy. I believe we should provide timber contract relief to firms so essential to rebuilding the Pacific Northwest's economy.

Mr. President, I think it is time to enact an equitable timber relief bill. Without this bill, there will be a large number of timber sale defaults. There is no doubt that many firms in my State will be unable to pay the damages resulting from defaulted timber sales, and they will go under. Their operations will close down; their workers will lose their jobs. Small timber operators in the Pacific Northwest, who are dependent upon Federal timber, would be hardest hit.

The bill we are introducing today is not a timber bailout but a timber buyout. The Federal Government does not lose money or timber under this bill. Timber under contract would be returned to the Federal Government and resold at a later date.

This bill will enable timber contract holders an opportunity to return up to 55 percent of their timber volume bid prior to January 1, 1982, subject to a maximum limitation of 200 million board feet and a minimum entitlement of 15 million board feet. As I stated earlier, this program is not a bailout but a buyout. The bill would require companies to pay a buyout charge for contracts returned to the Federal Government the amount of which would be determined by the ratio of a company's potential contract losses to its net worth.

Mr. President, the ultimate health of our Nation's economy requires a strong housing industry. This timber contract relief bill will help to insure that the forest products industry can meet the production demands of increased housing starts in the future.

The forest products industry has joined together to develop this compromise. Mr. President, I urge my colleagues to support this timber contract relief bill essential for the survival of our Nation's forest products industry.

By Mr. RIEGLE (for himself, Mr. PROXMIRE, and Mr. SARBANES):

S. 2754. A bill to amend the Securities and Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

SECURITIES AND EXCHANGE ACT AMENDMENTS

● Mr. RIEGLE. Mr. President, confidence in the marketplace is being undermined and small- and medium-sized investors are outraged by an increasingly prevalent practice in corporate takeover schemes known as greenmail.

"Greenmail" is a play on the word blackmail and refers to the premium price management is willing to pay a corporate raider to foil a possible takeover, but which the corporation is unwilling to pay to the everyday shareholders of its corporation.

The Disney buy-out is just the most recent example. Disney bought out Saul Steinberg for $325.3 million and Mr. Steinberg walked away with an indicated profit of $31.7 million, plus $28 million for estimated "out of pocket" expenses, as a result of his threatening a takeover, driving up the price of Disney stock and then selling it back to the company.

Other similar successful raiders include the Bass brothers, Rupert Murdoch, Sir James Goldsmith, T. Boone Pickens, Carl Lindner, and Carl C. Icahn.

The greenmail technique has become so rampant that in March alone four major companies paid more than $1.6 billion to buy back shares from unwanted investors. The buy backs included Texaco's purchase of the Bass brothers' 9.9-percent stake for $1.28 billion, Warner Communications' purchase of Rupert Murdoch's 7-percent stake for $180.6 million, St. Regis' purchase of Sir James Goldsmith's 8.6-percent position for $160 million, and Quaker State's buy out of Saul P. Steinberg's 8.9-percent position for $47.1 million.

Other recent buy backs have included Superior Oil's buy out of T. Boone Pickens for $167.2 million, Gulf & Western's buy back from Carl H. Lindner for $210.1 million, and American Can's buy back from Carl C. Icahn for $33.1 million.

Under current law there is nothing whatsoever illegal about these practices where it is possible to make millions upon millions of easy dollars by taking advantage of the existing system.

But the everyday shareholder cannot be a player in the same game and is caught up as a spectator in a contest over which he or she has no control. That shareholder, and the public at large, inevitably lose confidence in the capital markets as the perception increases that a company's shares are being manipulated for the profit of a single raider/investor.

Recently a blue-ribbon tender advisory panel of the Securities and Exchange Commission recommended preventing the practice of greenmail.

The Commission itself supports that recommendation and has forwarded to the Congress a comprehensive package of proposals dealing with tender offer practices in general.

Mr. President, I believe that the Senate Banking Committee and our Securities Subcommittee should consider all the proposals of the Commission and the tender advisory panel.

But the practice of greenmail I believe should be taken up by the Congress separately and be immediately banned. As a result, I am today introducing legislation which would accomplish that purpose.

This legislation, which is taken directly from a recomendation submitted to us by the Securities and Exchange Commission, would prohibit the purchase by a company of its own shares at a price above the existing market price from any person who holds more than 3 percent of the shares and has held them for less than 2 years, unless the shareholders of the company approve.

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

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

S. 2754

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

SECTION 1. Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amend-

ed by inserting after subsection (e) the following new subsection:

"(f) It shall be unlawful for an issuer to purchase, directly or indirectly, any of its securities at a price above the market from any person who holds more than 3 percentum of the class of the securities to be purchased and has held such securities for less than two years, unless such purchase has been approved by the affirmative vote of a majority of the aggregate voting securities of the issuer, or the issuer makes an offer to acquire, of at least equal value, to all holders of securities of such class and to all holders of any class into which such securities may be converted."●

By Mr. GARN (by request):

S. 2755. A bill to amend title V of the Housing Act of 1949 to permit the sale in "as is" condition of inventory housing held by the Farmers Home Administration; to the Committee on Banking, Housing, and Urban Affairs.

SALE OF "AS IS" HOUSING HELD BY THE FARMERS HOME ADMINISTRATION

● Mr. GARN. Mr. President, I am submitting this bill at the request of the Secretary of the Department of Agriculture on behalf of the Farmers Home Administration. The Department is requesting this bill as part of its yearly legislative package even though Congress does not plan to consider housing authorization legislation next year due to the 2-year authorization of housing programs passed last year. Farmers Home has supplied an explanation of the bill and I ask unanimous consent that the explanation be printed in the RECORD.

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

SALE OF FMHA INVENTORY HOUSES "AS IS"

This bill will be welcomed equally by homebuyers, realtors and FmHA as a measure to simplify and speed up the sale, at modest prices, of houses that are in FmHA's possession. These are houses FmHA has acquired through foreclosure or by voluntary conveyance from borrowers who defaulted on their loans. FmHA now has about 12,000 in inventory.

The bill authorizes FmHA to sell such a house in "as is" condition rather than first incurring the trouble, expense and delay of repairing deficiencies, if the buyer will not finance the purchase with an FmHA loan.

At present, the Housing Act requires that every house held by FmHA be fully repaired up to the Minimum Property Standard for a house mortgaged to the government before FmHA offers the house for sale. Insofar as possible, cost of this rehabilitation is added to FmHA's selling price of the house.

Under this bill, FmHA will have to repair only those houses it will sell to families who become FmHA borrowers. A buyer who will not become an FmHA borrower can buy the house "as is" at a lower price and assume responsibility for fixing it up.

This will more rapidly transfer many houses to nonfederal ownership through private buyers or local housing agencies. It will reduce the time that houses stand vacant in FmHA's possession, subject to deterioration or vandalism. It will eliminate an estimated $4 million a year that FmHA must spend to fix up houses destined to be sold to people who are not FmHA borrowers.●

By Mr. GARN:

S. 2756. A bill to provide for the striking of a gold medal to commemorate the 75th anniversary of the Boy Scouts of America; to the Committee on Banking, Housing, and Urban Affairs.

S. 2757. A bill to provide for the striking of a gold medal to commemorate the 75th anniversary of the Girl Scouts of the United States of America; to the Committee on Banking, Housing, and Urban Affairs.

STRIKING OF GOLD MEDALS TO COMMEMORATE THE 75TH ANNIVERSARY OF THE BOY SCOUTS AND THE GIRL SCOUTS OF AMERICA

● Mr. GARN. Mr. President, it is a pleasure for me to introduce two bills to authorize the striking of gold medals to commemorate the 75th anniversaries of the Boy Scouts of America and the Girl Scouts of the United States of America. Both the Boy Scouts of America and the Girl Scouts of the U.S.A. will be celebrating their 75th anniversaries in 1985 and 1987, respectively.

Over the years, both of these organizations have contributed to the positive development of young men and women in our country. These organizations have helped thousands of young adults to prepare for the victories and defeats we are confronted with throughout all our adult lives. Boys and girls from different backgrounds learn how to work with others under the supervision of their leaders. I would like to commend these organizations for the time and interest they have shown these boys and girls.

Literally millions of young men and women have participated in the vast and well-run programs sponsored by the Scouts. Thousands of volunteer leaders give of their time and energy to help the Scouts develop personal skills and learn to work with others in a structured and supervised setting. It would be impossible to estimate the worthwhile impact these organizations have had on boys and girls and in turn what their contributions have been to this country.

Few organizations in America have achieved such a consistent record of excellence in their programs. From Cub Scouts to Eagle Scouts, Brownies to Cadets, these programs have successfully maintained a level of devotion in quality that continues to this day.

In recognition of the Boy Scouts and Girl Scouts outstanding history and with hopes of their continued success, I request that Congress enact this legislation at the earliest opportunity.

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

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

S. 2756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President is authorized to present, on behalf of the Congress, a gold medal of appropriate design to commemorate the 75th anniversary of the Boy Scouts of America, in recognition of their outstanding work in promoting courage, self-reliance and citizenship among boys and young men in America.

(b) For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall cause to be struck a gold medal with suitable emblems, and inscriptions to be determined by the Secretary of the Treasury.

(c) There are authorized to be appropriated not to exceed $25,000 for fiscal year 1986 to carry out the provisions of this section.

SEC. 2. (a) The Secretary of the Treasury may cause duplicates in bronze of the medal provided for in the first section to be coined and sold under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal.

(b) The appropriation used to carry out the provisions of the first section may be reimbursed out of the proceeds of such sales.

SEC. 3. The medals provided for in this Act are national medals for the purposes of section 5111 of title 31, United States Code.

S. 2757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President is authorized to present, on behalf of the Congress, a gold medal of appropriate design to commemorate the 75th anniversary of the Girl Scouts of the United States of America, in recognition of their outstanding work in encouraging self-development, leadership and citizenship among girls and young women in America.

(b) For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury.

(c) There are authorized to be appropriated not to exceed $25,000 for fiscal year 1986 to carry out the provisions of this section.

SEC. 2. (a) The Secretary of the Treasury may cause duplicates in bronze of the medal provided for in the first section to be coined and sold under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal.

(b) The appropriation used to carry out the provisions of the first section may be reimbursed out of the proceeds of such sales.

SEC. 3. The medals provided for in this Act are national medals for the purposes of section 5111 of title 31, United States Code.●

By Mr. KENNEDY (for himself and Mr. TSONGAS):

S. 2758. A bill to provide for the conservation and management of Atlantic striped bass, and for other purposes; to

the Committee on Commerce, Science, and Transportation.

ATLANTIC STRIPED BASS CONSERVATION ACT

Mr. KENNEDY. Mr. President, today I am introducing, along with Senator TSONGAS, a bill to promote restoration of the Atlantic striped bass. This magnificent fish, the quest of three-quarters of a million east coast anglers and the mainstay of an important commercial fishery, is in danger.

This legislation represents a two-pronged effort to revive the striped bass population. First, it places an immediate prohibition on interstate commerce in striped bass less than 24 inches in length.

Second, the bill mandates the selective imposition of statewide moratoria on striped bass fishing against those Atlantic coastal States which have failed to comply—by the end of this year—with the regional management guidelines developed by the Atlantic States Marine Fisheries Commission [ASMFC].

Since 1973, striped bass landings on the east coast have dropped by 90 percent. This drastic decrease has resulted in the loss of 7,000 jobs in coastal States from Maine to North Carolina and each year it costs the economies of these States approximately $200 million.

The emergency striped bass research study—commissioned 5 years ago at the request of my colleague Senator CHAFEE of Rhode Island and released last month—strongly recommends that to preserve the striper a temporary but significant reduction in fishing must be instituted.

The study indicates that a number of factors—including overfishing, organochlorine pollution, and acid rain—may be responsible for the decline of the striped bass fishery. Each of these conditions—particularly the acid problem—must be addressed if any long-term restoration plan is to be effective. But the immediate imperative is to avert irreversible damage to the striped bass population, and both scientists and fishermen agree that this can be achieved only if fishing is significantly curtailed for a limited period of time.

Effective management of striped bass is a difficult task, requiring coordination and cooperation among the 12 Atlantic States in whose tidal waters the fish are concentrated. The unique problems associated with managing a coastal migratory species like the striped bass have been recognized at the Federal level since 1942. In that year Congress consented to the formation of the Atlantic States Marine Fisheries Commission by compact among the various Atlantic coastal States. Each State is represented on the Commission, which is recognized today as the sole planning agency for management of all east coast near-shore fisheries.

In 1981 the ASMFC produced an interstate management plan which called for fishing restrictions to allow more "stripers" to reach spawning age. Unfortunately, 3 years have passed since that time and some States have not yet put the Commission's plan into effect. During this period of delay, the situation has grown more serious. Last December, the ASMFC reviewed the latest scientific data and concluded that even if the 1981 plan could be made effective in all States immediately, new, more stringent measures are now required to protect the species.

Today, ASMFC is calling for a 55-percent reduction in striped bass catch beyond the levels proposed in 1981. The new recommendations reflect a scientific consensus on the steps necessary to permit full restoration of the fishery. Fishermen and managers have turned to Congress for action to ensure that the States will not again fail to take the necessary steps. Today we are losing the battle to save the "stripers" and that is why I believe legislation is required.

I want to commend my colleagues Senator CHAFEE and Congresswoman SCHNEIDER of Rhode Island and Congressman STUDDS of Massachusetts, for their leadership on the striped bass issue.

Senator CHAFEE's legislation establishes a management regime for all coastal migratory species which are threatened. While I share his concerns that a broad approach may be desirable, I believe that first we should proceed to address the striped bass issue on its own. We know the "striper" is in serious trouble; information is still being developed on other coastal species.

Congresswoman SCHNEIDER's bill establishes an immediate striped bass fishing moratorium of at least 3 years. In terms of a moratorium, our legislation takes a different approach which was developed by Congressman STUDDS. Our bill calls for the selective imposition of statewide moratoria against only those States which have failed to comply with the ASMFC guidelines by the end of this year. This approach will preserve the primary role of State governments in the management of species within State waters, and, at the same time, provide some incentive for States to move quickly to protect the Atlantic striped bass.

Many of the 12 States included in the striped bass interstate management plan have moved effectively into voluntary compliance with both the 1981 ASMFC guidelines and the 1983 emergency recommendations. These States should not be penalized for the leadership they have shown thus far. This legislation will provide the right amount of Federal oversight to ensure that the other States initiate similar efforts.

As I indicated earlier, this bill has another very important element—and one which has not previously been embodied in legislation. It provides for an immediate ban on the interstate sale of striped bass less than 24 inches long.

By restricting the ability to sell immature striped bass, we will significantly reduce the incentive for harvesting the species during this critical period. The ASMFC executive committee believes that this will encourage development of a stable population by allowing more striped bass to spawn at least once.

This legislation is an essential and well-reasoned first step in restoring a very important species. It is a simple, fair approach which preserves the legitimate role of States in the managment of coastal species.

Almost 350 years ago, the General Court of Massachusetts Bay Colony enacted what may have been the first conservation law in the New World—a prohibition of the use of striped bass for fertilizer. So it is appropriate that today, as representatives of the Commonwealth of Massachusetts, we take this further action to preserve the Atlantic striped bass for future generations of Americans.

I urge my colleagues to join in supporting this effort, and I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2758

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 "Atlantic Striped Bass Conservation Act".

SEC. 2. PROHIBITION ON INTERSTATE COMMERCE IN UNDERSIZED ATLANTIC STRIPED BASS.

With respect to undersized striped bass harvested in the coastal waters of an Atlantic Coastal State, it is unlawful for any person to—

(1) delivery, receive, carry, transport, or ship in interstate commerce, by any means whatsoever and in the course of commercial activity, any such fish; or

(2) sell or offer for sale in interstate commerce any such fish.

SEC. 3. IMPOSITION OF MORATORIA ON STATES WHICH FAIL TO IMPLEMENT OR ENFORCE COMMISSION PLAN FOR ATLANTIC STRIPED BASS.

(a) COASTAL STATE ABILITY TO ENFORCE PLAN.—The Commission shall decide during December 1984 whether each Atlantic Coastal State has taken the actions that are necessary or appropriate to enforce within its coastal waters all regulatory measures necessary to implement fully the guidelines set forth in the Plan. The Commission shall immediately notify the Secretary of each negative determination made by it under the preceding sentence.

(b) MONITORING OF ENFORCEMENT.—Commencing on January 1, 1985, the Commission shall monitor on a biannual basis the

enforcement of the Plan by each Atlantic Coastal State for purposes of deciding if that enforcement is satisfactory. Enforcement by an Atlantic Coastal State may not be considered satisfactory by the Commission if, in its view, the enforcement is being carried out in such a manner that the implementation of the Plan within its coastal waters is being, or will likely be, substantially and adversely affected.

(c) NOTIFICATION TO SECRETARY OF RESULTS OF ENFORCEMENT MONITORING.—On June 30, 1985, and on the closing date of each biannual period thereafter, the Commission shall notify the Secretary of the results of the monitoring under subsection (b) of each Atlantic Coastal State.

(d) SECRETARIAL ACTION AFTER NOTIFICATION.—Immediately upon receiving notice from the commission—

(1) under subsection (a) that an Atlantic Coastal State has not taken the actions described in that subsection; or

(2) under subsection (c) that the enforcement of the plan by an Atlantic Coastal State is not satisfactory:

the Secretary shall declare a moratorium on fishing for Atlantic striped bass within the coastal waters of that Atlantic Coastal State.

(e) PROHIBITED ACTS DURING MORATORIUM.—During a moratorium period, it is unlawful for any person—

(1) to engage in fishing within the moratorium area;

(2) to land, or attempt to land, Atlantic striped bass that are caught, taken, or harvested in violation of paragraph (1);

(3) to land lawfully harvested Atlantic striped bass within the boundaries of an Atlantic Coastal State when a moratorium declared under subsection (d) applies to that State; or

(4) to fail to return to the water Atlantic striped bass to which the moratorium applies that are caught incidental to harvesting that occurs in the course of commercial or recreational fish catching activities, regardless of the condition of the striped bass when caught.

SEC. 4. PENALTIES AND FORFEITURES.

(a) CIVIL PENALTIES.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act that is unlawful under section 2 or section 3(e), shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $1,000 for each violation. Each day of continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed and, with respect to the violator, the degree of culpability, any history of prior violations, ability to pay, and such other matters as justice may require.

(2) Subsections (b) through (e) of section 308 of the Act of 1976 (16 U.S.C. 1858(b)-(e); relating to review of civil penalties, action upon failure to pay assessment, compromise, and subpoenas) shall apply to penalties assessed under paragraph (1) to the same extent and in the same manner as if those penalties were assessed under subsection (a) of such section 308.

(b) CIVIL FORFEITURES.—(1) Any vessel or vehicle (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market values thereof) taken or retained, in any manner, in connection with, or the result of, the commission of any act that is unlawful under section 2 or section 3(e), shall be subject to forfeiture to the United States. All or part of the vessel or vehicle may, and all such fish (or the fair market value thereof) shall, be forfeited to the United States under a civil proceeding described in paragraph (2). The district courts of the United States have jurisdiction over proceedings under this subsection.

(2) Subsections (c) through (e) of Section 310 of the Act of 1976 (16 U.S.C. 1860(c)-(e); relating to judgment, procedure, and rebuttable presumptions) apply with respect to proceedings for forfeiture commenced under this subsection to the same extent and in the same manner as if the proceeding were commenced under subsection (a) of such section 310.

(c) ENFORCEMENT.—The Secretary shall enforce the prohibition set forth in section 2 and the moratorium declared under section 3(d). The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of an Atlantic Coastal State in carrying out that enforcement.

SEC. 5. DEFINITIONS.

As used in this Act—

(1) The term "Atlantic striped bass" means members of the species *Morone saxatilis.*

(2) The term "Atlantic Coastal State" means each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina.

(3) The term "coastal waters" means—

(A) all waters, whether salt or fresh, of an Atlantic Coastal State shoreward of the baseline from which the territorial sea of the State is measured; and

(B) the waters of an Atlantic Coastal State seaward from the baseline referred to in subparagraph (A) to the inner boundary of the exclusive economic zone.

(4) The term "undersized striped bass" means Atlantic striped bass with a total length as measured between the most extreme points of the head and tail of less than 24 inches.

(5) The term "interstate commerce" means commerce between any place in a State and any place in another State, or between places in the same State through another State. The term does not include any transaction authorized by the Federal Government or by any State government for scientific research or enhancement of striped bass culturing activities.

(6) The term "Act of 1976" means the Act entitled "An Act to provide for the conservation and management of the fisheries, and for other purposes", approved April 13, 1976 (16 U.S.C. 1801 et seq.).

(7) The term "Commission" means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by the Congress in Public Laws 77-539 and 81-721.

(8) The term "fishing" means—

(A) the catching, taking, or harvesting of Atlantic striped bass, except when incidental to harvesting that occurs in the course of commercial or recreational fish catching activities directed at a species other than Atlantic striped bass;

(B) the attempted catching, taking, or harvesting of Atlantic striped bass; and

(C) any operation at sea in support of, or in preparation for, any activity described in subparagraph (A) or (B).

The term does not include any scientific research authorized by the Federal Government or by any State government.

(9) The term "Plan" means the Interstate Fisheries Management Plan for Striped Bass, dated October 1, 1981, prepared by the Commission, and all amendments thereto, including interim restoration measures for Chesapeake Bay striped bass stocks as developed by the Atlantic States Marine Fisheries Commission Striped Bass Management Board in December 1983, whether or not such language is formally adopted as an amendment to the Plan of October 1, 1981.

(10) The term "Secretary" means the Secretary of Commerce.

(11) The term "moratorium area" means the coastal waters with respect to which a declaration under section 3(d) applies.

(12) The term "moratorium period" means the period beginning on the day on which moratorium is declared under section 3(d) regarding an Atlantic Coastal State and ending on the day on which the Commission notifies the Secretary that that State has taken appropriate remedial action with respect to those matters that were the cause of the moratorium being declared.

SEC. 6. STATE LAWS.

Nothing in this Act shall be construed to prevent any State from making or enforcing laws or regulations not inconsistent with the provisions of this Act, or from making or enforcing laws or regulations which shall give further protection to the Atlantic striped bass.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary or appropriate to carry out the provisions of this Act.

SEC. 8. EFFECTIVE PERIOD.

This Act shall take effect October 1, 1984, and shall cease to have force and effect on the third anniversary of that date.

By Mr. CRANSTON:

S. 2759. A bill to amend chapter 11 of title 38, United States Code, to provide for periods of trial work—comparable to periods of trial work for Social Security Act disability recipients, for veterans assigned service-connected total disability ratings by reason of unemployability; to the Committee on Veterans' Affairs.

TRIAL WORK PERIOD FOR VETERANS WITH TOTAL DISABILITY RATINGS BASED ON UNEMPLOYABILITY

Mr. CRANSTON. Mr. President, I have today introduced a bill (S. 2759) to establish within the Veteran's Administration service-connected disability compensation program the same type of trial-work period concept that exists under the Social Security Act for disability insurance beneficiaries and for disabled recipients of supplemental security income.

Under the VA's Compensation Program, the service-connected disabilities of veterans are rated, in multiples of 10 percentage points, from zero percent through 100 percent disabling. The schedule of these ratings is designed to reflect the average impairments of earning capacity resulting

from particular disabilities. In general, the ratings are assigned, according to the VA's schedule of ratings, on the basis of the nature and extent of the disability or combination of disabilities, without regard to whether the particular veteran is or is not actually engaged in a gainful occupation or the level of his or her earnings. However, there is an exception. Under longstanding VA regulations—section 4.16 of title 38 of the Code of Federal Regulations—provision is made for assigning to a veteran with a disability or disabilities not ratable as totally disabling a 100-percent disability rating if an individualized determination is made that he or she is unable to secure or follow a substantially gainful occupation as a result of service-connected disability. A substantial element of judgment is involved in making these determinations, and consideration is given to the nature of the veteran's service-connected disability, employment history, educational and vocational attainment, and other pertinent factors. At present, there are approximately 85,000 veterans with total disability ratings based on individual unemployability, known as I.U.'s.

The situation of an I.U. veteran is subject to periodic review. Thus, for example, if either the veteran's medical condition were to improve or the veteran were to return to work, the total disability rating could be reduced to the rating that the veteran's disability itself warrants.

In such cases, the prospect of reduced compensation can constitute a strong disincentive to the individual's seeking employment. I believe that it would be wise to reduce that disincentive and thus make it more likely that larger numbers of I.U. veterans would find it advantageous to try to return to work.

Such a program exists for reducing a similar work disincentive under the Social Security Disability Insurance [SSDI] Program. Under section 222(c) of the Social Security Act, work performed by an individual during a so-called period of trial work is disregarded for purposes of any determination as to whether he or she ceased to be disabled during that period. The period of trial work gives the individual 9 months, not necessarily consecutive months, during which he or she may engage in work on a trial basis without a need to be concerned that the attempt to work might mean the loss of benefits even though it turns out that his or her disability prevents employment on a long-term basis.

Specifically, the period of trial work begins with the month in which the disabled individual becomes eligible for SSDI benefits and terminates at the end of the ninth month thereafter in which the individual has worked. The term used in this Social Security Act provision for work is "renders services" and "services" is defined as "activity which is performed for remuneration or gain or is determined by the Secretary (of Health and Human Services) to be in a type normally performed for remuneration or gain". The implementing regulations (42 C.F.R. section 404.1536(d)) make the following clarification:

Work performed without remuneration merely as a therapeutic measure or purely as a matter of training, or work usually performed in daily routine around the home or in self-care, is not considered "services."

I would intend the VA to apply the same concept in implementing the "trial-work period" proposed in the bill.

As I have noted, the 9 months of trial work can occur at any time after the individual becomes entitled to SSDI and can be interspersed over any period of time thereafter, no matter how long. The key is that, after having become entitled to benefits, once the individual has worked in any 9 months, the period of trial work is over.

A nearly identical provision, section 1614(a)(4) of the Social Security Act, incorporates the concept of a trial-work period in the supplemental security income program.

My measure would provide for a period of trial work, derived from the SSDI provision. I believe that this provision would be beneficial both to service-connected disabled I.U. veterans who desire to return to work and to the compensation program. If enacted, the period of trial work should provide an additional useful tool to the VA outreach staff and vocational rehabilitation counselors seeking to assist these disabled veterans in preparing to return to and remain in the work force. The VA has a comprehensive program of vocational rehabilitation services for service-connected disabled veterans under chapter 31 of title 38, United States Code, which, based on legislation I authored in the Senate, the Congress revised and updated in 1980, in Public Law 96-466, I would urge the VA to ensure that the trial-work period concept is linked to its efforts to rehabilitate I.U. veterans and to assist those who participate in the chapter 31 program to find and keep suitable employment.

Mr. President, I urge my colleagues to give this bill careful consideration and support.

This measure is on the agenda of a Veterans' Affairs Committee hearing on VA compensation and other issues scheduled for next Wednesday, June 20. I look forward to getting the reactions of the hearing witnesses to this bill and to working together with other members of the Veterans' Affairs Committee and others interested in the development of this legislation.

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

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

S. 2759

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter VI of chapter 11 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 363. Trial period of work for certain veterans with total disability ratings.

"(a) In the case of a veteran with a service-connected disability, or service-connected disabilities, not rated as total, but with a total disability rating by reason of a determination of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities, for the purposes of determining whether such veteran has regained the ability to secure or follow such occupations, any activity performed for remuneration or gain (or determined by the Administrator to be activity of a type normally performed for remuneration or gain) by such veteran during a period of trial work shall be deemed not to have been performed by such veteran during such period.

"(b) For the purposes of subsection (a) of this section, the term 'period of trial work' means the period beginning with the first full month following the month in which the total disability rating was assigned to the veteran and ending with the close of the ninth month, after the beginning of such first full month, in which the veteran performed activity described in such subsection.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 362 the following new item:

"363. Trial period of work for certain veterans with total disability ratings.".

By Mr. CRANSTON (for himself and Mr. DECONCINI):

S. 2760. A bill to amend the Emergency Veterans' Job Training Act of 1983 to extend the period of time during which an eligible veteran may apply for a program of job training and to postpone the date by which such a program must begin, and for other purposes; to the Committee on Veterans' Affairs.

EMERGENCY VETERANS' JOB TRAINING ACT EXTENSION OF 1984

Mr. CRANSTON. Mr. President, I am introducing today S. 2760, the proposed Emergency Veterans' Job Training Act Extension of 1984. This measure, which is cosponsored by Senator DECONCINI, would amend the Emergency Veterans' Job Training Act of 1983, Public Law 98-77, to extend the period of time during which an eligible veteran may apply for a program of job training and to postpone the date by which such veteran's training program must begin. It would also extend, from 60 days to 90 days, the life of a

certificate of eligibility provided to a veteran.

BACKGROUND

Public Law 98-77 was, after a long and arduous struggle, signed into law by President Reagan—who initially opposed the legislation—on August 15, 1983. This law was derived from provisions of a measure I introduced, S. 992, the proposed Veterans' Emergency Retraining Act, S. 1033, a measure introduced by the distinguished chairman of the committee [Mr. SIMPSON], and H.R. 2355, a measure introduced by the distinguished chairman of the Subcommittee on Education and Training of the House Veterans' Affairs Committee [Mr. LEATH]. Under this law, programs for training and retraining of long-term unemployed Vietnam-era and Korean-conflict veterans are fostered through the use of employer-reimbursement incentives.

As enacted, Public Law 98-77 provided that the program would become effective on October 1, 1983, if funding for it had been appropriated and made available to the VA by that date. However, in recognition of the possibility that funds would not become available by that date, the law provided for a tolling period. Under this mechanism, in section 17 of the measure as signed into law, the program would begin on the date on which funds were made available to the VA for the conduct of the program.

Since the funds for the program—contained in the Further Continuing Appropriations Act for fiscal year 1984, Public Law 98-151, which was signed on November 14, 1983—were not made available to the VA until November 29, 1983, the program became effective on that date.

An additional $75 million for the program was made available in the Supplemental Appropriation Act for fiscal year 1984, Public Law 98-181, which was signed on November 30, 1983. This represented full funding for fiscal year 1984.

However, Mr. President, despite exceptionally high interest in the program—particularly among veterans—the program got off to a very slow start. As of May 28, 177,163 veterans had applied for the program and 137,801 had been certified as eligible. Also as of that date, 16,650 employers had been approved to offer training for 38,060 jobs. This means that jobs are available or could be made available for over 27 percent of those eligible for the program.

Despite this indication of some degree of success for the program, the number of veterans actually placed in training slots has been most discouraging. Only 6,547—just 4.8 percent of those determined eligible—veterans are actually in training under the new program, and only 17.2 percent of the training slots have been filled. As a result, only $28.8 million of the $150 million made available for the program have been obligated.

Mr. President, I am not pleased with the level of success that the program has achieved thus far. However, I continue to believe very strongly that the program can be of invaluable assistance in meeting the needs of long-termed unemployed veterans of the Vietnam era and the Korean conflict. I am concerned that, at the root of the failure of the program to be as successful as I and others believe it can be is the likelihood that the Veterans' Administration and the Department of Labor—the agencies jointly responsible for implementation of the program—have not been as aggressive in carrying out their responsibilities as they should be. In addition, the fact that the date on which the program became effective fell, rather unfortunately, in the holiday season may have prevented many employers from participating in the program at the outset. Finally, Mr. President, the program is a brandnew one, and, as a result, the expertise and experience that could enhance its implementation simply have not existed prior to now.

PROVISIONS OF S. 2760

Mr. President, as I noted, I believe the program can be of invaluable assistance if given a full chance to achieve its potential. Thus, we are proposing in this bill to extend the period during which a veteran can make application for the program and the period before which a veteran must begin training by 6 months. Thus, instead of the program closing to new applications on November 29, 1984, and requiring veterans to enter training prior to March 1, 1985, the program would close on May 31, 1986, and training would be required to be initiated prior to September 1, 1986.

In addition, the proposal I am making would extend the period of time during which funds already appropriated for the measure will be available. Under current law, the funds appropriated for the program are to remain available until September 30, 1986. Our bill would make the funds available until September 30, 1987, so that payments may continue to be paid to veterans through the 6-month extension period. I want to stress that our measure would not authorize any additional appropriations but would rather simply extend the period of time that funds appropriated would remain available.

Finally, Mr. President, our proposal would extend the life of a certificate of eligibility provided to a veteran who has been determined to be eligible for the program. Under current law, these certificates are good for 60 days, and during that period the veteran can present them to an approved employer for purposes of entering a job training program. This 60-day period appears to be too short a time and, as a result, to be producing unnecessary and time-delaying paperwork and redtape to accomplish the process of veterans' reapplications. Extending this period to 90 days, as our bill would do, should relieve some of this problem and give veterans a longer period of time in which to seek a training position.

I want to make mention of the fact that this measure is similar to legislation recently reported from the House Veterans' Affairs Committee, title III of H.R. 5398, the proposed Veterans' Education and Employment Amendments of 1984. I look forward to working with my colleagues in both Houses as we pursue this matter.

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

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

S. 2760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Veterans' Job Training Extension Act of 1984".

SEC. 2. (a)(1) Section 5(b)(3)(A) of the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77; 97 Stat. 443) is amended by striking out "60" and inserting in lieu thereof "90".

(2) The amendment made by paragraph (1) of this subsection shall apply only to certificates of eligibility issued after the end of the thirty-day period beginning on the date of the enactment of this Act.

(b) Section 16 of such Act is amended by striking out "1986" and inserting in lieu thereof "1987".

(c) Section 17 of such Act is amended to read as follows:

"SEC. 17. Assistance may not be paid to an employer under this Act—

"(1) on behalf of a veteran who applies for a program of job training under this Act after May 31, 1985; or

"(2) for any such program which begins after September 1, 1985.".

ADDITIONAL COSPONSORS

S. 210

At the request of Mr. HELMS, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 210, a bill to provide legal protection for unborn human beings, and for other purposes.

S. 1128

At the request of Mr. LEAHY, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Massachusetts [Mr. TSONGAS] were added as cosponsors of S. 1128, a bill entitled the "Agricultural Productivity Act of 1983."

S. 1841

At the request of Mr. THURMOND, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 1841, a bill to promote research and development, encourage innova-

tion, stimulate trade, and make necessary and appropriate amendments to the antitrust, patent, and copyright laws.

S. 1948

At the request of Mr. LUGAR, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 1948, a bill to establish a national minimum drinking age of 21.

S. 2014

At the request of Mr. SASSER, his name was added as a cosponsor of S. 2014, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide for assistance in locating missing children.

S. 2270

At the request of Mr. COHEN, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 2270, a bill to amend title 18 of the United States Code to prohibit the use, for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions, and entities affecting interstate commerce.

S. 2423

At the request of Mr. THURMOND, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2423, a bill to provide financial assistance to the States for the purpose of compensating and otherwise assisting victims of crime, and to provide funds to the Department of Justice for the purpose of assisting victims of Federal crime.

S. 2470

At the request of Mr. DENTON, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2470, a bill to provide for the national security by allowing access to certain Federal criminal history records.

S. 2655

At the request of Mr. PRYOR, the name of the Senator from Louisiana [Mr. LONG] was added as a cosponsor of S. 2655, a bill to provide for a report concerning agricultural exports.

S. 2679

At the request of Mr. D'AMATO, the name of the Senator from Virginia [Mr. TRIBLE] was added as a cosponsor of S. 2679, a bill to amend title IV of the National Housing Act and the Federal Deposit Insurance Act with respect to brokered deposits.

S. 2692

At the request of Mr. ARMSTRONG, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2692, a bill to exempt water conveyance systems from fees and conditions under the Federal Land Policy and Management Act of 1976, and for other purposes.

S. 2719

At the request of Mr. LAUTENBERG, the names of the Senator from Utah [Mr. HATCH], the Senator from Missouri [Mr. DANFORTH], the Senator from Kentucky [Mr. HUDDLESTON], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 2719, a bill to amend title 23, United States Code, to direct the Secretary of Transportation to withhold a percentage of the apportionment of certain Federal-aid highway funds to be made to any State which does not establish a minimum drinking age of 21 years.

S. 2750

At the request of Mr. WALLOP, the name of the Senator from South Dakota [Mr. ABDNOR] was added as a cosponsor of S. 2750, a bill to permit States to bring suits against the United States to adjudicate disputed land titles.

SENATE JOINT RESOLUTION 55

At the request of Mr. MATHIAS, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Joint Resolution 55, a joint resolution to recognize the pause for the Pledge of Allegiance as part of National Flag Day activities.

SENATE JOINT RESOLUTION 240

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 240, a joint resolution relating to the 40th anniversary of the liberation of Rome.

SENATE JOINT RESOLUTION 246

At the request of Mr. EXON, the name of the Senator from Iowa [Mr. JEPSEN] was added as a cosponsor of Senate Joint Resolution 246, a joint resolution strongly urging the President to secure a full accounting of Americans captured or missing in action in Southeast Asia, and for other purposes.

SENATE JOINT RESOLUTION 253

At the request of Mr. PRESSLER, the name of the Senator from Massachusetts [Mr. TSONGAS] was added as a cosponsor of Senate Joint Resolution 253, a joint resolution to authorize and request the President to designate September 16, 1984, as "Ethnic American Day."

SENATE JOINT RESOLUTION 270

At the request of Mr. COCHRAN, the names of the Senator from West Virginia [Mr. RANDOLPH] and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of Senate Joint Resolution 270, a joint resolution designating the week of July 1 through July 8, 1984, as "National Duck Stamp Week," and 1984 as the "Golden Anniversary Year of the Duck Stamp."

SENATE JOINT RESOLUTION 287

At the request of Mr. D'AMATO, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Senate Joint Resolution 287, a joint resolution to authorize and request the President to designate January 27, 1985, as "National Jerome Kern Day."

SENATE JOINT RESOLUTION 296

At the request of Mr. D'AMATO, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of Senate Joint Resolution 296, a joint resolution to designate June 14, 1984, as "Baltic Freedom Day."

SENATE JOINT RESOLUTION 297

At the request of Mr. THURMOND, the names of the Senator from Illinois [Mr. PERCY], the Senator from Nebraska [Mr. EXON], and the Senator from Alabama [Mr. DENTON], were added as cosponsors of Senate Joint Resolution 297, a joint resolution to designate the month of June 1984 as "Veterans' Preference Month."

SENATE JOINT RESOLUTION 306

At the request of Mr. DOLE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution to proclaim July 10, 1984, as "Food for Peace Day."

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. BOSCHWITZ, the names of the Senator from Texas [Mr. BENTSEN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Nebraska [Mr. EXON], the Senator from Florida [Mr. CHILES], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of the Congress regarding the nondelivery in the Soviet Union of certain mail from the United States, and for other purposes.

SENATE RESOLUTION 402

At the request of Mr. DIXON, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of Senate Resolution 402, a resolution opposing certain proposed import restrictions by the European Community on U.S. agricultural products.

AMENDMENT NO. 3175

At the request of Mr. TRIBLE, the name of the Senator from Georgia [Mr. MATTINGLY] was added as a cosponsor of amendment No. 3175 intended to be proposed to S. 2723, an original bill to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes.

AMENDMENT NO. 3176

At the request of Mr. DOMENICI, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from California [Mr. WILSON] were added as cosponsors of amendment No. 3176 intended to be proposed to S. 2723, an original bill to authorize ap-

propriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes.

AMENDMENT NO. 3179

At the request of Mr. GLENN, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of amendment No. 3179 proposed to S. 2723, an original bill to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes.

SENATE RESOLUTION 403—RELATING TO CONCERNS OVER INTERCOMMUNAL TENSIONS IN SRI LANKA

Mr. CRANSTON (for himself and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 403

Whereas tensions between Sinhalese and Tamil communities in Sri Lanka have resulted in tragic acts of violence;

Whereas the communal violence in Sri Lanka has, since July 1983, resulted in the brutal killing of large numbers of innocent Tamil civilians and has driven tens of thousands of Tamils from their homes;

Whereas Sri Lanka is caught in a tragic cycle of violence involving terrorist acts by Tamil extremists and retaliation, including the killing of Tamil civilians, by Sri Lanka security forces;

Whereas the death toll of Tamil civilians continues to rise, fueling fears of another bloody assault on Sri Lanka's Tamil communities;

Whereas two United States citizens, Stanley and Mary Allen, were kidnapped by Tamil extremists, thus becoming victims of Sri Lanka's escalating cycle of violence;

Whereas communal violence in Sri Lanka harms all its citizens;

Whereas the people of the United States and the people of Sri Lanka are tied together by bonds of friendship and by a shared commitment to democratic ideals; now therefore be it

Resolved by the Senate of the United States, That

(1) the Senate deplores acts of violence by any party in Sri Lanka;

(2) the Senate expresses its deep concerns over continuing communal tensions in Sri Lanka;

(3) it is the sense of the Senate that the President of the United States urge the Sri Lankan government to seek actively and without delay a peaceful, political, negotiated settlement of the issues that divide the Sinhalese and the Tamils.

Mr. CRANSTON. Mr. President, His Excellency Junius Richard Jayewardene, President of the Democratic Socialist Republic of Sri Lanka, will be in Washington for an official state visit next week. As one who supports the further strengthening of United States-Sri Lanka ties, I extend a warm welcome to President Jayewardene to our country.

It is my hope that the shadow that clouds our close relations will be lifted. Early this year, I spoke in this Chamber of my grave concerns over the acts of violence that have occurred in Sri Lanka over the years between the Sinhalese and Tamil communities. The intercommunal tensions escalated last July resulting in the tragic murder of innocent Tamils and in over 120,000 people fleeing their homes in terror. As an advocate of nonviolent efforts to end the strife between the ethnic groups in Sri Lanka, I have appealed to the Government of Sri Lanka to pursue steps that would help ensure there be no recurrence of the brutal violence of July 1983. I noted with cautious optimism the convening of the All Party Conference (APC) to address the grievances of the Tamil and other communities. All legal political parties and religious organizations, including representatives of the Tamil community, participated in this conference. One of the issues the APC must tackle is the question of greater Tamil autonomy in the administration of regions where they dominate.

Sadly, more violence has erupted in recent months between the Sinhalese security forces and Tamil extremists, which has led to horrifying retaliatory acts against Tamil civilians. Western diplomats and residents assert that as many as 200 people were killed during the strife in April. There can be no justification for the killing of defenseless civilians. In this explosive situation, if efforts by all parties are not redoubled for a peaceful resolution of the conflict, I fear we will see a replay of the nightmare of July 1983.

Mr. President, it is essential that the Senate make clear its abhorrence of all acts of violence and its firm support for a peaceful solution to the intercommunal conflict in Sri Lanka. I hope that my colleagues will join me in cosponsoring the resolution I offer today expressing the sense of the Senate that the President should urge the Sri Lanka Government to seek actively and without delay a peaceful settlement of the issues that divide the Sinhalese and the Tamils.

SENATE RESOLUTION 404—CONGRATULATING THE BOSTON CELTICS ON WINNING THE 1984 WORLD CHAMPIONSHIP OF THE NATIONAL BASKETBALL ASSOCIATION

Mr. KENNEDY (for himself and Mr. TSONGAS) submitted the following resolution which was placed on the calendar, by unanimous consent:

S. RES. 404

Whereas on June 12th, 1984 the Boston Celtics prevailed in the seventh and final game of the 1984 championship series to win the National Basketball Association title;

Whereas since 1946, the Celtics have won fifteen world championships, three times as many as any other team in the history of the NBA;

Whereas the Celtics won the right to participate in the championship series this year by winning more games during the regular season than any other team in the NBA;

Whereas "Red" Auerbach, the "Soul" of the Celtics, their past coach and the winningest coach in professional basketball, is retiring this year as General Manager after yet another championship season;

Whereas K.C. Jones has demonstrated in his first season as Head Coach of the Celtics that he is destined to carry on the tradition of champion excellence and Celtic Pride;

Resolved by the Senate of the United States of America, That we join with basketball fans in Massachusetts and across the nation in honoring the Boston Celtics players for winning the 1984 World Championship of basketball.

Mr. KENNEDY. I send to the desk a resolution to congratulate the Boston Celtics for winning their 15th National Basketball Association Championship.

Some people say that the Boston Garden needs air-conditioning. But all fans of the Celtics know that the real problem with the Garden is finding enough room to hang all those championship banners.

In my 22 years as a Senator from Massachusetts, one of the regular activities which gives me the most pride and the most enjoyment is asking my colleagues to honor the Boston Celtics. Again this year, we recognize the latest extraordinary achievement of the team that has completely dominated professional basketball for the past generation and that continues to dominate it today.

Last night, the Boston Celtics won their 15th world championship—three times as many championships as any other team in the history of the National Basketball Association. Once again, the Celtics have made basketball history.

The Boston Celtics are consistently champions because they have consistently been able to blend championship talent with that indispensable additional ingredient—championship spirit, the ability to summon that extra ounce of energy and skill when those qualities are most required and

when victory is hanging in the balance.

Eight times in the past two decades, the Celtics have played the Lakers in the championship series, and eight times the Celtics have won the championship.

Other teams may have taller players, or bigger scorers, or faster breaks—but the Celtics have something more, a higher determination to win.

And so all Boston is celebrating today. We congratulate Los Angeles, too, for a brilliant season and for a series well played; and if some of the Lakers are wont to say, "Wait 'til next year," we reply: "We'll be there."

This is, of course, a day of joy for the Celtics and their fans, but it is also a time of sadness. For one of the greatest leaders in the game is retiring as general manager. Red Auerbach has been called, and truly is, the "Soul" of the Celtics. Outstanding players have always been part of the Celtics team, and many of them will be long remembered as among the greatest ever to play the game. But no Celtics will be remembered more than Red Auerbach—for his commitment to the team, for his extraordinary skill as a coach, for his ability year after year to mold the finest team the game has ever known.

Although Red Auerbach may officially be retiring as general manager, his heart will never leave the Celtics, and our hearts will always be with him.

I am proud now to pay tribute to the 1984 World Champion Boston Celtics, and I urge the Senate to approve this resolution.

AMENDMENTS SUBMITTED

OMNIBUS DEFENSE AUTHORIZATION ACT, 1985

ARMSTRONG (AND OTHERS) AMENDMENT NO. 3189

Mr. ARMSTRONG (for himself, Mr. COHEN, Mr. HOLLINGS, Mr. MATSUNAGA, Mr. CRANSTON, Mr. KENNEDY, Mr. HUDDLESTON, Mr. PRESSLER, Mr. INOUYE, Mr. FORD, Mr. KASTEN, Mr. BRADLEY, Mrs. HAWKINS, Mr. HART, Mr. TRIBLE, Mr. DECONCINI, Mr. BAUCUS, Mr. BOSCHWITZ, Mr. JOHNSTON, Mr. SPECTER, Mr. MITCHELL, Mr. EVANS, Mr. LAUTENBERG, Mr. BOREN, Mr. DURENBERGER, and Mr. RANDOLPH), proposed an amendment to the bill (S. 2723) to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes, as follows:

The amendment of Mr. GLENN (amendment No. 3179) is amended by striking out all after "NEW" on page 1, line 3, through the end of such amendment and inserting in lieu thereof the following:

TITLE IV—VETERANS' EDUCATIONAL ASSISTANCE AMENDMENTS

SHORT TITLE

SEC. 401. This title may be cited as the "Peacetime Veterans' Educational Assistance Act".

NEW EDUCATIONAL ASSISTANCE PROGRAMS

SEC. 402. (a) Title 38, United States Code, is amended by inserting before chapter 31 the following new chapters:

"CHAPTER 29—PEACETIME VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

"SUBCHAPTER I—PURPOSES; DEFINITIONS

"Sec.
"1401. Purposes.
"1402. Definitions.

"SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

"1411. Entitlement to basic educational assistance for active duty service.
"1412. Entitlement to basic educational assistance for service in the Selected Reserve.
"1413. Duration of basic educational assistance.
"1414. Payment of basic educational assistance allowance.

"SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

"1421. Entitlement to supplemental educational assistance.
"1422. Determinations of designated personnel categories.
"1423. Payment of supplemental educational assistance allowance.

"SUBCHAPTER IV—ADDITIONAL RECRUITMENT AND RETENTION INCENTIVES

"1431. Additional amounts of assistance.

"SUBCHAPTER V—GENERAL AND ADMINISTRATIVE PROVISIONS

"1441. Expiration of periods during which entitlement may be used.
"1442. Suspension of educational assistance.
"1443. Exclusion of certain service for purpose of earning entitlement; bar to duplication of benefits.
"1444. Extension to permit completion of term.
"1445. Program requirements.
"1446. Appropriations; administrative expenses; budget function.
"1447. Reporting requirements.

"SUBCHAPTER I—PURPOSES; DEFINITIONS

"§ 1401. Purposes

"The purposes of this chapter are—

"(1) to promote and assist the total force concept of the Armed Forces by establishing a new program of educational assistance to aid in the recruitment and retention of highly qualified personnel for both the Active and Reserve components of the Armed Forces; and

"(2) to assist such personnel in obtaining an education that they might not otherwise be able to afford.

"§ 1402. Definitions

"For the purposes of this chapter:

"(1) The term 'basic educational assistance' means educational assistance provided under subchapter II of this chapter.

"(2) The term 'effective date' means the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act.

"(3) The term 'educational institution' has the same meaning provided in section 1652(c) of this title.

"(4) The term 'program of education' has the same meaning provided in section 1652(b) of this title.

"(5) The term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the Reserve components of the Armed Forces, as required to be maintained under section 268(b) of title 10.

"(6) The term 'supplemental educational assistance' means educational assistance provided under subchapter III of this chapter.

"SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

"§ 1411. Entitlement to basic educational assistance for active duty service

"(a) Except as provided in subsection (b) of this section, an individual shall be entitled to basic educational assistance under this chapter if such individual—

"(1) after the effective date—

"(A) serves at least three years of continuous active duty in the Armed Forces, or

"(B) serves at least two years of continuous active duty in the Armed Forces and agrees to serve at least four years in a Reserve component of the Armed Forces after service on active duty;

"(2) before completion of the active-duty service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate); and

"(3) upon completion of the active-duty service described in clause (1) of this subsection—

"(A) is discharged from such service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

"(B) continues on active duty; or

"(C) is released from active duty for further service in a Reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

"(b) An individual who receives a commission as an officer in the Armed Forces upon graduation from one of the service academies or upon completion of a program of educational assistance under section 2107 of title 10 is not entitled to basic educational assistance under this section.

"(c) For the purposes of subsection (a)(3)(A) of this section, an individual who, upon completion of such individual's full period of obligated service or upon such individual's discharge under section 1173 of title 10, has received a general discharge shall be deemed to have been discharged with an honorable discharge if the Administrator determines that such individual's discharge was under conditions other than dishonorable.

"(d) Except as provided in subsection (b) of this section, an individual who has not yet become entitled to basic educational assistance under this chapter pursuant to subsection (a)(1)(A) of this section and who—

"(1) after the effective date serves at least two years of continuous active duty in the Armed Forces; and

"(2) before completion of the service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate),

shall be entitled to such assistance while such individual is serving a year of active duty that, when completed, will result in such individual meeting the length and continuity-of-service requirement of subsection (a)(1)(A) of this section.

"§ 1412. Entitlement to basic educational assistance for service in the Selected Reserve

"(a) Subject to subsection (b) of this section and except as provided in subsection (c) of this section, an individual shall be entitled to basic educational assistance under this chapter if such individual—

"(1) after the effective date serves—

"(A) in any order (i) at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service, and (ii) at least four years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned; or

"(B) at least six years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned;

"(2) before completion of the duty or service described in clause (1)(A)(i) or (B) of this subsection, has received a secondary school diploma (or an equivalency certificate); and

"(3) upon completion of the duty or service described in clause (1) of this subsection—

"(A) is discharged with an honorable discharge, is placed on the retired list, or is transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service; or

"(B) is ordered to or continues to serve on active duty or enters or continues to serve in the Selected Reserve.

"(b) For the purposes of clause (1) of subsection (a) of this section, the continuity of service of a member in the Selected Reserve shall not be considered to be broken—

"(1) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is unable to locate a unit of a Selected Reserve that such member is eligible to join that has a vacancy;

"(2) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned under regulations such Secretary shall prescribe) during which the member is not assigned to a unit of a Selected Reserve and which the Secretary concerned, pursuant to regulations which such Secretary shall prescribe, determines should not be considered for the purpose of ensuring continuity of service; or

"(3) by any period of time during which such member serves on active duty.

"(c) An individual who receives a commission as an officer in the Armed Forces upon graduation from one of the service academies or upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section.

"(d) For the purposes of subsections (a)(3)(A) and (e) of this section, an individual who, upon completion of such individual's full period of obligated service or upon such individual's discharge under section 1173 of title 10, has received a general discharge shall be deemed to have been discharged with an honorable discharge if the Administrator determines that such individual's discharge was under conditions other than dishonorable.

"(e) Subject to subsection (b) of this section and except as provided in subsection (c) of this section, an individual who has not yet become entitled to basic educational assistance under this chapter by virtue of subsection (a) of this section and who—

"(1) after the effective date serves two years of continuous active duty in the Armed Forces or two years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned, or serves any combination of such types of service and the combined service equals at least two years of continuous service;

"(2) before completion of such two years of service has received a secondary school diploma (or an equivalency certificate); and

"(3) following completion of such two years of service has not been discharged or released from such service with a discharge other than honorable discharge or a characterization of such service by the Secretary concerned as other than honorable service,

shall be entitled to basic educational assistance under this chapter while such individual continues to serve either (A) on active duty, or (B) on continuous duty in the Selected Reserve, during which the individual participates satisfactorily in training as required by the Secretary concerned.

"§ 1413. Duration of basic educational assistance

"(a) Subject to section 1795 of this title and subsection (b) of this section, each individual entitled to basic educational assistance under this chapter is entitled to (1) one month of educational assistance benefits under this chapter for each month of active duty served by such individual after the effective date, and (2) one month of educational assistance benefits under this chapter for each three months served by such individual in the Selected Reserve after the effective date.

"(b) An individual may not receive basic educational assistance benefits under this chapter for a period in excess of thirty-six months (or the equivalent thereof in part-time educational assistance).

"§ 1414. Payment of basic educational assistance allowance

"(a) The Administrator shall pay to each individual entitled to basic educational assistance under this chapter who is pursuing an approved program of education under this chapter a basic educational assistance allowance pursuant to this section to help meet, in part, the cost of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational expenses.

"(b) A basic educational assistance allowance under this subchapter shall be paid—

"(1) at the monthly rate of $300 for an approved program of education pursued on a full-time basis; or

"(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

"SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

"§ 1421. Entitlement to supplemental educational assistance

"An individual who has established entitlement to basic educational assistance under subchapter II of this chapter by completing three years of continuous active duty after the effective date shall be entitled to supplemental educational assistance under this subchapter if such individual—

"(1) has been determined by the Secretary concerned to be serving in a category of personnel designated under section 1422 of this title;

"(2) has completed an additional three years of continuous active duty in such category; and

"(3)(i) has been honorably discharged or released herefrom, or (ii) is serving on active duty.

"§ 1422. Determinations of designated personnel categories

"In order to obtain or retain the services of sufficient numbers of personnel in specified skills, the Secretary concerned may designate, in accordance with regulations which the Secretary of Defense shall prescribe, categories of personnel for the purposes of section 1421(2) of this title.

"§ 1423. Payment of supplemental educational assistance allowance

"(a) The Administrator shall pay to each individual entitled to supplemental educational assistance under this chapter, who is pursuing an approved program of education under this chapter supplemental educational assistance pursuant to this section to help meet, in part, the costs of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational expenses.

"(b) A supplemental educational assistance allowance under this subchapter shall be paid to an individual entitled thereto—

"(1) concurrently with the payment of the basic educational assistance allowance paid to such individual under subchapter II of this chapter; and

"(2)(A) at the monthly rate of $300 for an approved program of education pursued on a full-time basis, or (B) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

"SUBCHAPTER IV—ADDITIONAL RECRUITMENT AND RETENTION INCENTIVES

"§ 1431. Additional amounts of assistance

"Subject to the availability of funds appropriated specifically for the purposes of this section, the Secretary concerned may, in accordance with regulations which the Secretary of Defense may prescribe to implement this section, increase the rate or rates of basic or supplemental educational assistance allowance, or both such allowances, payable to an individual on account of active duty service performed in a category of personnel designated under section 1422 of this title if (1) the Secretary concerned determines such action is necessary and appropriate in order to obtain or retain the services of sufficient numbers of qualified active duty personnel in such designated category of personnel, and (2) such action is approved by the Secretary of Defense. In no event may the amount by which such rates are increased under this section exceed $300 a month in the case of any individual.

"SUBCHAPTER V—GENERAL AND ADMINISTRATIVE PROVISIONS

"§ 1441. Expiration of periods during which entitlement may be used

"(a) Except as provided in subsections (b) and (c) of this section, the period during which an individual may use such individual's entitlement to educational assistance under this chapter expires at the end of the ten-year period beginning on the later of—

"(1) the date of such individual's last discharge or release from active duty; or

"(2) the last date on which such individual becomes entitled to any such assistance.

"(b) In the case of an individual who, subsequent to such individual's last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, the ten-year period described in subsection (a) of this section shall not run (1) while such individual is so detained, or (2) during any period immediately following such individual's release from such detention during which such individual is hospitalized.

"(c)(1) In the case of any individual—

"(A) who was prevented from pursuing such individual's chosen program of education prior to the expiration of the ten-year period described in subsection (a) of this section because of a physical or mental disability (not including a condition described in paragraph (2)(A) of this section) which was not the result of such individual's own willful misconduct; and

"(B) who applies for an extension of such ten-year period within one year after (i) the last day of such period, or (ii) the last day on which such individual was so prevented from pursuing such program, whichever is later.

such ten-year period shall not run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such ten-year period will again begin running on the first day following such individual's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(2)(A) A condition referred to in paragraph (1)(A) of this subsection and in subparagraph (B) of this paragraph is an alcohol or drug dependence or abuse condition of an individual in a case in which it is determined, under regulations which the Administrator shall prescribe that—

"(i) such individual (I) has received recognized treatment for such condition, or II has participated in a program of rehabilitation for such condition; and

"(ii) such condition is sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter.

"(B) In the case of any individual—

"(i) who was prevented from pursuing such individual's chosen program of education prior to the expiration of the ten-year period described in subsection (a) of this section because of a condition described in subparagraph (A) of this paragraph; and

"(ii) who applies for an extension of such ten-year period within one year after (I) the last date of the ten-year period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest,

such ten-year period shall not, subject to subparagraph (C) of this paragraph, run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such ten-year period will again begin running on the first day, following such condition becoming sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulation, for such individual to initiate or resume pursuit of a program of education with education assistance under this chapter.

"(C) An extension of the applicable ten-year period because of such condition shall be limited to the period of time the individual was receiving treatment or the period of time the individual was participating in a program of rehabilitation for such condition plus such additional length of time as the individual demonstrates, to the satisfaction of the Administrator, that the individual was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than four years.

"§ 1442. Suspension of educational assistance

"(a) The Administrator shall suspend the payment of educational assistance allowance under this chapter in the case of any individual who is assigned to a Reserve component of the Armed Forces in connection with establishing entitlement to educational assistance under this chapter and with respect to whom a certification has been received from the Secretary concerned stating that such individual is failing to serve satisfactorily in such Reserve component.

"(b) Unless the individual is no longer entitled to such assistance by reason of a provision of law other than subsection (a) of this section, the payment of such assistance shall be reinstated upon receipt of certification from the Secretary concerned that such individual is serving satisfactorily as a member of such Reserve component.

"§ 1443. Exclusion of certain service for purpose of earning entitlement; bar to duplication of benefits

"(a) For the purposes of this chapter, the term 'active duty' does not include any period during which an individual (1) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (2) served as a cadet or midshipmen at one of the service academies, or (3) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

"(b) A period of service counted for purposes of repayment under section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note), of an education loan may not also be counted for purposes of entitlement to educational assistance under this chapter.

"(c) An individual entitled to educational assistance under a program established by this chapter who is also eligible for educational assistance under a program under chapter 31, 32, 34, 35, or 36 of this title or under chapter 106 or 107 of title 10 may not receive assistance under both programs concurrently but shall elect (in such form and manner as the Administrator shall prescribe) under which program to receive educational assistance.

"§ 1444. Extension to permit completion of term

"(a) If an individual is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period during which such individual may use such individual's entitlement under this chapter would, under section 1441 of this title, expire during a quarter or semester, such period shall be extended to the termination of such quarter or semester.

"(b) If an individual is enrolled under this chapter in an educational institution not regularly operated on the quarter or semester system and the period during which such individual may use such individual's entitlement under this chapter would, under section 1441 of this title, expire after a major portion of the course is completed, such period shall be extended to the end of the course or for twelve weeks, whichever is the lesser period of extension.

"§ 1445. Program requirements

"Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, and 1683 of this title and the provisions of chapter 36 of this title, with the exception of sections 1777, 1780(c), and 1787, shall be applicable to the payment of educational assistance allowances under this chapter.

§ 1446. Appropriations; administrative expenses; budget function

"(a) Payments of educational assistance allowances under this chapter shall be made from appropriations made to the Department of Defense (in the case of service in a military department) or the Department of Transportation (in the case of service in the Coast Guard) and transferred to the Administrator for such purpose.

"(b) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall also transfer to the Administrator such funds as may be necessary to cover all expenses incurred by the Administrator in administering this chapter.

"(c) Transfers under subsections (a) and (b) of this section shall be made in advance, with necessary adjustments from time to time for overpayments and underpayments.

"(d) Appropriations and expenditures made to carry out this chapter shall be considered for budgetary purposes as appropriations and expenditures made for national defense functions.

"§ 1447. Reporting requirements

"(a) The Secretary of Defense and the Administrator, not later than February 1 of the year beginning one year after the effective date and annually thereafter, shall each submit to the Congress reports on the operation of the programs provided for in this chapter and chapter 30 of this title.

"(b) The Secretary shall include in each report submitted under this section—

"(1) information indicating (A) the extent to which the benefit levels provided under such chapters are adequate to achieve the purposes of inducing individuals to enter and remain on active duty in the Armed Forces and to enter and remain in the Selected Reserve and of providing an adequate level of financial assistance to help meet the costs of pursuing a program of education and (B) whether it is necessary for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces and well-qualified personnel in the Selected Reserve, to continue to offer the opportunity for educational assistance under such chapters to individuals who have not yet entered active-duty service; and

"(2) such recommendations for administrative and legislative changes as the Secretary considers appropriate.

"(c) The Administrator shall include in each report submitted under this section—

"(1) information (A) indicating the extent to which the benefit levels provided under such chapters are providing an adequate level of financial assistance to help meet the costs of pursuing a program of education, and (B) concerning the level of utilization of educational assistance and of expenditures under such chapters; and

"(2) such recommendations for administrative and legislative changes as the Administrator considers appropriate.

"CHAPTER 30—CAREER MEMBERS' CONTRIBUTORY EDUCATIONAL ASSISTANCE PROGRAM

"SUBCHAPTER I—DEFINITIONS

"Sec.
"1451. Purpose
"1452. Definitions.

"SUBCHAPTER II—ELIGIBILITY; CONTRIBUTIONS; AND MATCHING FUND

"1461. Eligibility.
"1462. Contributions; matching fund.
"1463. Refunds of contributions.
"1464. Death or participant.
"1465. Discharge or release under conditions which bar the use of benefits.

"SUBCHAPTER III—ENTITLEMENT, TRANSFER, AND DURATION

"1471. Entitlement; payment.
"1472. Transfer of educational benefits.
"1473. Duration; limitations.

"SUBCHAPTER IV—ADMINISTRATION

"1481. Requirements.
"1482. Reports; accounts.
"1483. Administrative expenses; budget function.

"SUBCHAPTER I—DEFINITIONS

"§ 1451. Purposes

"The purposes of this chapter are—

"(1) to establish a contributory educational assistance program to enhance the ability of the Armed Forces to retain on active duty highly qualified men and women; and

"(2) to assist such individuals and their families in obtaining educations that they might not otherwise be able to afford.

"§ 1452. Definitions

"For the purposes of this chapter:

"(1) The term 'active duty' does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

"(2)(A) The term 'eligible person' means any individual who is serving on active duty in the Armed Forces after completing ten years of such active duty.

"(3) The term 'Fund' means the Career Members' Education Account established pursuant to section 1462(a) of this title.

"(4) The term 'participant' means an eligible person who enrolls in the program and makes contributions to the Fund under section 1462(a) of this title.

"(5) The term 'program' means the educational benefits program established by this chapter.

"(6) The term 'program of education' has the same meaning provided in section 1652(b) of this title.

"SUBCHAPTER II—ELIGIBILITY; CONTRIBUTIONS; AND MATCHING FUND

"§ 1461. Eligibility

"(a)(1) An eligible person is entitled to enroll in the program at any time during such person's service on active duty. Except as provided in paragraph (2) of this subsection, when a person elects to enroll in the program, the person must participate for at least twelve consecutive months before such person may suspend participation in the program or disenroll from the program.

"(2) The provisions of paragraph (1) of this subsection which require at least twelve consecutive months of participation in the program before a participant may suspend participation or disenroll do not apply in the case of any participant who (A) suspends participation or disenrolls because of personal hardship, as defined in regulations issued jointly by the Administrator and the Secretary of Defense, or (B) is discharged or released from active duty.

"(b) A participant shall be permitted to suspend participation or disenroll from the program at the end of any twelve-consecutive-month period of participation. If participation is suspended, the participant shall be eligible to make additional contributions to the program under such terms and conditions as shall be prescribed in regulations issued jointly by the Administrator and the Secretary of Defense.

"(c)(1) Except as provided in paragraph (2) of this subsection, if a participant disenrolls from the program, the participant forfeits any entitlement to benefits under the program. A participant who disenrolls from the program is eligible for a refund of contributions as provided in section 1463 of this title.

"(2) A participant who has disenrolled may be permitted to reenroll in the program under such conditions as shall be prescribed in regulations issued jointly by the Administrator and the Secretary of Defense.

"§ 1462. Contributions; matching fund

"(a) Each eligible person enrolling in the program shall agree to have a monthly deduction made from such person's military pay. Such a monthly deduction shall be in any amount not less than $25 nor more than $100 except that the amount must be divisible by five. Any such amount so contributed by the participant and any amount contributed by the Secretary concerned pursuant to subsections (b) and (c) of this section shall be deposited in a deposit fund account which shall be established in the Treasury and shall be known as the 'Career Members' Education Account.' Contributions made by a participant shall be limited to a maximum of $6,000.

"(b) Except as provided in subsection (c) of this section, the Secretary concerned shall deposit in the Fund to the credit of a participant $2 for each $1 contributed by such participant under subsection (a) of this section. Deposits for the first twenty-four months of participation shall be made in the twenty-fifth month after the date on which the first contribution is made by such participant and periodically thereafter.

"(c) Pursuant to regulations which the Secretary of Defense many prescribe, the Secretary concerned may deposit in the Fund to the credit of a participant such amounts in addition to the matching funds deposited under subsection (b) of this section as the Secretary concerned considers necessary or appropriate to encourage persons to remain on active duty in the Armed Forces.

"§ 1463. Refunds of contributions

"(a) Contributions made to the program by a participant may be refunded only after the participant has disenrolled from the program or as provided in section 1464 of this title.

"(b)(1) If a participant disenrolls from the program before discharge or release from active duty, such participant's contributions shall be refunded not later than sixty days after the date on which the Administrator receives notice from the Secretary concerned of such participant's disenrollment.

"(2) If a participant disenrolls from the program after discharge or release from active duty, the participant's contributions shall be refunded not later than sixty days after the date on which the Administrator receives such participant's application for a refund.

"§ 1464. Death of participant

"In the event of a participant's death, the amount of the unused contributions deposited in the Fund to the credit of such participant under section 1462 of this title shall be paid to the living person or persons first listed below:

"(1) The beneficiary or beneficiaries designated by such participant under the participant's Servicemen's Group Life Insurance policy.

"(2) The surviving spouse of the participant.

"(3) The surviving children of the participant, in equal shares.

"(4) The surviving parents of the participant, in equal shares.

If there is no such person living, such amount shall be paid to the participant's estate.

"§ 1465. Discharge or release under conditions which bar the use of benefits

"If a participant is discharged from active duty with other than an honorable discharge or released from active duty after service on active duty characterized by the Secretary concerned as other than honorable service, the participant is automatically disenrolled from the program and any contributions made by the participant under section 1462(a) of this title shall be refunded to the participant not later than sixty days after the date on which the Administrator receives notice from the Secretary concerned of such discharge or release.

"SUBCHAPTER III—ENTITLEMENT, TRANSFER, AND DURATION

§ 1471. Entitlement; payment

"(a)(1) A participant shall be paid educational assistance in accordance with the provisions of this subchapter.

"(2) a participant shall be entitled to a maximum of thirty-six monthly educational assistance payments (or their equivalent in part-time payments) in addition to any amounts payable in the case of such participant under chapters 29, 31, 32, 34, 35, or 36 of this title.

"(b) Payment of educational assistance under this chapter shall not be made in the case of a participant who is serving on active duty until such participant has participated in the program for at least twenty-four months.

"(c)(1) The number of months of a participant's entitlement shall be the lesser of thirty-six or the number equal to the number of months in which the participant made contributions under section 1462(a) of this title.

"(2) The amount of educational assistance to which a participant is entitled under this section in any month is equal to the excess of—

"(A) the sum of all amounts deposited in the Fund to the credit of such participant under section 1462 of this title before such month, over

"(B) the total amount of such benefits paid out of the Fund under this chapter in the case of such participant before such month,

divided by the number of months of unused entitlement remaining in the case of such participant on the day before the date on which the payment of benefits for such month is made.

"(d) Payment of educational assistance under this chapter in the case of any participant may be made only for periods of time during which such participant or transferee under section 1472 of this title is actually enrolled in and pursuing an approved program of education.

"§ 1472. Transfer of educational benefits

"(a) A participant may transfer any portion of such participant's entitlement to educational assistance payments under section 1471 of this title to such participant's spouse or child (in this chapter referred to as a 'transferee'). A participant may revoke a transfer made under this subsection at any time.

"(b) Any transfer or revocation of entitlement under subsection (a) of this section shall be made in accordance with regulations prescribed by the Secretary of Defense.

"(c) Notwithstanding any other provision of this chapter, educational assistance may not be paid under this chapter to a person divorced from the participant on whose service the person's entitlement is based.

"§ 1473. Duration; limitations

"(a) Educational assistance under this chapter may not be paid to or transferred by a participant at any time more than ten years after the date of such participant's last discharge or release from active duty.

"(b) Educational assistance under this chapter may not be paid to a transferee at any time after the later of (1) the date ten years after the date on which benefits were transferred to the transferee, or (2) the date on which the transferee attains twenty-nine years of age.

"(c) In the event that a participant or transferee has not utilized any or all of such participant's entitlement by the end of the applicable period provided for under subsection (a) or (b) of this section, such participant is automatically disenrolled from the program and any contributions made by such participant remaining in the fund shall be refunded to the participant following notice to such participant and an application by such participant for such refund. If no application is received within one year from the date of such notice, it shall be presumed for the purposes of section 1322 of title 31 that the participant's whereabouts are unknown and the funds shall be transferred as directed in subsection (a) of such section.

"SUBCHAPTER IV—ADMINISTRATION

"§ 1481. Requirements

"The provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, and 1683 of this title and the provisions of chapter 36 of this title with the exception of sections 1777, 1780(c), and 1787, shall be applicable to the payment of educational assistance under this chapter. For the purpose of such provisions, transferees shall be considered to be eligible veterans.

"§ 1482. Reports; accounts

"(a) the Secretary of Defense shall submit to the Administrator a report each month showing the name, service number, and amount of the deduction made from the military pay of each participant enrolling in that month, any contribution made by the Secretary concerned under section 1462(c) of this title, and any change in each participant's enrollment or contribution. The report shall also include any additional information the Administrator and the Secretary of Defense consider necessary for the administration of the program.

"(b) The Administrator shall maintain accounts showing contributions made to the Fund by individual participants and by the Secretary concerned as well as disbursements made from the Fund in the form of payments or contributions withdrawn.

"§ 1483. Administrative expenses; budget function

"(a)(1) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall transfer to the Administrator such funds as may be necessary to cover all expenses incurred by the Administrator in administering this chapter.

"(2) Transfers under paragraph (1) of this subsection shall be made in advance, with necessary adjustments from time to time for overpayments and underpayments.

"(b) Appropriations and expenditures made to carry out this chapter shall be considered for budgetary purposes as appropriations and expenditures made for national defense functions.".

(b) The tables of chapters at the beginning of such title and at the beginning of part III of such title are each amended by inserting before the item relating to chapter 31 the following new items:

"29. Peacetime Veterans' Educational Assistance Program..... 1401
"30. Career Members' Contributory Educational Assistance Program . 1451".

COORDINATION WITH OTHER VETERANS' EDUCATION AND TRAINING PROGRAMS

SEC. 403. (a) Section 1508(f)(1) of title 38, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting "29 or" before "34" the first place it appears; and

(B) by striking out "chapter 34" the second place it appears and inserting in lieu thereof "either chapter 29 or chapter 34"; and

(2) in subparagraph (B), by inserting "29 or" before "34".

(b) Section 1623 of such title is amended by adding at the end the following new subsection:

"(e) If a participant becomes entitled to educational assistance under chapter 29 of this title, the participant may elect to disenroll from the program under this chapter effective on the first day of the month in which the participant becomes entitled to such assistance.".

(c) The third sentence of section 1673(d) of such title is amended by inserting "29," after "chapter" the second time it appears.

(d)(1) Section 1781 of such title is amended—

(A) by inserting "29," after "chapter" the first time it appears;

(B) by striking out "36," and inserting in lieu thereof "36 of this title or chapter 106 or 107 of title 10,"; and

(C) by striking out the comma after "chapter 31".

(2) Section 1795(a) of such title is amended—

(A) in clause (4), by inserting "29," after "chapters"; and

(B) by inserting after clause (4) the following new clause;

"(5) chapters 106 and 107 of title 10;".

EDUCATIONAL LEAVE OF ABSENCE FOR ENLISTED MEMBERS OF THE ARMED FORCES

SEC. 404. (a) Chapter 40 of title 10, United States Code, relating to leave, is amended by adding at the end thereof the following new section:

"§ 708. Educational leave of absence

"(a) Under such regulations as the Secretary of Defense shall prescribe after consultation with the Secretary of Transportation and subject to subsection (b), the Secretary concerned may grant to any eligible member (as defined in subsection (e)) a leave of absence for a period of not to exceed two years for the purpose of permitting such member to pursue a program of education.

"(b)(1) A member may not be granted a leave of absence under this section unless—

"(A) in the case of an enlisted member, the member agrees in writing to extend the member's current enlistment after completion (or other termination) of the program of education for which the leave of absence was granted for a period of two months for each month of the period of the leave of absence; and

"(B) in the case of an officer, the member agrees to serve on active duty after completion (or other termination) of the program of education for which the leave of absence was granted for a period (in addition to any other period of obligated service on active duty) of two months for each month of the period of the leave of absence.

"(2) A member may not be granted a leave of absence under this section until such member has completed any extension of enlistment or reenlistment, or any period of obligated service, incurred by reason of any previous leave of absence.

"(c)(1) While on a leave of absence under this section, a member shall be paid basic pay but may not be paid basic allowance for quarters or basic allowance for subsistence or any other pay and allowances to which the member would otherwise be entitled for such period.

"(2) A period during which a member is on a leave of absence under this section shall be counted for the purposes of computing the amount of a member's basic pay, for the purpose of determining the member's eligibility for retired pay, and for the purpose of time in grade for promotion purposes, but may not be counted for the purpose of completion of the term of enlistment of the member (in the case of an enlisted member).

"(d)(1) In time of war, or of national emergency declared by the President or the Congress, the Secretary concerned may cancel any leave of absence granted under this section.

"(2) The Secretary concerned may cancel a leave of absence granted to a member under this section if the Secretary determines that the member is not satisfactorily pursuing the program of education for which the leave was granted.

"(e) In this section, 'eligible member' means a member of the Armed Forces on active duty who is eligible for basic educational assistance under chapter 29 of title 38 and who—

"(1) in the case of an enlisted member, has completed at least one term of enlistment and has reenlisted; and

"(2) in the case of an officer, has completed the officer's initial period of obligated service on active duty.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"708. Educational leave of absence.".

PRESEPARATION COUNSELING

SEC. 405. (a) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1043. Preseparation counseling requirement

"Effective not later than two years after the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act, upon the discharge or release from active duty of a member of the Armed Forces, the Secretary concerned shall provide for individual counseling of that member. That counseling shall include a discussion of the educational assistance benefits to which the member is entitled because of the member's service in the Armed Forces and an explanation of the procedures for an advantages of affiliating with the Selected Reserve. A notation of the provision of such counseling, signed by the member, shall be placed in the service record of each member receiving such counseling.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1043. Preseparation counseling requirement.".

TERMINATION OF RIGHT TO ENROLL IN CHAPTER 32 PROGRAM

SEC. 406. Section 408(a) of the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94-502, 90 Stat. 2383, 2397) is amended—

(1) by (A) striking out "(1)" ' and

(2) striking out all after "Act) after" and inserting in lieu thereof "the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act".

SEC. 407. (a) The amendments made by section 406 shall take effect on October 1, 1984.

(b)(1) Except as provided in paragraph (2), the amendments made by sections 402 through 405 shall take effect on September 30, 1985.

(2)(A)(i) Such amendments shall take effect on October 1, 1986, if the President—

(I) upon the recommendation of the Secretary of Defense, makes a determination in accordance with subparagraph (B) that it is in the national interest of the United States for the effective date of such amendments to be postponed until such date; and

(II) not less than ninety days prior to such date, has submitted to the Committees on Armed Services, on Veterans' Affairs, and on Appropriations of the House of Representatives and the Senate written notice of the President's determination, together with a report explaining the justification for it.

(ii) Such amendments shall take effect on October 1, 1987, if—

(I) the effective date of such amendments was postponed pursuant to division (i) of this subparagraph;

(II) the President, upon the recommendation of the Secretary of Defense, makes a determination in accordance with subparagraph (B) that it is in the national interest of the United States for the effective date of such amendments to be postponed until such date; and

(III) the President, not less than ninety days prior to such date, has submitted to the Committees on Armed Services, on Veterans' Affairs, and on Appropriations of the House of Representatives and the Senate written notice of the President's determination, together with a report explaining the justification for it.

(B) In making a determination pursuant to subparagraph (A), the President shall take into account—

(i) the projected costs of carrying out the programs of educational assistance for men and women in the Armed Forces that would be established under chapters 29 and 30 of title 38, United States Code (as added by section 402(a)),

(ii) the Armed Forces' recruitment and retention experiences in the preceding fiscal year and projected recruitment and retention performances for the fiscal year in which such determination is made and the next four fiscal years, and

(iii) other alternatives and their projected costs to enhance such recruitment and retention.

(C) Prior to making a recommendation under subparagraph (A), the Secretary of Defense shall consult with the Administrator of Veterans' Affairs and obtain and review the recommendations of the Secretaries of the military departments in terms of the considerations specified in subparagraph (B).

FUNDING

SEC. 408. (a) During the first fiscal year in which payments of educational assistance are to be made under chapter 29 of title 38, United States Code (as added by section 2(a)), such payments shall be made from funds in the Veterans' Administration readjustment benefits accounts to the extent that funds sufficient for making such payments are not available for transfer to the Administrator of Veterans' Affairs pursuant to section 1446(a) of such title (as so added).

(b) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall transfer to the Administrator of Veterans' Affairs for deposit in such account funds sufficient to reimburse the Administrator for payments made from such account pursuant to paragraph (1).

MOYNIHAN AMENDMENT NO. 3190

Mr. MOYNIHAN submitted an amendment intended to be proposed by him to the bill S. 2723, supra, as follows:

Strike out Section 103(c), and renumber the remaining sections accordingly.

At the end of the bill, add the following new section:

SEC. —. (a) Notwithstanding any other provision of this or any other Act, no funds authorized to be appropriated under this Act shall be obligated or expended for the deployment of an MX missile;

(b) It is the sense of the Congress that efforts to modernize the land-based strategic force should be focused on a small, mobile single-warhead inter-continental ballistic missile.

ARMSTRONG (AND OTHERS) AMENDMENT NO. 3191

Mr. ARMSTRONG (for himself, Mr. COHEN, Mr. HOLLINGS, Mr. MATSUNAGA, Mr. CRANSTON, Mr. KENNEDY, Mr. HUDDLESTON, Mr. PRESSLER, Mr. FORD, Mr. INOUYE, Mr. KASTEN, Mr. BRADLEY, Mrs. HAWKINS, Mr. HART, Mr. DECONCINI, Mr. MITCHELL, and Mr. TRIBLE) proposed an amendment to amendment No. 3179 proposed by Mr. GLENN to the bill S. 2723, supra; as follows:

The amendment of Mr. Glenn (Amendment No. 3179) is amended by striking out all after "NEW" on page 1, line 3, through the end of such amendment and inserting in lieu thereof the following:

TITLE IV—VETERANS' EDUCATIONAL ASSISTANCE AMENDMENTS

SHORT TITLE

SEC. 401. This title may be cited as the "Peacetime Veterans' Educational Assistance Act".

NEW EDUCATIONAL ASSISTANCE PROGRAMS

SEC. 402. (a) Title 38, United States Code, is amended by inserting before chapter 31 the following new chapters:

"CHAPTER 29—PEACETIME VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

"SUBCHAPTER I—PURPOSES; DEFINITIONS

"Sec.
"1401. Purposes.
"1402. Definitions.

"SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

"1411. Entitlement to basic educational assistance for active duty service.
"1412. Entitlement to basic educational assistance for service in the Selected Reserve.
"1413. Duration of basic educational assistance.
"1414. Payment of basic educational assistance allowance.

"SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

"1421. Entitlement to supplemental educational assistance.
"1422. Determination of designated personnel categories.
"1423. Payment of supplemental educational assistance allowance.

"SUBCHAPTER IV—ADDITIONAL RECRUITMENT AND RETENTION INCENTIVES

"1431. Additional amounts of assistance.

"SUBCHAPTER V—GENERAL AND ADMINISTRATIVE PROVISIONS

"1441. Expiration of periods during which entitlement may be used.
"1442. Suspension of educational assistance.
"1443. Exclusion of certain service for purpose of earning entitlement; bar to duplication of benefits.
"1444. Extension to permit completion of term.
"1445. Program requirements.
"1446. Appropriations; administrative expenses; budget function.
"1447. Reporting requirements.

"SUBCHAPTER I—PURPOSES; DEFINITIONS

"§ 1401. Purposes

"The purposes of this chapter are—

"(1) to promote and assist the total force concept of the Armed Forces by establishing a new program of educational assistance to aid in the recruitment and retention of highly qualified personnel for both the Active and Reserve components of the Armed Forces; and

"(2) to assist such personnel in obtaining an education that they might not otherwise be able to afford.

"§ 1402. Definitions

"For the purposes of this chapter:

"(1) The term 'basic educational assistance' means educational assistance provided under subchapter II of this chapter.

"(2) The term 'effective date' means the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act.

"(3) The term 'educational institution' has the same meaning provided in section 1652(c) of this title.

"(4) The term 'program of education' has the same meaning provided in section 1652(b) of this title.

"(5) The term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the Reserve components of the Armed Forces, as required to be maintained under section 268(b) of title 10.

"(6) The term 'supplemental educational assistance' means educational assistance provided under subchapter III of this chapter.

"SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

"§ 1411. Entitlement to basic educational assistance for active duty service

"(a) Except as provided in subsection (b) of this section, an individual shall be entitled to basic educational assistance under this chapter if such individual—

"(1) after the effective date—

"(A) serves at least three years of continuous active duty in the Armed Forces, or

"(B) serves at least two years of continuous active duty in the Armed Forces and agrees to serve at least four years in a Reserve component of the Armed Forces after service on active duty;

"(2) before completion of the active-duty service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate); and

"(3) upon completion of the active-duty service described in clause (1) of this subsection—

"(A) is discharged from such service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

"(B) continues on active duty; or

"(C) is released from active duty for further service in a Reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

"(b) An individual who receives a commission as an officer in the Armed Forces upon graduation from one of the service academies or upon completion of a program of educational assistance under section 2107 of title 10 is not entitled to basic educational assistance under this section.

"(c) For purposes of subsection (a)(3)(A) of this section, an individual who, upon completion of such individual's full period of obligated service or upon such individual's discharge under section 1173 of title 10, has received a general discharge shall be deemed to have been discharged with an honorable discharge if the Administrator determines that such individual's discharge was under conditions other than dishonorable.

"(d) Except as provided in subsection (b) of this section, an individual who has not yet become entitled to basic educational assistance under this chapter pursuant to subsection (a)(1)(A) of this section and who—

"(1) after the effective date serves at least two years of continuous active duty in the Armed Forces; and

"(2) before completion of the service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate),

shall be entitled to such assistance while such individual is serving a year of active duty that, when completed, will result in such individual meeting the length and continuity-of-service requirement of subsection (a)(1)(A) of this section.

"§ 1412. Entitlement of basic educational assistance for service in the Selected Reserve

"(a) Subject to subsection (b) of this section and except as provided in subsection (c) of this section, an individual shall be entitled to basic educational assistance under this chapter if such individual—

"(1) after the effective date serves—

"(A) in any order (i) at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service, and (ii) at least four years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned; or

"(B) at least six years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned;

"(2) before completion of the duty or service described in clause (1) (A)(i) or (B) of this subsection, has received a secondary school diploma (or an equivalency certificate); and

"(3) upon completion of the duty or service described in clause (1) of this subsection—

"(A) is discharged with an honorable discharge, is placed on the retired list, or is transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service; or

"(B) is ordered to or continues to serve on active duty or enters or continues to serve in the Selected Reserve.

"(b) For the purposes of clause (1) of subsection (a) of this section, the continuity of service of a member in the Selected Reserve shall not be considered to be broken—

"(1) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member if unable to locate a unit of a Selected Reserve that such member is eligible to join that has a vacancy;

"(2) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned under regulations such Secretary shall prescribe) during which the member is not assigned to a unit of a Selected Reserve and which the Secretary concerned, pursuant to regulations which such Secretary shall prescribe, determines should not be considered for the purpose of ensuring continuity of service; or

"(3) by any period of time during which such member serves on active duty.

"(c) An individual who receives a commission as an officer in the Armed Forces upon graduation from one of the service academies or upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section.

"(d) For the purposes of subsection (a)(3)(A) and (e) of this section, an individual who, upon completion of such individual's full period of obligated service or upon such individual's discharge under section 1178 of title 10, has received a general discharge shall be deemed to have been discharged with an honorable discharge if the Administrator determines that such individual's discharge was under conditions other than dishonorable.

"(e) Subject to subsection (b) of this section and except as provided in subsection (c) of this section, an individual who has not yet become entitled to basic educational assistance under this chapter by virtue of subsection (a) of this section and who—

"(1) after the effective date serves two years of continuous active duty in the Armed Forces or two years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned, or serves any combination of such types of service and the combined service equals at least two years of continuous service;

"(2) before completion of such two years of service has received a secondary school diploma (or an equivalency certificate); and

"(3) following completion of such two years of service has not been discharged or released from such service with a discharge other than honorable discharge or a characterization of such service by the Secretary concerned as other than honorable service,

shall be entitled to basic educational assistance under this chapter while such individual continues to serve either (A) on active duty, or (B) on continuous duty in the Selected Reserve, during which the individual participates satisfactorily in training as required by the Secretary concerned.

"§ 1413. Duration of basic educational assistance

"(a) Subject to section 1795 of this title and subsection (b) of this section, each individual entitled to basic educational assistance under this chapter is entitled to (1) one month of educational assistance benefits under this chapter for each month of active duty served by such individual after the effective date, and (2) one month of educational assistance benefits under this chapter for each three months served by such individual in the Selected Reserve after the effective date.

"(b) An individual may not receive basic educational assistance benefits under this chapter for a period in excess of thirty-six months (or the equivalent thereof in part-time educational assistance).

"§ 1414. Payment of basic educational assistance allowance

"(a) The Administrator shall pay to each individual entitled to basic educational assistance under this chapter who is pursuing an approved program of education under this chapter a basic educational assistance allowance pursuant to this section to help meet, in part, the cost of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational expenses.

"(b) A basic educational assistance allowance under this subchapter shall be paid—

"(1) at the monthly rate of $300 for an approved program of education pursued on a full-time basis; or

"(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

"SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

"§ 1421. Entitlement to supplemental educational assistance

"An individual who has established entitlement to basic educational assistance under subchapter II of this chapter by completing three years of continuous active

duty after the effective date shall be entitled to supplemental educational assistance under this subchapter if such individual—

"(1) has been determined by the Secretary concerned to be serving in a category of personnel designated under section 1422 of this title;

"(2) has completed an additional three years of continuous active duty in such category; and

"(3)(i) has been honorably discharged or released therefrom, or (ii) is serving on active duty.

"§ 1422. Determinations of designated personnel categories

"In order to obtain or retain the services of sufficient numbers of personnel in specified skills, the Secretary concerned may designate, in accordance with regulations which the Secretary of Defense shall prescribe, categories of personnel for the purposes of section 1421(2) of this title.

"§ 1423. Payment of supplemental educational assistance allowance

"(a) The Administrator shall pay to each individual entitled to supplemental educational assistance under this chapter who is pursuing an approved program of education under this chapter supplemental educational assistance pursuant to this section to help meet, in part, the costs of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational expenses.

"(b) A supplemental educational assistance allowance under this subchapter shall be paid to an individual entitled thereto—

"(1) concurrently with the payment of the basic educational assistance allowance paid to such individual under subchapter II of this chapter; and

"(2)(A) at the monthly rate of $300 for an approved program of education pursued on a full-time basis, or (B) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

"SUBCHAPTER IV—ADDITIONAL RECRUITMENT AND RETENTION INCENTIVES

"§ 1431. Additional amounts of assistance

"Subject to the availability of funds appropriated specifically for the purposes of this section, the Secretary concerned may, in accordance with regulations which the Secretary of Defense may prescribe to implement this section, increase the rate or rates of basic or supplemental educational assistance allowance, or both such allowances, payable to an individual on account of active duty service performed in a category of personnel designated under section 1422 of this title if (1) the Secretary concerned determines such action is necessary and appropriate in order to obtain or retain the services of sufficient numbers of qualified active duty personnel in such designated category of personnel, and (2) such action is approved by the Secretary of Defense. In no event may the amount by which such rates are increased under this section exceed $300 a month in the case of any individual.

"SUBCHAPTER V—GENERAL AND ADMINISTRATIVE PROVISIONS

"§ 1441. Expiration of periods during which entitlement may be used

"(a) Except as provided in subsections (b) and (c) of this section, the period during which an individual may use such individual's entitlement to educational assistance under this chapter expires at the end of the ten-year period beginning on the later of—

"(1) the date of such individual's last discharge or release from active duty; or

"(2) the last date on which such individual becomes entitled to any such assistance.

"(b) In the case of an individual who, subsequent to such individual's last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, the ten-year period described in subsection (a) of this section shall not run (1) while such individual is so detained, or (2) during any period immediately following such individual's release from such detention during which such individual is hospitalized.

"(c)(1) In the case of any individual—

"(A) who was prevented from pursuing such individual's chosen program of education prior to the expiration of the ten-year period described in subsection (a) of this section because of a physical or mental disability (not including a condition described in paragraph (2)(A) of this section) which was not the result of such individual's own willful misconduct; and

"(B) who applies for an extension of such ten-year period within one year after (i) the last day of such period, or (ii) the last day on which such individual was so prevented from pursuing such program, whichever is later,

such ten-year period shall not run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such ten-year period will again begin running on the first day following such individual's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(2)(A) A condition referred to in paragraph (1)(A) of this subsection and in subparagraph (B) of this paragraph is an alcohol or drug dependence or abuse condition of an individual in a case in which it is determined, under regulations which the Administrator shall prescribe that—

"(i) such individual (I) has received recognized treatment for such condition, or II has participated in a program of rehabilitation for such condition; and

"(ii) such condition is sufficiently under control to enable individual to pursue such individual's chosen program of education under this chapter.

"(B) In the case of any individual—

"(i) who was prevented from pursuing such individual's chosen program of education prior to the expiration of the ten-year period described in subsection (a) of this section because of a condition described in subparagraph (A) of this paragraph; and

"(ii) who applies for an extension of such ten-year period within one year after (I) the last date of the ten-year period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest,

such ten-year period shall not, subject to subparagraph (C) of this paragraph, run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such ten-year period will again begin running on the first day, following such condition becoming sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such individual to initiate or resume pursuit of a program of education with education assistance under this chapter.

"(C) An extension of the applicable ten-year period because of such condition shall be limited to the period of time the individual was receiving treatment or the period of time the individual was participating in a program of rehabilitation for such condition plus such additional length of time as the individual demonstrates, to the satisfaction of the Administrator, that individual was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than four years.

§ 1442. Suspension of educational assistance

"(a) The Administrator shall suspend the payment of educational assistance allowance under this chapter in the case of any individual who is assigned to a Reserve component of the Armed Forces in connection with establishing entitlement to educational assistance under this chapter and with respect to whom a certification has been received from the Secretary concerned stating that such individual is failing to serve satisfactorily in such Reserve component.

"(b) Unless the individual is no longer entitled to such assistance by reason of a provision of law other than subsection (a) of this section, the payment of such assistance shall be reinstated upon receipt of certification from the Secretary concerned that such individual is serving satisfactorily as a member of such Reserve component.

"§ 1443. Exclusion of certain service for purpose of earning entitlement; bar to duplication of benefits

"(a) For the purposes of this chapter, the term 'active duty' does not include any period during which an individual (1) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (2) served as a cadet or midshipman at one of the service academies, or (3) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

"(b) A period of service counted for purposes of repayment under section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 3141 note), of an education loan may not also be counted for purposes of entitlement to educational assistance under this chapter.

"(c) An individual entitled to educational assistance under a program established by this chapter who is also eligible for educational assistance under a program under chapter 31, 32, 34, 35, or 36 of this title or under chapter 106 or 107 of title 10 may not receive assistance under both programs concurrently but shall elect (in such form and manner as the Administrator shall prescribe) under which program to receive educational assistance.

§ 1444. Extension to permit completion of term

"(a) If an individual is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period during which such in-

dividual may use such individual's entitlement under this chapter would, under section 1441 of this title, expire during a quarter or semester, such period shall be extended to the termination of such quarter or semester.

"(b) If an individual is enrolled under this chapter in an educational institution not regularly operated on the quarter or semester system and the period during which such individual may use such individual's entitlement under this chapter would, under section 1441 of this title, expire after a major portion of the course is completed, such period shall be extended to the end of the course or for twelve weeks, whichever is the lesser period of extension.

"§ 1445. Program requirements

"Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, and 1683 of this title and the provisions of chapter 36 of this title, with the exception of sections 1777, 1780(c), and 1787, shall be applicable to the payment of educational assistance allowances under this chapter.

"§ 1446. Appropriations; administrative expenses; budget function

"(a) Not withstanding any other provision of law, no payments of educational assistance allowances under this chapter shall be made except from appropriations made to the Department of Defense (in the case of service in a military department) or the Department of Transportation (in the case of service in the Coast Guard) and transferred to the Administrator for such purpose.

"(b) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall also transfer to the Administrator such funds as may be necessary to cover all expenses incurred by the Administrator in administering this chapter.

"(c) Transfers under subsections (a) and (b) of this section shall be made in advance, with necessary adjustments from time to time for overpayments and underpayments.

"(d) Appropriations and expenditures made to carry out this chapter shall be considered for budgetary purposes as appropriations and expenditures made for national defense functions.

"§ 1447. Reporting requirements

"(a) The Secretary of Defense and the Administrator, not later than February 1 of the year beginning one year after the effective date and annually thereafter, shall each submit to the Congress reports on the operation of the programs provided for in this chapter and chapter 30 of this title.

"(b) The Secretary shall include in each report submitted under this section—

"(1) information indicating (A) the extent to which the benefit levels provided under such chapters are adequate to achieve the purposes of inducing individuals to enter and remain on active duty in the Armed Forces and to enter and remain in the Selected Reserve and of providing an adequate level of financial assistance to help meet the costs of pursuing a program of education, and (B) whether it is necessary, for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces and well-qualified personnel in the Selected Reserve, to continue to offer the opportunity for educational assistance under such chapters to individuals who have not yet entered active-duty service; and

"(2) such recommendations for administrative and legislative changes as the Secretary considers appropriate.

"(c) The Administrator shall include in each report submitted under this section—

"(1) information (A) indicating the extent to which the benefit levels provided under such chapters are providing an adequate level of financial assistance to help meet the costs of pursuing a program of education, and (B) concerning the level of utilization of educational assistance and of expenditures under such chapters; and

"(2) such recommendations for administrative and legislative changes as the Administrator considers appropriate.

"CHAPTER 30—CAREER MEMBERS' CONTRIBUTORY EDUCATIONAL ASSISTANCE PROGRAM

"SUBCHAPTER I—DEFINITIONS

"Sec.
"1451. Purpose.
"1452. Definitions.

"SUBCHAPTER II—ELIGIBILITY; CONTRIBUTIONS; AND MATCHING FUND

"1461. Eligibility.
"1462. Contributions; matching fund.
"1463. Refunds of contributions.
"1464. Death of participant.
"1465. Discharge or release under conditions which bar the use of benefits.

"SUBCHAPTER III—ENTITLEMENT, TRANSFER, AND DURATION

"1471. Entitlement; payment.
"1472. Transfer of education benefits.
"1473. Duration; limitations.

"SUBCHAPTER IV—ADMINISTRATION

"1481. Requirements.
"1482. Reports; accounts.
"1483. Administrative expenses; budget function.

"SUBCHAPTER I—DEFINITIONS

"§ 1451. Purposes

"The purposes of this chapter are—

"(1) to establish a contributory educational assistance program to enhance the ability of the Armed Forces to retain on active duty highly qualified men and women; and

"(2) to assist such individuals and their families in obtaining educations that they might not otherwise be able to afford.

"§ 1452. Definitions

"For the purposes of this chapter:

"(1) The term 'active duty' does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

"(2)(A) The term 'eligible person' means any individual who is serving on active duty in the Armed Forces after completing ten years of such active duty.

"(3) The term 'Fund' means the Career Members' Education Account established pursuant to section 1462(a) of this title.

"(4) The term 'participant' means an eligible person who enrolls in the program and makes contributions to the Fund under section 1462(a) of this title.

"(5) The term 'program' means the educational benefits program established by this chapter.

"(6) The term 'program of education' has the same meaning provided in section 1652(b) of this title.

"SUBCHAPTER II—ELIGIBILITY; CONTRIBUTIONS; AND MATCHING FUND

§ 1461. Eligibility

"(a)(1) An eligible person is entitled to enroll in the program at any time during such person's service on active duty. Except as provided in paragraph (2) of this subsection, when a person elects to enroll in the program, the person must participate for at least twelve consecutive months before such person may suspend participation in the program or disenroll from the program.

"(2) The provisions of paragraph (1) of this subsection which require at least twelve consecutive months of participation in the program before a participant may suspend participation or disenroll do not apply in the case of any participant who (A) suspends participation or disenrolls because of personal hardship, as defined in regulations issued jointly by the Administrator and the Secretary of Defense, or (B) is discharged or released from active duty.

"(b) A participant shall be permitted to suspend participation or disenroll from the program at the end of any twelve-consecutive-month period of participant. If participation is suspended, the participant shall be eligible to make additional contributions to the program under such terms and conditions as shall be prescribed in regulations issued jointly by the Administrator and the Secretary of Defense.

"(c)(1) Except as provided in paragraph (2) of this subsection, if a participant disenrolls from the program, the participant forfeits any entitlement to benefits under the program. A participant who disenrolls from the program is eligible for a refund of contributions as provided in section 1463 of this title.

"(2) A participant who has disenrolled may be permitted to reenroll in the program under such conditions as shall be prescribed in regulations issued jointly by the Administrator and the Secretary of Defense.

"§ 1462. Contributions; matching fund

"(a) Each eligible person enrolling in the program shall agree to have a monthly deduction made from such person's military pay. Such a monthly deduction shall be in any amount not less than $25 nor more than $100 except that the amount must be divisible by five. Any such amount so contributed by the participant and any amount contributed by the Secretary concerned pursuant to subsections (b) and (c) of this section shall be deposited in a deposit fund account which shall be established in the Treasury and shall be known as the 'Career Members' Education Account.' Contributions made by a participant shall be limited to a maximum of $6,000.

"(b) Except as provided in subsection (c) of this section, the Secretary concerned shall deposit in the Fund to the credit of a participant $2 for each $1 contributed by such participant under subsection (a) of this section. Deposits for the first twenty-four months of participation shall be made in the twenty-fifth month after the date on which the first contribution is made by such participant and periodically thereafter.

"(c) Pursuant to regulations which the Secretary of Defense may prescribe, the Secretary concerned may deposit in the Fund to the credit of a participant such amounts in addition to the matching funds deposited under subsection (b) of this sec-

tion as the Secretary concerned considers necessary or appropriate to encourage persons to remain on active duty in the Armed Forces.

"§ 1463. Refunds of contributions

"(a) Contributions made to the program by a participant may be refunded only after the participant has disenrolled from the program or as provided in section 1464 of this title.

"(b)(1) If a participant disenrolls from the program before discharge or release from active duty, such participant's contributions shall be refunded not later than sixty days after the date on which the Administrator receives notice from the Secretary concerned of such participant's disenrollment.

"(2) If a participant disenrolls from the program after discharge or release from active duty, the participant's contributions shall be refunded not later than sixty days after the date on which the Administrator receives such participant's application for a refund.

"§ 1464. Death of participant

"In the event of a participant's death, the amount of the unused contributions deposited in the Fund to the credit of such participant under section 1462 of this title shall be paid to the living person or persons first listed below:

"(1) The beneficiary or beneficiaries designated by such participant under the participant's Servicemen's Group Life Insurance policy.

"(2) The surviving spouse of the participant.

"(3) The surviving children of the participant, in equal shares.

"(4) The surviving parents of the participant, in equal shares.

If there is no such person living, such amount shall be paid to the participant's estate.

"§ 1465. Discharge or release under conditions which bar the use of benefits

"If a participant is discharged from active duty with other than an honorable discharge or released from active duty after service on active duty characterized by the Secretary concerned as other than honorable service, the participant is automatically disenrolled from the program and any contributions made by the participant under section 1462(a) of this title shall be refunded to the participant not later than sixty days after the date on which the Administrator receives notice from the Secretary concerned of such discharge or release.

"SUBCHAPTER III—ENTITLEMENT, TRANSFER, AND DURATION

"§ 1471. Entitlement; payment

"(a)(1) A participant shall be paid educational assistance in accordance with the provisions of this subchapter.

"(2) a participant shall be entitled to a maximum of thirty-six monthly educational assistance payments (or their equivalent in part-time payments) in addition to any amounts payable in the case of such participant under chapter 29, 31, 32, 34, 35, or 36 of this title.

"(b) Payment of educational assistance under this chapter shall not be made in the case of a participant who is serving on active duty until such participant has participated in the program for at least twenty-four months.

"(c)(1) The number of months of a participant's entitlement shall be the lesser of thirty-six or the number equal to the number of months in which the participant made contributions under section 1462(a) of this title.

"(2) The amount of educational assistance to which a participant is entitled under this section in any month is equal to the excess of—

"(A) the sum of all amounts deposited in the Fund to the credit of such participant under section 1462 of this title before such month, over

"(B) the total amount of such benefits paid out of the Fund under this chapter in the case of such participant before such month,

divided by the number of months of unused entitlement remaining in the case of such participant on the day before the date on which the payment of benefits for such month is made.

"(d) Payment of educational assistance under this chapter in the case of any participant may be made only for periods of time during which such participant or transferee under section 1472 of this title is actually enrolled in and pursuing an approved program of education.

"§ 1472. Transfer of educational benefits

"(a) A participant may transfer any portion of such participant's entitlement to educational assistance payments under section 1471 of this title to such participant's spouse or child (in this chapter referred to as a 'transferee'). A participant may revoke a transfer made under this subsection at any time.

"(b) Any transfer or revocation of entitlement under subsection (a) of this section shall be made in accordance with regulations prescribed by the Secretary of Defense.

"(c) Notwithstanding any other provision of this chapter, educational assistance may not be paid under this chapter to a person divorced from the participant on whose service the person's entitlement is based.

"§ 1473. Duration; limitations

"(a) Educational assistance under this chapter may not be paid to or transferred by a participant at any time more than ten years after the date of such participant's last discharge or release from active duty.

"(b) Educational assistance under this chapter may not be paid to a transferee at any time after the later of (1) the date ten years after the date on which benefits were transferred to the transferee, or (2) the date on which the transferee attains twenty-nine years of age.

"(c) In the event that a participant or transferee has not utilized any or all of such participant's entitlement by the end of the applicable period provided for under subsection (a) or (b) of this section, such participant is automatically disenrolled from the program and any contributions made by such participant remaining in the fund shall be refunded to the participant following notice to such participant and an application by such participant for such refund. If no application is received within one year from the date of such notice, it shall be presumed for the purposes of section 1322 of title 31 that the participant's whereabouts are unknown and the funds shall be transferred as directed in subsection (a) of such section.

"SUBCHAPTER IV—ADMINISTRATION

"§ 1481. Requirements

"The provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, and 1683 of this title and the provisions of chapter 36 of this title with the exception of sections 1777, 1780(c), and 1787, shall be applicable to the payment of educational assistance under this chapter. For the purpose of such provisions, transferees shall be considered to be eligible veterans.

"§ 1482. Reports; accounts

"(a) The Secretary of Defense shall submit to the Administrator a report each month showing the name, service number, and amount of the deduction made from the military pay of each participant enrolling in that month, any contribution made by the Secretary concerned under section 1462(c) of this title, and any change in each participant's enrollment or contribution. The report shall also include any additional information the Administrator and the Secretary of Defense consider necessary for the administration of the program.

"(b) The Administrator shall maintain accounts showing contributions made to the Fund by individual participants and by the Secretary concerned as well as disbursements made from the Fund in the form of payments or contributions withdrawn.

"§ 1483. Administrative expenses; budget function

"(a)(1) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall transfer to the Administrator such funds as may be necessary to cover all expenses incurred by the Administrator in administering this chapter.

"(2) Transfers under paragraph (1) of this subsection shall be made in advance, with necessary adjustments from time to time for overpayments and underpayments.

"(b) Appropriations and expenditures made to carry out this chapter shall be considered for budgetary purposes as appropriations and expenditures made for national defense functions.".

(b) The tables of chapters at the beginning of such title and at the beginning of part III of such title are each amended by inserting before the item relating to chapter 31 the following new items:

"29. Peacetime Veteran's Educational Assistance Program 1401

"30 Career Members' Contributory Educational Assistance Program . 1451".

COORDINATION WITH OTHER VETERANS' EDUCATION AND TRAINING PROGRAMS

SEC. 403 (a) Section 1508(f)(1) of title 38, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting "29 or" before "34" the first place it appears; and

(B) by striking out "chapter 34" the second place it appears and inserting in lieu thereof "either chapter 29 or chapter 34"; and

(2) in subparagraph (B), by inserting "29 or" before "34".

(b) Section 1623 of such title is amended by adding at the end the following new subsection:

"(e) If a participant becomes entitled to educational assistance under chapter 29 of this title, the participant may elect to disenroll from the program under this chapter effective on the first day of the month in which the participant becomes entitled to such assistance.".

(c) The third sentence of section 1673(d) of such title is amended by inserting "29", after "chapter" the second time it appears.

(d)(1) Section 1781 of such title is amended—

(A) by inserting "29", after "chapter" the first time it appears;

(B) by striking out "36," and inserting in lieu thereof "36 of this title or chapter 106 or 107 of title 10,"; and

(C) by striking out the comma after "chapter 31".

(2) Section 1795(a) of such title is amended—

(A) in clause (4), by inserting "29," after "chapters"; and

(B) by inserting after clause (4) the following new clause:

"(5) chapters 106 and 107 of title 10;".

EDUCATIONAL LEAVE OF ABSENCE FOR ENLISTED MEMBERS OF THE ARMED FORCES

SEC. 404. (a) Chapter 40 of title 10, United States Code, relating to leave, is amended by adding at the end thereof the following new section:

"§ 708. Educational leave of absence

"(a) Under such regulations as the Secretary of Defense shall prescribe after consultation with the Secretary of Transportation and subject to subsection (b), the Secretary concerned may grant to any eligible member (as defined in subsection (e)) a leave of absence for a period of not to exceed two years for the purpose of permitting such member to pursue a program of education.

"(b)(1) A member may not be granted a leave of absence under this section unless—

"(A) in the case of an enlisted member, the member agrees in writing to extend the member's current enlistment after completion (or other termination) of the program of education for which the leave of absence was granted for a period of two months for each month of the period of the leave of absence; and

"(B) in the case of an officer, the member agrees to serve on active duty after completion (or other termination) of the program of education for which the leave of absence was granted for a period (in addition to any other period of obligated service on active duty) of two months for each month of the period of the leave of absence.

"(2) A member may not be granted a leave of absence under this section until such member has completed any extension of enlistment or reenlistment, or any period of obligated service, incurred by reason of any previous leave of absence.

"(c)(1) While on a leave of absence under this section, a member shall be paid basic pay but may not be paid basic allowance for quarters or basic allowance for subsistence or any other pay and allowances to which the member would otherwise be entitled for such period.

"(2) A period during which a member is on a leave of absence under this section shall be counted for the purposes of computing the amount of a member's basic pay, for the purpose of determining the member's eligibility for retired pay, and for the purpose of time in grade for promotion purposes, but may not be counted for the purpose of completion of the term of enlistment of the member (in the case of an enlisted member).

"(d)(1) In time of war, or of national emergency declared by the President or the Congress, the Secretary concerned may cancel any leave of absence granted under this section.

"(2) The Secretary concerned may cancel a leave of absence granted to a member under this section if the Secretary determines that the member is not satisfactorily pursuing the program of education for which the leave was granted.

"(e) In this section, 'eligible member' means a member of the Armed Forces on active duty who is eligible for basic educational assistance under chapter 29 of title 38 and who—

"(1) in the case of an enlisted member, has completed at least one term of enlistment and has reenlisted; and

"(2) in the case of an officer, has completed the officer's initial period of obligated service on active duty.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"708. Educational leave of absence.".

PRESEPARATION COUNSELING

SEC. 405. (a) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1043. Preseparation counseling requirement

"Effective not later than two years after the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act, upon the discharge or release from active duty of a member of the Armed Forces, the Secretary concerned shall provide for individual counseling of that member. That counseling shall include a discussion of the educational assistance benefits to which the member is entitled because of the member's service in the Armed Forces and an explanation of the procedures for and advantages of affiliating with the Selected Reserve. A notation of the provision of such counseling, signed by the member, shall be placed in the service record of each member receiving such counseling.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1043. Preseparation counseling requirement.".

TERMINATION OF RIGHT TO ENROLL IN CHAPTER 32 PROGRAM

SEC. 406. Section 408(a) of the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94-502, 90 Stat. 2383, 2397) is amended—

(1) by (A) striking out "(1)" ' and

(2) striking out all after "Act) after" and inserting in lieu thereof "the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act".

EFFECTIVE DATES

SEC. 407. (a) The amendments made by section 406 shall take effect on October 1, 1984.

(b)(1) Except as provided in paragraph (2), the amendments made by sections 402 through 405 shall take effect on September 30, 1985.

(2)(A)(i) Such amendments shall take effect on October 1, 1986, if the President—

(I) upon the recommendation of the Secretary of Defense, makes a determination in accordance with subparagraph (B) that it is in the national interest of the United States for the effective date of such amendments to be postponed until such date; and

(II) not less than ninety days prior to such date, has submitted to the Committees on Armed Services, on Veterans' Affairs, and on Appropriations of the House of Representatives and the Senate written notice of the President's determination, together with a report explaining the justification for it.

(ii) Such amendments shall take effect on October 1, 1987, if—

(I) the effective date of such amendments was postponed pursuant to division (i) of this subparagraph;

(II) the President, upon the recommendation of the Secretary of Defense, makes a determination in accordance with subparagraph (B) that it is in the national interest of the United States for the effective date of such amendments to be postponed until such date; and

(III) the President, now less than ninety days prior to such date, has submitted to the Committees on Armed Services, on Veterans' Affairs, and on Appropriations of the House of Representatives and the Senate written notice of the President's determination, together with a report explaining the justification for it.

(B) In making a determination pursuant to subparagraph (A), the President shall take into account—

(i) the projected costs of carrying out the programs of educational assistance for men and women in the Armed Forces that would be established under chapters 29 and 30 of title 38, United States Code (as added by section 402(a)),

(ii) the Armed Forces' recruitment and retention experiences in the preceding fiscal year and projected recruitment and retention performances for the fiscal year in which such determination is made and the next four fiscal years, and

(iii) other alternatives and their projected costs to enhance such recruitment and retention.

(C) Prior to making a recommendation under subparagraph (A), the Secretary of Defense shall consult with the Administrator of Veterans' Affairs and obtain and review the recommendations of the Secretaries of the military departments in terms of the considerations specified in subparagraph (B).

FUNDING

SEC. 408. (a) During the first fiscal year in which payments of educational assistance are to be made under chapter 29 of title 38, United States Code (as added by section 2(a)), such payments shall be made from funds in the Veterans' Administration readjustment benefits accounts to the extent that funds sufficient for making such payments are not available for transfer to the Administrator of Veterans' Affairs pursuant to section 1446(a) of such title (as so added).

(b) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall transfer to the Administrator of Veterans' Affairs for deposit in such account funds sufficient to reimburse the Administrator for payments made from such account pursuant to paragraph (1).

APPOINTMENT OF U.S. BANKRUPTCY JUDGES

BAUCUS AMENDMENT NO. 3192

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed to amendment No. 3083, proposed by Mr. THURMOND, to the bill (H.R. 5174), an act to provide for the appointment of U.S. bankruptcy judges under article III of the Constitution, to amend title 11 of the United States Code for the purpose of making certain changes in the personal bankruptcy law, of making certain changes regarding grain storage facilities, and of clarifying the circumstance under which collective-bargaining agreements may be

rejected in cases under chapter 11, and for other purposes, as follows:

On page 65, line 15, after "427." insert "(a)".

On page 65, between lines 17 and 18, insert the following:

(b) Section 303(h) of title 11 of the United States Code, as amended by—

(1) amending paragraph (1) to read as follows:

"(1) the debtor is generally not paying a majority, in number and amount, of such debtor's fixed, liquidated, undisputed debts as such debts become due;";

(2) striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

(3) adding at the end thereof the following:

"(3) as of the date of the filing of the petition, there is a transfer avoidable under section 547 or 548 of this title.".

(c) Section 303 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(1) If a petition under this section contains the allegations set forth in subsection (h)(1) of this section, the court must dismiss such petition unless the United States District Court for the district in which the petition is filed has entered an order on its docket before the date of the filing of the petition under this section finding that the petitioning creditors have demonstrated by a preponderance of the evidence that the allegations of subsection (h)(1) are true.".

(d) Any petition in any case which is pending on the date of enactment of this section and which is dismissed because of the provisions of subsection (h)(1) or (l) of section 303 of title 11 of the United States Code, as amended by subsection (b) of this section may be refiled to allow for compliance with the hearing requirements of section 303(1) of such title.

OMNIBUS DEFENSE AUTHORIZATION ACT, 1985

MATHIAS AND DURENBERGER AMENDMENT NO. 3193

Mr. MATHIAS (for himself and Mr. DURENBERGER) submitted an amendment intended to be proposed to the bill S. 2723, supra, as follows:

On page 128, between lines 12 and 13, insert the following:

POLICY ON FURTHER DEPLOYMENT OF SEA-LAUNCHED CRUISE MISSILES

SEC. 1019. (a) The Congress finds that—

(1) the Soviet Union has yet to return to the strategic arms reduction talks (hereafter in this section referred to as "START") or the intermediate nuclear force reduction talks (hereafter in this section referred to as "INF");

(2) an early resumption of these negotiations is in the interest of all mankind;

(3) the United States had both demonstrated flexibility in the START and INF negotiations and expressed a willingness to consider any reasonable Soviet proposals;

(4) the President has repeatedly emphasized his willingness to negotiate limits on or reductions in the stocks of all nuclear weapons with a view toward the complete elimination of all such weapons from the earth;

Whereas the President has repeatedly emphasized his willingness to negotiate limits on or reductions in the stocks of all nuclear weapons with a veiw toward the complete elimination of all such weapons from the earth;

Whereas sea-launched cruise missiles equipped with nuclear warheads, could greatly complicate the prospects for such nuclear arms control agreements unless its verification can be achieved; and

Whereas limits on sea-launched cruise missiles equipped with nuclear warheads can be verified by on-site inspections: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the President should, at the earliest possible date—

(1) urge the Soviet Union to return to the START and INF negotiations;

(2) include in the appropriate negotiations a discussion of sea-launched cruise missiles equipped with nuclear warheads with a view toward the complete elimination of such missiles from the arsenals of the United States and the Soviet Union; and

(3) advise the Government of the Soviet Union, that as means of advancing the goal described in paragraph (2), the United States is wishing to accept intrusive, on-site inspection as an integral part of nuclear arms reduction, provided that the Soviet Union will do likewise; and

(4) further advise the Government of the Soviet Union of the willingness of the United States to apply such intrusive verification measures to an interim agreement limiting the deployment of sea-launched cruise missiles pending the implementation of a final START or INF agreement, as appropriate.

DOMENICI AND OTHERS AMENDMENT NO. 3194

Mr. DOMENICI (for himself, Mr. BAKER, Mr. BINGAMAN, Mr. BOSCHWITZ, Mr. JOHNSTON, Mr. MCCLURE, Mr. PERCY, Mr. MOYNIHAN, Mr. WILSON, Mr. RANDOLPH and Mr. GLENN) proposed an amendment to the bill S. 2723, supra; as follows:

On page 117, strike the text and catchline of Section 1006 and on page 237, strike the text and catchline of Section 331 and insert the following catchline and text:

"COST-EFFECTIVE FUNDING OF NUCLEAR WEAPONS

(a) The President shall establish a Blue Ribbon Task Group to examine the current procedures used by the Department of Defense and the Department of Energy in establishing requirements for, and in providing resources for, the research, development, testing, production, surveillance and retirement of nuclear weapons. The purpose of the Group's effort will be to recommend any needed change in such procedures.

(b) The Group shall consist of seven members, qualified by reasons of experience and education. The President shall appoint three members and shall designate one member to act as Chairman of the Group. The Majority and Minority leaders of the Senate and the House of Representatives shall each appoint one member. None of these members shall be an employee of the Department of Energy, the Department of Defense, or any contractor employed by either such Department and involved in the research, development, testing, production, surveillance or retirement of nuclear weapons.

(c) Within 90 days of the date of enactment of this Act, the President shall submit the names of those persons appointed to such Group, together with the qualifications of such persons to serve on such Group, and a detailed plan for completing the report required by subsection (e) to the Committees on Armed Services of the Senate and the House of Representatives.

(d) The President shall insure that the Group has complete and timely access to Department of Energy and Department of Defense employees and records pertaining to such procedures.

(e) The Group shall submit a report of their findings and recommendations to the President and the Armed Services Committees of the Senate and the House of Representatives within 180 days of the date of enactment of this Act. Such report shall include any additional or dissenting views that any members of the Group may wish to submit. As a minimum, the study shall include recommendations in the following areas—

(1) ways to improve coordination between the Department of Energy and the Department of Defense to ensure cost-effective implementation of weapon activities and materials production;

(2) cost-effective improvements that can be made in budgeting and management procedures that affect weapon activities and materials production; and

(3) whether the Department of Defense should assume the responsibility for funding current Department of Energy weapon activities and materials production programs."

HATCH AMENDMENT NO. 3195

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2723, supra; as follows:

On page 128, between lines 12 and 13, insert the following new section:

AUTHORIZATION FOR THE PAYMENT OF CLAIMS FOR CERTAIN LOSSES IN HONDURAS

SEC. . (a) The Congress determines that the United States shall pay compensation for all losses, including consequential losses incurred by nationals of the United States as a result of the establishment or operation of the Regional Military Training Center in Honduras.

(b) The Comptroller General of the United States shall receive, investigate, review, settle, and certify for payment claims against the United States for such losses.

(c)(1) The Comptroller General shall determine in the case of each claim filed under this section whether there has been a loss, whether the loss was incurred as a result of the establishment or operation of the Regional Military Training Center in Honduras, and, if so, the amount of such loss.

(2) If the Comptroller General finds in the case of any claim that there has been a loss and the loss was incurred as a result of the establishment or operation of the Regional Military Training Center in Honduras, the Comptroller General shall certify the validity of the claim to the Secretary of Defense and specify the amount to be paid the claimant.

(3) The Comptroller General shall determine each claim filed under this section within 45 days after receipt of the claim.

(d) Upon receipt of a certification from the Comptroller General of a claim filed

under this section, the Secretary of Defense shall pay the claimant out of any funds appropriated to the Department of Defense pursuant to an authorization of funds contained in this Act.

(e) Claimants shall submit their claims in writing to the Comptroller General, under such rules as he may prescribe, within one year after the date of the enactment of this Act.

(f) Unless, within ninety days following receipt of payment, a claimant files with the Claims Court a claim for any amounts rejected by the Comptroller General, the payment to any person of an award pursuant to a claim filed under this section shall be in full settlement and discharge of all claims of such person against the United States resulting from the establishment or operation by the United States of the Regional Military Training Center in Honduras.

(g) No claim cognizable under this section may be assigned or transferred, except to the United States.

Mr. HATCH. Mr. President, the purpose of the amendment I am submitting is to resolve a grave injustice to an American citizen caused inadvertently by the establishment of the Regional Military Training Center [RMTC] in Honduras.

More than 1 year ago, the United States Government proposed to the Honduran Government that the United States establish an RMTC in Honduras to train Salvadoran and Honduran Armed Forces, as well as troops from other friendly Central American nations. The present site of the RMTC in northern Honduras is apparently well-suited for its purpose as a training base. However, the land chosen for the base is owned by an American citizen who has operated a large cattle ranch and related industrial plant there for more than 20 years. The result of the establishment and operation of the RMTC on his land has been to totally destroy his entire business operation. Prime grazing land and fences have been bulldozed; cattle have been shot and workers frightened off; water pipes for the packing plant have been blown up; and a large area surrounding an ammunition supply dump set up by the RMTC on his land has been burned.

The American citizen involved has sustained heavy losses and has been forced to close down the entire cattle ranch and industrial plant. His direct and consequential damages and losses, which continue to mount, now total nearly $15 million. Yet neither Honduras nor the United States has moved to compensate him. The U.S. Government has said the responsibility lies with Honduras, but the Honduran Government is unable or unwilling to accept full responsibility. Honduras is dragging its feet on the matter and has indicated that it would not in any event pay adequate compensation.

The amendment I am offering would resolve the injustice to the American citizen by permitting him to file a claim for the value of his losses and of the property itself, which would be paid by the United States. A determination as to the claim would be made by the Comptroller General, who would then certify the amount to the Secretary of Defense for payment out of discretionary funds authorized for the Defense Department.

The United States has a responsibility to its citizens, under the Constitution, to respect private rights in property regardless of where that property may be located. This amendment addresses that responsibility in this case by establishing a procedure for payment of full and fair compensation for all losses sustained by a citizen as a result of the establishment of a military training base on his private property. The amendment is intended to supply a prompt remedy and is not intended to divest the Federal courts of any of their jurisdiction to deal with any aspect of the matter.

I urge the support of my colleagues for this amendment.

Mr. President, I ask unanimous consent that a statement relating to the facts of this case be printed in the RECORD.

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

STATEMENT ON BEHALF OF TEMISTOCLES RAMIREZ DE ARELLANO

Temistocles Ramirez de Arellano, a United States citizen, is seeking compensation for the destruction of his multimillion dollars cattle ranch and related packing, shrimping and fishing operations in Honduras, caused by the establishment and operation of a military training base on his property by the United States and Honduras. The United States planned, financed and constructed the Regional Military Training Center (RMTC) and continues to train Honduran and Salvadoran soldiers on the base and elsewhere on Ramirez's property. Ramirez initially sought to protect his business from ruin, but United States Government officials refused to assist him and instead insisted that he seek redress from the Honduran Government. Ramirez has sought redress in Honduras, but that course has proved futile. The United States Government has the responsibility to compensate Ramirez for his losses.

A. UNITED STATES-INITIATED ACTIONS CAUSED THE DESTRUCTION OF RAMIREZ'S BUSINESS

In March 1983, the United States Defense Department decided to establish an RMTC to train Salvadoran and other Central American soldiers and selected Honduras for the site. After surveying Ramirez's ranch in March and April, without his knowledge, Defense Department personnel selected his property in May and drew the plans. United States contractors built the RMTC with United States money and managed the base, providing all food and other essential services except security. Since June 1983, when the base began operating, United States Green Berets have trained several thousand Honduran and Salvadoran soldiers.

The United States Embassy first informed Ramirez that his land had been selected for the RMTC in May. Both the United States and the Honduran Government assured Ramirez that only a small designated area of less than 2,000 acres, in the middle of his 14,000 acre ranch, would be used for the RMTC and that he would be promptly and fairly compensated for the use of that land. But those assurances were not honored. By the end of July, the United States training activities had spread well beyond the Designated Area, covering as much as 90 percent of Ramirez's year-round grazing land. The permanent facilities on Ramirez's property include a 1,000-man camp, outbuildings, an ammunition storage area, and firing and mortar ranges.

The military training activities have made it impossible for Ramirez to continue to operate his business. First, prime grazing land and fences were bulldozed. The, cattle were shot by stray bullets from the training exercises and cattle in the occupied areas became undernourished because Ramirez's ranch employees, fearing for their lives, refused to work in areas where training was taking place. United States construction crews blew up water pipes to Ramirez's packing plant, causing costly interruptions of plant activities. For several months, Ramirez continued operating at reduced levels, suffering more than $100,000 in monthly losses. In November, the United States conducted part of the massive joint United States-Honduras Military Maneuvers (Operation Big Pine II) on Ramirez's ranch without his consent. In early February 1984, Ramirez was informed that a naval facility would be constructed on his packing plant property. Finally, Ramirez concluded that he could not continue, and by February 15, he shut down the plant and reduced his employees at the ranch to the minimum number required to maintain security and other essential services.

B. HONDURAS WILL NOT PROVIDE PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION

Ramirez's property has not been legally expropriated under Honduran law. Under the Honduran Constitution and the Law of Forced Expropriation (The Honduran Eminent Domain Authority) private property may be taken for a public purpose only after compensation is paid in accordance with specified procedures. Those procedures were not followed in this case. Although Ramirez has attempted to challenge the taking in Honduras, that has been to no avail.

In December 1983, the Assistant United States Trade Representative for the Americas discussed the Ramirez case with Honduran officials when that country was being considered for special trade benefits under the Caribbean Basin Recovery Act (CBI). That legislation, like other aid and trade programs, provides that no country may be designated for benefits if it expropriates an American's property without prompt, adequate and effective compensation. On the basis of meetings with Honduran officials, the United States Trade Representative and the Department of State informed Ramirez, as well as several Senators and Congressmen who had expressed interest in the case, that Honduras had agreed to negotiate with Ramirez to provide Compensation at fair market value for the taking of ranch land (but none of the other property) until February 6, and if negotiations failed, to submit the dispute over the ranch land to binding arbitration. Each party would pick an arbitrator, and a third, neutral arbitrator would be selected by mutual consent from an internationally-recognized arbitral body. The arbitration was to be concluded and compensation paid, within three months, in

accordance with Honduran Law and Honduras' Treaty obligations to the United States.

Based on this understanding, President Reagan designated Honduras as a beneficiary under CBI on December 29. However, when Honduras finally published its petition to the United States for CBI benefits, in Honduran Decree No. 17, that petition did not include a commitment to arbitration with a neutral arbitrator, but rather to a Honduran valuation proceeding limited to consideration of only the ranch land.

On February 7, the United States Embassy in Honduras, believing the Hondurans had committed themselves to arbitration regarding the ranch, sent a diplomatic note to Honduras asking how that Government intended to carry out its commitment to arbitrate and how it would compensate Ramirez for his properties other than the ranch, that is, the packing plant, and the shrimping and fishing operations. Honduran officials insisted that the Honduran Government had never agreed to arbitration, that the United States had mischaracterized their commitment, and that the United States should compensate Ramirez because the United States initiated, planned, constructed and is sharing in the operation of the RMTC. Under pressure from Honduras, the United States Embassy withdrew its February 7 Note and issued a revised Note on February 14, deleting all references to arbitration.

Negotiations continued, by mutual agreement of the parties, until February 29, on which date the Honduran Government declared the termination of the negotiations.

The Honduran valuation proceeding cannot provide Ramirez prompt, adequate and effective compensation for the following reasons:

1. The scope of the proceeding is limited to consideration of the ranch land, which accounts for only approximately one-half of Ramirez's losses.

2. Since the Hondurans have repudiated the arbitration, the third evaluator will be picked if the parties do not agree, according to Honduran law, by a local Honduran judge. Experience suggests that his allegiance will be owed to the Honduran Government.

3. The proceeding will drag on indefinitely, especially since there is no mechanism for decisionmaking if the evaluators do not come to a majority decision.

4. Worst of all, the proceeding will not be binding and final, with compensation paid immediately thereafter. Notwithstanding commitments in Honduran Decree No. 17, the Honduran law of Forced Expropriation authorizes the Honduran Court to review the evaluators' report and issue a decision, subject to appeal. To the extent the Decree is inconsistent with the Law, the latter prevails.

5. There is no source of funding for any award.

C. THE VALUE OF RAMIREZ'S BUSINESS

Over the past 22 years, Ramirez developed an integrated Agro-Industrial Complex that has made a substantial contribution to the economy of Honduras. Out of raw jungle, he developed a model cattle ranch, using sophisticated ranch management and breeding methods. He started the Packing Plant at the nearby Port Area of Puerto Castilla, for easy shipment of his produce, and he added fishing and shrimping operations to maximize utilization of the packing plant. He has been the largest employer in the area. A total of 1,500 Hondurans (employees and their families) have been totally dependent on him for their livelihood. His property taxes have accounted for approximately one-third of the city of Trujillo's revenues.

Ramirez estimates that, before the RMTC, his Agro-Industrial Business was worth in excess of $13 million. As a result of the RMTC, Ramirez has not only lost his investment, but incurred substantial losses in cattle value due to premature slaughtering during the seizure of his land, and additional expenses, including severance pay, loss of inventory, loss in accounts receivable, expenses of closing up, and defense expenses. These additional expenses have run as much as $100,000 a month. A detailed accounting Ramirez's losses is attached.

During the negotiation period, Ramirez and the Honduran Government could not agree on the value of the ranch, and the Hondurans insisted that they did not have authority to consider any property but the ranch land. For that, they used an average value of approximately $57 per acre, which bears no relationship to fair market value, since four years ago a large tract of adjacent land, undeveloped by roads or electricity, sold for about $500 per acre. At that $500 per acre rate, Ramirez ranch land would be worth about $7 million, which is consistent with Ramirez's own estimates.

D. RAMIREZ'S ONLY REMEDY IS THE UNITED STATES

When Ramirez first learned that the United States had selected his land for the RMTC, he sought help from the United States Embassy in Honduras and the Department of Defense in Washington. Receiving no satisfaction, he sued United States officials seeking an order declaring that the military activity was unauthorized and requiring that the military vacate his property. The District Court dismissed the complaint, which was affirmed on appeal. However, the full appellate Court has agreed to rehear the case. While Ramirez may eventually prevail in the Court, the United States should end this outrageous injustice immediately by promptly compensating Ramirez for his loss.

Ramirez is caught between two Governments, neither one accepting responsibility to compensate him fairly for his loss. Since his land was initially seized, many months ago, he has waited for the United States to assist him. At his Government's urging, he negotiated with the Hondurans for more than three months, until it became apparent he had no remedy to obtain prompt, adequate and effective Honduran compensation. This Government has the responsibility to compensate Ramirez for his loss because of its extensive involvement in the establishment and operation of the RMTC on a United States citizen's land.

PERCY (AND OTHERS) AMENDMENT NO. 3196

Mr. PERCY (for himself, Mr. MATHIAS, Mr. PROXMIRE, Mr. BUMPERS, Mr. HATFIELD, Mr. PELL, Mr. HEINZ, and Mr. PRESSLER) proposed an amendment to the bill S. 2723, supra; as follows:

On page 10, line 1, strike out "$4,566,541,000," and insert in lieu thereof "$4,466,541,000, of which not more than $1,527,000,000 may be used for the following program elements of the Strategic Defense Initiative:

(1) surveillance, acquisition, tracking, and kill assessment, (2) directed energy weapons, (3) kinetic energy weapons, (4) system concepts, battle management, command, control, and communications, and (5) survivability, lethality, and subsystems; and ".

PRESSLER (AND OTHERS) AMENDMENT NO. 3197

Mr. PRESSLER (for himself, Mr. PERCY, Mr. MATHIAS, and Mr. BOSCHWITZ) proposed an amendment to the bill S. 2723, supra; as follows:

On page 128, between lines 12 and 13, insert the following new section:

REPORT ON STRATEGIC DEFENSE PROGRAMS

SEC. . At the time of the submission by the Secretary of Defense to the Congress of his annual budget presentation materials for each fiscal year beginning after September 30, 1985, and ending before October 1, 1990, but not later than March 15 of the calendar year in which such fiscal year begins, the Secretary of Defense shall prepare and transmit to the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Foreign Relations of the Senate a report on the Strategic Defense Initiative, including—

(1) details of all programs and projects included in the Strategic Defense Initiative and administered by any department or agency of the United States;

(2) a clear definition of the objective(s) of the Strategic Defense Initiative;

(3) an explanation of the relationship between that objective(s) and each program and project associated with the Strategic Defense Initiative;

(4) an identification of technology base efforts being conducted by the Department of Defense and the Department of Energy having a relationship to the objective(s) of the Strategic Defense Initiative.

(5) details on the funding of programs and projects for the Strategic Defense Initiative, including—

(A) prior and current year funding levels for all such programs and projects in the Strategic Defense Initiative budgetary presentation materials;

(B) the amount requested to be appropriated for such programs and projects for the fiscal year for which the budget is submitted; and

(C) the amount programmed to be requested for the following fiscal year.

WARNER AMENDMENT NO. 3198

Mr. WARNER proposed an amendment to the bill S. 2723, supra; as follows:

On page 68, between lines 6 and 7 insert the following section:

SEC. . (a)(1) Chapter 57 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"1127. Precedence of the Award of the Purple Heart

"In the case of a member of the armed forces who has been awarded the Purple Heart, the armed force concerned shall afford the Purple Heart a position of precedence, in relation to other awards and decorations authorized to be displayed on the uniform of such member, not lower than that immediately following the lowest position afforded any award or decoration for valor made to such member, or if there is no

such award or decoration for valor, the highest precedence."

(2) the table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1127. Precedence of the Award of the Purple Heart."

EXON (AND OTHERS) AMENDMENT NO. 3199

Mr. EXON (for himself, Mr. GLENN, Mr. BAUCUS, Mr. ZORINSKY, Mr. HOLLINGS, Mr. FORD, Mr. CHILES, Mr. MELCHER, Mr. SARBANES, Mr. PRESSLER, Mr. HEFLIN, Mr. LEAHY, Mr. BRADLEY, Mr. RANDOLPH, Mr. MOYNIHAN, Mr. CRANSTON, Mr. HART, Mr. HATCH, Mr. BOSCHWITZ, Mr. BOREN, Mr. EAST, Mr. LEVIN, Mr. D'AMATO, Mr. LONG, Mr. PROXMIRE, Mr. BINGAMAN, Mr. MCCLURE, Mr. MITCHELL, Mr. ROTH, Mr. PELL, Mr. BENTSEN, Mr. HUDDLESTON, Mr. PERCY, Mr. JEPSEN, Mr. SPECTER, Mr. SYMMS, and Mr. DENTON) proposed an amendment to the bill S. 2723, supra; as follows:

On page 128, between lines 12 and 13, insert the following Section:

REPORT ON UNACCOUNTED FOR AMERICANS CAPTURED OR MISSING-IN-ACTION IN INDOCHINA

SEC. . (a) The Congress finds—

(1) that the President has declared the issue of 2,489 Americans missing or otherwise unaccounted for in Indochina a matter of highest national priority and has initiated high level dialogue with the governments of the Lao People's Democratic Republic and the Socialist Republic of Vietnam on the issue;

(2) that the United States Congress, on a bi-partisan basis, fully supports these initiatives to determine the fate of Americans still missing in Indochina and realizes that the fullest possible accounting can only be achieved with the cooperation of the Indochinese governments;

(3) that the government of the Lao People's Democratic Republic has pledged to cooperate with the United States Government resolving this humanitarian issue, separate from other issues divide our two countries, and has recently taken some positive actions to assist the United States Government in resolving the status of missing Americans;

(4) that during a recent visit by a U.S. delegation to Hanoi, the Government of the Socialist Republic of Vietnam pledged to redouble its efforts to account for those servicemen still missing or unaccounted for in Southeast Asia;

(5) that despite this pledge, the Socialist Republic of Vietnam has repeatedly postponed setting a date for the next series of technical meetings and the transfer to the U.S. government of eight additional sets of remains;

(6) that these repeated postponements risk destroying the progress which has been achieved, and

(7) that the POW/MIA issue is strictly a humanitarian matter which must not be linked to other issues.

(b) The Congress strongly urges the Socialist Republic of Vietnam to set an early date for the next technical meeting and repatriation of remains.

(c) The Congress hereby strongly urges the President—

(1) to ensure that officials of the United States Government consciously and fully carry out his pledge of highest national priority to resolve the issue of 2,489 Americans still missing and unaccounted for in Indochina, and

(2) to work for the immediate release of any Americans who may still be held captive in Indochina and the immediate return of all American servicemen and civilians who have died in Indochina whose remains have not been returned.

(d) The President shall submit a report to the Congress on the POW/MIA problem which describes current actions being taken by the Federal government in carrying out subsection (c) of this section. This report shall be submitted within one hundred and eighty days after the date of enactment of this section.

ABDNOR AMENDMENT NO. 3200

Mr. ABDNOR proposed an amendment to the bill S. 2723, supra, as follows:

On page 128, between lines 12 and 13, insert the following new section:

SEC. . (a)(1) Section 505(a)(1) of the Omnibus Budget Reconciliation Act of 1981 is amended—

(A) by inserting "(A)" after the paragraph designation;

(B) by striking out "for each of the fiscal years 1984 and 1985" in the matter preceding clause (A) and inserting in lieu thereof "for the fiscal year 1984, and $700,000,000 for the fiscal year 1985 and for each succeeding fiscal year ending prior to October 1, 1989 plus the amount authorized in subparagraph (B)";

(C) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively;

(D) by striking out "for each of the fiscal years 1984 and 1985" in clause (i) (as redesignated by this section) and inserting in lieu thereof "for the fiscal year 1984 and $30,000,000 for the fiscal year 1985 and for each succeeding fiscal year ending prior to October 1, 1989"; and

(E) by adding at the end thereof the following new subparagraph:

"(B)(i) Not later than November 15 of each fiscal year (beginning with the fiscal year 1985), the Secretary of Education shall publish in the Federal Register the percentage change in the price index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

"(ii) If in any fiscal year the percentage change published under division (i) indicates an increase in the price index, then the amount authorized to be appropriated under subparagraph (A) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under division (i) increased by such percentage change, but in no event may the percentage change be more than 5 percent.

"(iii) If in any fiscal year the percentage change published under division (i) does not indicate an increase in the price index, then the amount authorized to be appropriated under subparagraph (A) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under division (i).

"(iv) For purposes of this subparagraph, the term 'price index' means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.".

(2)(A) Section 505(a)(3) of such Act is amended by striking out "fiscal year 1982, 1983, 1984, or 1985" and inserting in lieu thereof "for any fiscal year for which the amount of authorizations is specified in paragraph (1) of subsection (a)".

(B) Section 505(b) of such Act if amended by striking out "fiscal year 1982, 1983, 1984, or 1985" and inserting in lieu thereof "for any fiscal year for which the amount of authorizations is specified in paragraph (1) of subsection (a)".

(b) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out "October 1, 1983" each place it appears in sections 2(a), 3(b), 4(a), and 7(a)(1) and inserting in lieu thereof "October 1, 1989".

(c)(1) Section 3(d)(2)(E)(ii) of such Act is amended by striking out "1983 or 1984" and inserting in lieu thereof "1984 and each fiscal year thereafter".

(2) Division (iii) of section 3(d)(2)(E) of such Act is repealed.

Additional cosponsors are:

Senators Abdnor, Pell, Moynihan, Symms, Stennis, Pressler, Sarbanes, Warner, Boren, McClure, Matsunaga, Trible, Huddleston, D'Amato, Zorinsky, Tsongas, Lautenberg, Inouye, Levin, Heflin, Mathias, Melcher, Cochran, Tower, Exon, Johnston, Chiles, Hatch, Pryor, Garn, Thurmond, Dodd, Kennedy, Randolph, Bentsen, Hollings, Riegle, Stevens, Ford, Bradley, Nunn, Bingaman, Baucus, and DeConcini.

ABDNOR (AND OTHERS) AMENDMENT NO. 3201

Mr. ABDNOR (for himself, Mr. MELCHER, Mr. MOYNIHAN, Mr. BAUCUS, and Mr. D'AMATO) proposed an amendment to amendment No. 3200 proposed by him to the bill S. 2723, supra, as follows:

At the end of the amendment add the following new subsections:

(d)(1) Section 3(d)(2)(B) of such Act is amended by inserting at the end thereof the following new sentence: "In carrying out the provisions of this subparagraph, the secretary shall not prorate the amounts computed under this subparagraph attributable to the number of children determined under subsection (a) or (b), or both.".

(2)(A) the second sentence of section 3(d)(2)(B) of such Act is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (h) of this section, the".

(B) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"SPECIAL PROVISIONS

"(h)(1) Any local educational agency for which the boundaries of the school district of such agency are coterminous with the boundaries of a military installation and which is not eligible to receive payments under subsection (d)(2)(B) shall receive 100 percent of the amounts to which such agency is entitled under subsection (a) of this section.

"(2) Any local educational agency which is eligible to receive payments under subsection (d)(2)(B) and which is making the maximum tax effort permitted under State law shall receive at least an amount under subsection (d) with respect to that local educational agency for any fiscal year which is the product of—

"(A) the amount the Secretary determines to be the average per pupil expenditure in the State during such fiscal year,

multiplied by—

"(B) the number of children served by such agency for such year.".

(e)(1) Notwithstanding any other provision of law, the regulations of the Department of Education relating to generally comparable local educational agencies and the local contribution rate under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) issued March 30, 1984, shall not take effect and shall not be used to implement the provisions of that Act. The Secretary of Education shall not issue regulations relating to generally comparable local educational agencies and the local contribution rate under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) which are substantially similar to the regulations prohibited by this paragraph.

(2) The regulations of the Department of Education relating to generally comparable local educational agencies and the local contribution rate under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) issued on April 8, 1975, as in effect on July 1, 1983 (34 C.F.R. 222.30) shall be used to implement the provisions of such Act.

"(f)(1) The last two sentences of section 5(c) of the Act of September 30, 1950 (Public Law 874 Eighty-first Congress) (as added by section 23 of the Education Consolidation and Improvement Act of 1981) are redesignated as subsection (h) of section 5 of that Act.

(2) The amendment made by paragraph (1) of this subsection shall be effective December 8, 1983.

GOLDWATER AMENDMENT NO. 3202

Mr. GOLDWATER proposed an amendment to the bill S. 2723, supra, as follows:

On page 2 line 18 strike the figure "$3,808,500,000" and insert in lieu thereof the figure "$3,800,600,000".

LEVIN AMENDMENT NO. 3203

Mr. LEVIN proposed an amendment to the bill S. 2723, supra; as follows:

On page 80, beginning with line 20, strike out all through the matter on page 93, before line 1, and insert in lieu thereof the following:

"§ 2318. Planning for future competition

"(a) To encourage the competitive acquisition of supplies and services to support and maintain a major system during its service life, the head of an agency with responsibility for that system shall ensure that—

"(1) in any competitive solicitation for the award of any development contract for a major system, the following shall be included as evaluation factors, giving due consideration to the purposes for which the system is being procured and the technology to achieve the system's required capabilities:

"(A) proposals to incorporate in the design of the major system, components that are currently available within the supply system of the Federal agency responsible for the major system, available elsewhere in the national supply system, or commercially available from more than one source; and

"(B) proposals to incorporate in the design of the major system, components that are likely to be required in substantial quantities during the system's service life and will permit future competitive acquisitions by the Government;

"(2) in any competitive solicitation for the award of any production contract for a major system, the following shall be included as evaluation factors:

"(A) proposals to identify components in the system that are likely to be required in substantial quantities during the system's service life and whether the technical data for such components will permit future competitive acquisitions by the Government; and

"(B) proposals to identify technical data for sale or license to the Federal Government which the offeror, at its discretion, will identify and separately price so as to permit the Government to competitively acquire future requirements for such components; and

"(3) the evaluation factors specified in paragraphs (1) and (2) of this subsection shall be considered as negotiation objectives when an agency is making a noncompetitive award of a development contract or a production contract for a major system.

"(b) The provisions of paragraph (2) of subsection (a) may be waived in while or in part if the contracting officer determines in writing that such provisions should not be applicable to such production contract, giving due consideration to the stability of the system's design, or otherwise would not be in the best interests of the United States in attaining the purposes for which the system is being procured, states the reasons therefor, and includes such determination and finding as part of the contract file.

"§ 2319. Encouraging new competitors to broaden the industrial base

"(a) Before establishing any prequalification requirement applicable to an offeror or its product which would be considered as an element of responsiveness to a solicitation, the head of an agency shall—

"(1) prepare a written justification stating the necessity for establishing the prequalification requirement and the reasons why free and open competition is not feasible;

"(2) specify in writing and make available upon request all standards which a prospective contractor, or its product, must satisfy in order to become qualified, such standards to be limited to those least restrictive to meet the purposes necessitating the establishment of the prequalification requirement;

"(3) specify an estimate of the costs of testing and evaluation likely to be incurred by a prospective contractor for that contractor to become qualified;

"(4) ensure that (A) a prospective contractor is provided, upon request, a prompt opportunity to demonstrate its ability to meet the standards specified for qualification, utilizing qualified personnel and facilities of the agency or another agency obtained through interagency agreement, or other methods approved by the agency, and (B) any testing and evaluation services provided under contract to the agency should be provided by a contractor who will not be expected to benefit from an absence of additional qualified sources and who shall be required to adhere to any restriction on technical data asserted by the prospective contractor seeking qualification; and

"(5) ensure that a prospective contractor seeking qualification is promptly informed as to whether qualification has been attained, or in the event qualification has not been attained, is promptly furnished specific information why qualification was not attained.

"(b) Before the head of an agency may enforce any existing prequalification requirement with respect to an offeror or its product, the agency shall comply with the requirements of subsection (a). The head of an agency need not delay a procurement action in order to provide a prospective contractor with an opportunity to demonstrate its ability to meet the standards specified for qualification.

"(c) In the event that the number of qualified sources or qualified products available to actively compete for anticipated future requirements is fewer than two actual manufacturers or the products of two actual manufacturers, respectively, the head of an agency shall—

"(1) periodically publish notice in the Commerce Business Daily soliciting additional sources or products to seek qualification; and

"(2) bear the cost of conducting the specified testing and evaluation, but excluding the costs associated with producing the item or establishing the production, quality control, or other system to be tested and evaluated, only for a small business concern or a product manufactured by a small business concern which has met the standards specified for qualification, and which could reasonably be expected to compete, except that the head of an agency shall bear such costs only if it determines that such additional qualified sources or products are likely to result in cost savings from increased competition for future requirements sufficient to amortize the costs incurred by the agency.

The head of an agency may require a prospective contractor requesting testing and evaluation costs to certify as to its status as a small business concern, and, in good faith, rely thereon.

"(d) Within seven years after the establishment of any prequalification requirement under subsection (a), or within seven years following an agency's enforcement of any existing prequalification requirement pursuant to subsection (b), any such prequalification requirement shall be examined and revalidated in accordance with the requirements of subsection (a) of this section.

"(e) Except in an emergency, whenever the head of an agency determines not to enforce an existing prequalification requirement for a solicitation, the agency may not enforce any such prequalification requirement unless the agency complies with the requirements of subsection (a).

"§ 2320. Technical data management to foster future competition

"(a)(1) An offeror submitting a proposal for a contract shall furnish information in the proposal identifying—

"(A) with respect to all items that will be delivered to the United States under the contract (other than items to which paragraph (2) applies) those items for which technical data will not be provided to the United States; and

"(B) with respect to technical data that will be delivered to the United States under the contract, any of such technical data that will be provided with restrictions on the Government's right to use such data for governmental purposes.

"(2) With respect to items that will be delivered to the United States under a contract described in paragraph (1) with respect to which it would be impracticable to ascertain, at the time the contract is entered into, the technical data relating to

such items that will not be provided to the United States with unlimited rights, the contract shall require that the contractor provide identifying information similar to that required to be furnished under paragraph (1) at a time to be specified in the contract.

"(3) The head of an agency shall ensure that the information furnished under paragraph (1) is considered in selecting the contractor for the contract.

"(b) To foster competition for the acquisition of supplies and services to maintain a major system during its service life, the head of the agency with responsibility for the system shall ensure that the initial and all subsequent production contracts for a major system, developed under Government contract, contain appropriate provisions related to technical data, including—

"(1) specifying the technical data to be delivered under the contract, if any, including delivery schedules therefor;

"(2) establishing criteria for determining the acceptability of technical data to be delivered under the contract;

"(3) establishing separate payment lines for the technical data to be delivered under the contract, if any, and authorizing the withholding of payments for failure to make timely deliveries of acceptable data;

"(4) defining the respective rights of the Government and a contractor or subcontractor regarding any technical data to be delivered under the contract, including therein a definition of the term 'developed at private expense';

"(5) to the maximum practicable extent, identifying, in advance of its delivery, technical data which is to be delivered with restrictions on the Government's right to use such data for governmental purposes;

"(6) requiring the contractor and each subcontractor to be prepared to furnish, within 60 days after a written request directed to the party asserting a restriction, a written justification for any restriction to be asserted limiting the Government's right to use such data for governmental purposes, for as long as such restriction is asserted by the contractor or subcontractor;

"(7) prohibiting a contractor from requiring a subcontractor or the Government to pay a fee, royalty, or other charge for the subcontractor's use of any technical data in the performance of a contract to furnish a component directly to the Government, except that data protected by patent, licensing agreement or any preexisting agreement involving a subcontractor's performance under a commercial contract, if the same data was made available by the contractor to the subcontractor furnishing that component;

"(8) prohibiting the contractor from limiting, either directly or indirectly, a subcontractor from selling to the Government any component which the subcontractor had previously furnished to the contractor without restriction, except that the contractor may restrict a subcontractor from providing to the Government any component restricted by a preexisting agreement involving the subcontractor's performance for the contractor under its commercial contracts;

"(9) ascertaining and documenting the identity of the manufacturer of a component through the annotation of engineering drawings, the maintenance of lists, or otherwise;

"(10) requiring the contractor to revise any technical data delivered pursuant to the contract to reflect engineering design changes and to deliver such revised technical data to an agency within a specified time;

"(11) requiring the contractor to certify, at the time the technical data is made available or delivered, that the technical data is complete, accurate, and adequate for the purpose for which the technical data is procured;

"(12) requiring the contractor to promptly correct any technical data found to be incomplete, inadequate, or deficient to or promptly furnish complete, accurate, and adequate technical data to the agency; and

"(13) authorizing the head of the agency to withhold progress payments under a contract during any period that the contractor does not meet the requirements of the contract pertaining to the delivery of technical data.

The provisions specified in this subsection may be waived in accordance with the single system of Government-wide procurement regulations defined in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)) if the contracting officer determines in writing that any such provision should not be applicable to the production contract, or otherwise would not be in the best interests of the Government in attaining the purposes for which the system is being procured, stating the reasons therefor. Such determination shall be made part of the contract file.

"(c) Nothing in this section or section 2318 of this title prohibits an agency from including—

"(1) in any competitive solicitation for the award of a contract, or

"(2) as a negotiation objective when the agency is making a noncompetitive award,

a provision specifying in the contract the date after which the United States shall have the right to use or have used for any governmental purpose all technical data required to be delivered to the United States under contract.

"§ 2321. Validating proprietary data restrictions

"(a) To encourage the competitive acquisition of components needed to maintain a major system during its service life, a review of the validity of any restriction on the Government's right to use for governmental purposes technical data furnished under contract shall be initiated by the contracting officer, if the contracting officer, an agency advocate for competition, or the representative of the Small Business Administration assigned to the procurement center determines such a review is warranted and the contracting officer determines that compliance with the asserted restriction makes it impracticable to competitively procure the required component.

"(b) Upon the written demand of the contracting officer, the contractor or subcontractor, as appropriate, shall submit its justification for the asserted restriction on the Government's right to use such data for governmental purposes certifying to the current validity of the asserted restriction within—

"(1) 60 days, if the contract contains a provision that requires a contractor or subcontractor to be prepared to furnish a written justification for any restriction limiting the Government's right to use for governmental purposes technical data to be delivered under the contract, or

"(2) 180 days, if the contract does not contain such a provision, except that the contracting officer may extend such time limits for a reasonable period for good cause shown.

"(c) Upon a failure to submit any justification pursuant to the requirements of subsection (b), the contracting officer shall, after giving notice to the party asserting the restriction, promptly cancel the restriction on the Government's right to use for governmental purposes technical data for which justification had been requested.

"(d) If after review of the justification submitted pursuant to subsection (b), the contracting officer determines that the justification for the restriction on the Government's right to use the data for governmental purposes does not adequately support the asserted restriction on the technical data, the justification therefor shall be promptly subjected to technical review and audit.

"(e) If after reviewing the findings of the technical review and audit, it is determined that the restriction on the Government's right to use such data for governmental purposes warrants challenge, the contracting officer shall issue a final decision pertaining thereto which shall be subject to the provisions of the Contract Disputes Act (41 U.S.C. 601 et seq.).

"(f) If the Government's challenge to the restriction on the Government's right to use for governmental purposes technical data as certified pursuant to subsection (b) is sustained, upon final disposition—

"(1) the restriction on the Government's right to use that technical data for governmental purposes shall be canceled; and

"(2) the contractor or subcontractor, as appropriate, shall be liable to the Government for the Government's cost of technically evaluating and auditing the asserted restriction, and the fees and other expenses, as defined in section 2412(d)(2)(A) of title 28, United States Code, incurred by the Government in challenging the asserted restriction, if the asserted restriction, as certified, is found not to be substantially justified, unless special circumstances would make such awards unjust.".

(2) The analysis of such chapter is amended by adding at the end thereof the following new items:

"2318. Planning for future competition.
"2319. Encouraging new competitors to broaden the industrial base.
"2320. Technical data management to foster future competition.
"2321. Validating proprietary data restrictions.".

On page 93, beginning with line 1, strike out all through page 96, line 11, and insert in lieu thereof the following:

(b) Section 2302 of title 10, United States Code, is amended by adding at the end thereof the following:

"(4) 'Component' means any individual part, subassembly, assembly, or subsystem integral to a major system, which may be replaced during the service life of the system. The term includes spare part and replenishment spare part. The term does not include packaging or labeling associated with shipment or identification of a 'component'.

"(5) 'Major procurement center' means a procurement center that awarded contracts for components other than commercial items totaling at least $150,000,000 in the preceding fiscal year.

"(6) 'Major system' means a combination of elements that will function together to produce the capabilities required to fulfill a mission need. The elements may include hardware, equipment, software or any combination thereof, but excludes construction

or other improvements to real property. A system shall be considered a major system if (A) the Department of Defense is responsible for the system and the total expenditures for research, development, test and evaluation for the system are estimated to be more than $75,000,000 (based on fiscal year 1980 constant dollars) or the eventual total expenditure for procurement of more than $300,000,000 (based on fiscal year 1980 constant dollars); or (B) a civilian agency is responsible for the system and total expenditures for the system are estimated to exceed $750,000 (based on fiscal year 1980 constant dollars) or the dollar threshold for a 'major system' established by the agency pursuant to Office of Management and Budget (OMB) Circular A-109, entitled 'Major Systems Acquisitions', whichever is greater, or (C) the system is designated a 'major system' by the head of the agency responsible for the system.

"(7) 'Technical data' means recorded information (regardless of form or method of recording) of a scientific or technical nature, including data resulting from work which was specified and directly funded as an element of performance of a contract from the United States, but does not include—

"(A) computer software;

"(B) financial, administrative, cost or pricing, management data, or other information incidential to contract administration;

"(C) data relating to products, components, or processes developed at private expense; or

"(D) data relating to products, components, or processes developed at private expense and offered for sale to the general public.".

(c)(1) Within one year after the date of enactment of this Act, the head of each agency shall develop a plan for the management of technical data received under contracts for the development, production, modification, or maintenance of major systems within its jurisdiction. At a minimum, the management plan shall address procedures for—

(A) inventorying, indexing, storing, and updating items of technical data into a system;

(B) verifying contractor-imposed limitations on the Government's rights to make future use of the data in competitive acquisitions; and

(C) assuring that agency procurement officials and prospective contractors will have timely access to complete and current technical data for the competitive acquisition of supplies and services for the maintenance of the system during its service life.

(2) Within 5 years after the date of enactment of this Act, the head of each agency shall complete implementation of the management plan required by paragraph (1), and include in the system the available technical data for each currently operational major system within the jurisidiction of the head of such agency.

(3) Not later than eighteen months after the date of enactment of this section, the Comptroller General of the United States shall transmit to the Congress a report evaluating the plans of selected agencies for the management of technical data for major systems within the jurisdiction of such agencies. The report shall include an evaluation of the plans.

(4) As used in this subsection, the term "agency" means an agency which is subject to chapter 137 of title 10, United States Code.

On page 99, line 7, strike out "2414", and insert in lieu thereof "2413".

On page 99, line 21, strike out "2414", and insert in lieu thereof "2413".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, June 13, 1984, in order to receive testimony concerning the following nominations:

UNITED STATES CIRCUIT JUDGE

Robert M. Hill, of Texas, to be U.S. Circuit Judge for the Fifth Circuit.

UNITED STATES DISTRICT JUDGE

Franklin S. Billings, of Vermont, to be U.S. district judge for the district of Vermont.

Rudi M. Brewster, of California, to be U.S. district judge for the southern district of California.

James M. Ideman, of California, to be U.S. district judge for the central district of California.

Peter K. Leisure, of New York, to be U.S. district judge for the southern district of New York.

William J. Rea, of California, to be U.S. district judge for the central district of California.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 13, at 10 a.m., to hold a hearing on arms control overview.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 13, at 10:30 a.m., to hold a business meeting.

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

ADDITIONAL STATEMENTS

THE SECOND CONGRESSIONAL FAST AND PRAYER VIGIL FOR SOVIET JEWRY

● Mr. CHILES. Mr. President, today I am honored to be a participant in the second congressional fast and prayer vigil for Soviet Jewry. I would like to take this opportunity to congratulate and thank the distinguished Senator from Michigan [Mr. LEVIN] and his distinguished colleague from Pennsylvania [Mr. HEINZ] for their hard work in organizing this fast and vigil.

No one in Congress can be unfamiliar with the downward spiral in Jewish emigration from the Soviet Union. Many, however, may be unaware of the precise, dangerously low levels to which emigration figures have shrunk. Mr. President, the grim figures speak for themselves. In 1983, only 1,315 Jews were able to leave the Soviet Union so that they might freely practice their religion. This figure represents a 98-percent reduction in emigration from 1979. In 5 short years, the Soviet Union has constructed legal and administrative walls, as solid and hard as those of any real prison, around the Jewish population. In the first quarter of this year, only 229 Jews were allowed to emigrate. It appears 1984 will prove a sad replay of 1983.

As the Union of Councils for Soviet Jewry points out, the growth of the Anti-Zionist Committee in the U.S.S.R. parallels the restrictive emigration measures exhibited by that country. We in the Western World know that there are thousands of Jews in the U.S.S.R. who wish to emigrate, yet the Anti-Zionist Committee states that all Soviet Jews that wish to leave have already done so.

The Soviet Union would have us believe that there is no religious persecution of Jews practicing their faith. If that is so, why must so many say their prayers in the darkness of their homes, instead of the light of the synagogue? Why is it a criminal offense for someone like Josef Begun to teach Hebrew in his home? Why are the children of Jews denied higher education and employment opportunities?

We know that the persecution exists. We know that the Soviet Union lies when it denies it. We know that we must speak out, petition, write, and put pressure on the Soviet Union to let these people go, to let them go elsewhere where their human dignity and religious faith cannot be denied.

I reject the notion that the West cannot play a role in changing the repressive practices of the U.S.S.R. Clearly, the West can make a difference. We have in the past, and we can in the future.

With this hope and goal in mind, I am adopting Yakov Mesh, along with his wife Maima and his son Marat, for today's fast and vigil. Yakov has applied for permission to emigrate from the Soviet Union to join the remainder of his family in Israel many times during the last few years. Repeatedly promised by authorities that his family's applications were "soon to be approved," all three have been denied emigration on each occasion. At one point, Yakov's mother asked authorities why the latest petition had been denied. She was told a mistake had been made, and that Yakov, Maima, and Marat could leave in 3 or 4 months. That was over 5 years ago. Clearly, Yakov is a victim of increas-

ingly capricious, vindictive, and repressive emigration policies of the Soviet Union.

Yakov is something of a cause celebre in my home State of Florida. This is largely due to the efforts of Dr. Joel Levin, a Miami physician who has given selflessly of his time and energies working for Yakov's emigration. Joel was responsible for putting together a boxing exhibition to raise moneys for Yakov's emigration processing some time ago. At one point in his life, Yakov himself was a boxer during service with the Army sports section. Joel is once again planning a similar exhibition to draw attention to Yakov's unfortunate situation.

I commend Joel's efforts to get Yakov, Maima, and his now-ailing son Marat out of the Soviet Union. It is my hope that he is successful in his campaign.

As Joel well knows, the hours of effort are long, and the frustrations and disappointments are many, for all who try to help Soviet Jewry. This cannot deter us, however—it should only move us to redouble our labors.●

SUCCESSFUL COOPERATIVE VENTURE

● Mr. LEVIN. Mr. President, we are all familiar with the plight of many of our older neighborhoods and it is indeed heartening to find an inspiring demonstration of what some people in the city of Detroit have done to improve and revitalize their community.

Through the opening of the Shoppers Co-op True Value Hardware Homecenter in northwest Detroit, we see, and are encouraged by, self-help efforts to create an advantageous project feasible for the entire community.

About 4 years ago, president of League Life Insurance Co., Robert Vanderbeek, was driving along a strip of wasting buildings and vacant lots when the thought "wouldn't it be nice if * * *" wouldn't leave his mind. But, "if what?" was the unsolved question. So, League Life Insurance, along with the National Consumer Cooperative Bank, each provided initial seed money totaling $100,000 to hire two expert research firms which did a feasibility and marketing analysis and identified the major intersection of Livernois and Seven Mile as a prime location for a shopping center development.

The next step bringing the co-op closer to its creation, was the formation of the Community Advisory Committee. This committee made thousands of phone calls to recruit their neighbors, went door to door distributing literature, and hosted home and block club information meetings to enlist community support and recruit membership. Within 6 months, the Community Advisory Committee and membership services staff of the co-op raised $125,000 equity required by the National Consumer Cooperative Bank to continue the project. On June 27, 1983, the Livernois Seven Mile Cooperative Services Inc. was licensed by the State of Michigan.

Co-op membership through stock purchases began to grow. From the community's eagerness to improve their neighborhood, co-op membership is now up to 1,400 with investments totaling more than $316,000.

The Shoppers Co-op True Value Hardware Homecenter will have a grand opening on June 16, 1984. The Shoppers Co-op store is one of three major enterprises which constitute a $4 million shopping center project that is also organized as a cooperative. The center when completed later this year will include a full service Farmer Jack Super Market, and a branch of the First Independence National Bank. These three businesses, together with League Life Insurance Co., will cooperatively own and manage the shopping center project.

Attending the grand opening ceremony will be representatives of the Federal, State, and city agencies who helped provide financing for the Shoppers Co-op and the co-op shopping center. Principal among these are the Department of Housing and Urban Development through the UDAG program, National Consumer Cooperative Bank, Detroit Community Economic Development Department, Detroit Economic Development Corp., and the Detroit Economic Growth Corp.

The success of this entire development is based upon community participation and support. Even before the grand opening of their store, the residents of this community have demonstrated emphatically their willingness and their desire to improve their neighborhood by their own efforts.

I would like to take this opportunity to express my pride in this Detroit community for their innovation on creating the Shoppers Co-op True Value Hardware Homecenter and for establishing themselves, not only as a people thinking of the present, but as a people working for the future. This rebuilding program in a great city—a community which has been among the hardest hit with economic recession in recent years—is an inspiring example of individual and group initiative.●

SUPERFUND AND GROUND WATER CONTAMINATION

● Mr. LAUTENBERG. Mr. President, on June 4, the Committee on Environment and Public Works conducted a field hearing in my home State of New Jersey. The subject of our hearing was the Federal Superfund Program and the growing problem of ground water contamination from hazardous wastes. An important impetus to our holding the hearing on this subject was an excellent series of articles from the Asbury Park Press special report entitled "Troubled Waters." As the authors of these articles point out, too many of us take for granted the quality of water that flows from our taps. Yet, the number of victims of contaminated water grows daily. Over 500 wells in New Jersey have been closed down as a result of chemical contamination in the last few years. A major source of the problem is abandoned landfills and other abandoned hazardous wastesites.

This month, the Committee on Environment and Public Works will be considering legislation to improve and strengthen our Nation's program for cleaning up abandoned hazardous waste sites. It is my hope that the committee will act expeditiously to reauthorize a comprehensive Superfund Program that will, among other things, better protect the vital ground water supplies in New Jersey and other States. In order that reauthorization can be realized this year, the Senate will have to take up Superfund this summer.

The threat to New Jersey's drinking water underscores the need to move forward without delay on a Superfund law reauthorization. This country has only just started the formidable task of cleaning up the thousands of sites that have been identified by EPA and the States. The tragically slow pace of cleanup has frustrated many of our citizens. For some, the proximity of these sites and exposure to hazardous wastes through contaminated water and air have irreversibly altered their lives; children lost to leukemia, families forced to leave their homes or, even worse, unable to leave while they wait for the Government to respond.

The story of one of these families, the McCarthys and the residents of Legler in Jackson Township, NJ, is related in one of the Asbury Park Press articles. Jim McCarthy testified before our committee and recounted the horror of water tainted with 38 chemicals. He told of a daughter lost to a rare kidney cancer at 9 months old and of losing a kidney himself. The township operated a landfill were millions of gallons of liquid wastes were dumped in the 1970's. These wastes found their way to the wells of the 97 families of Legler.

In my State of New Jersey, the most common route of exposure to hazardous chemicals is through contaminated drinking water. Over 60 percent of the drinking water comes from ground-water sources. In the southern parts of the State, the percentage climbs to 90 percent. The New Jersey Department of Environmental Protection estimates that all but 3 of the State's 85 Superfund sites are candidates for ground water contamination.

At the 47 where studies have been completed, all of the sites showed ground water contamination by hazardous chemicals.

Next year, my State is ready to move ahead with cleanup activity at 69 major sites. To do this, the State needs $108 million in Federal funds. This is far in excess of what the $640 million Superfund can promise. Without reauthorization, the fund will run out of money in fiscal year 1985. As a result, more of our citizens will drink, cook, and bathe in contaminated water with eventual costs in personal suffering and in monetary compensation that will far exceed the funds needed for expeditious cleanup.

I ask that a selection of excellent articles from the special report by the Asbury Park Press appear below in the RECORD. It is my hope that the Senate will be able to act on the reauthorization of the Superfund Program before it runs out of money and slows down the critical job of protecting the public from the dangers of groundwater contamination by hazardous wastes.

The articles follow:

GROUND WATER CRISIS

(By Robin Goldstein)

The dumps are bad enough—the overstuffed landfills and toxic waste sites laced with putrid lagoons. They scar the landscape and remind us of the distressing side of our industrialized modern times.

But as ugly as the dumps themselves are, there is something even uglier happening out of sight, beneath them. A vast number of the nation's waste and chemical disposal sites are located on top of aquifers, the huge underground reservoirs that provide half of the country's population with drinking water.

In countless cases, the chemicals and toxic substances heaped on the dumps seep down through a thin layer of earth and into the underground water system. And once the aquifers are contaminated, it is almost impossible to clean them up. In many cases, the contamination will remain in the underground water long after the dump that polluted it has been removed.

This means the water some of us drink may become irreversibly contaminated and worse yet, toxic.

The most sobering aspect of groundwater contamination is how little officials know about it. According to a recent report by the General Accounting Office in Washington, the "scope and nature" of the pollution is unmeasured, although use of ground water—what the underground aquifers are called—has tripled in the past 30 years.

In New Jersey, the residents in the Legler section of Jackson Township learned firsthand about ground water contamination when 340 of them found their wells laced with cancer-causing chemicals. A court awarded them $15.6 million in damages to compensate for the physical and emotional distress brought on by ground-water contamination caused by a nearby municipal landfill.

The Legler problem underscored the particular threat New Jersey faces. Of the 1,000 or so hazardous waste sites identified by the federal government, nearly a tenth of them are in New Jersey.

Scientists estimate that the nation's ground water—the water that flows through sand and gravel under the surface of the land—is equal in volume to 16 times the amount of water in all the Great Lakes.

The Environmental Protection Agency for the first time last month acknowledged the seriousness of the ground water pollution problem by creating an Office of Groundwater Protection. That office is now reviewing a national ground water "strategy" that concludes that ground water protection is largely a state problem.

The data don't exist to pinpoint how serious a problem underground water contamination is.

The EPA ground water office's new director, Marian Mlay, said that 20 percent of the ground water-fed drinking water supplies in the country are now showing some traces of chemicals and pollutants, although below dangerous levels.

"We want to prevent something more serious," she said.

"Although ground water contamination is a significant and widespread problem, the extent of the contamination is unknown because no comprehensive national data base or monitoring program exists," the GAO reported.

Some scientists feel it is time for EPA to move ahead and for the federal government to take charge of the ground water crisis.

"EPA is not doing a very good job with ground-water," said Dr. Henry Cole, senior scientist at the Washington-based Clean Water Action Project. "The agency's proposed ground-water protection strategy we find to be highly inadequate. It's not mandatory but voluntary for states to follow."

Cole feels an urgency about protecting ground water because it is such a vulnerable resource.

"Underground water is different than surface water, such as streams," he explained. "A stream may move at 20 to 30 miles per hour, which gives pollutants time to disperse. But ground water moves about 10 feet in a month or a year."

As a result, pollutants stay in ground water, undiluted, for months or years, and it is almost impossible to get them out.

"Two years after concentrations of (pollutants) occur in the water, it may be sucked up into someone's well," Cole said.

Ground water contamination can come from many sources, including underground gasoline storage tanks, road salt, pesticides and industrial sites. But an EPA study found the largest polluter of ground water to be hazardous waste sites.

In a 1982 study of 929 hazardous waste sites around the country, the EPA found that ground-water contamination existed at 320 sites and was suspected at 326 other sites. EPA found contaminated drinking water at 128 sites.

This makes ground water contamination a particular concern in New Jersey, which has 100 of the nation's worst-ranked toxic waste sites. Additionally, according to Cole, much of New Jersey is covered with sand and gravel, the kind of porous materials that allow chemicals to seep easily into water supplies.

GAO cites a 1983 EPA statement that 410 of the 546 hazardous waste sites on the Superfund National Priority List have ground water contamination problems.

The EPA and the states joined forces in 1978 to begin studying disposal sites for municipal, industrial, agricultural and mining waste. Of 31,400 sites examined, the study found that nearly 50 percent of them were located over thin, permeable layers of earth that would allow substances from the dump to leach into the water table.

That may, in part, explain the results of a 1981 study by the Council of Environmental Quality, which estimated that there was ground water contamination in at least 34 and possibly 40 states, including all states east of the Mississippi River.

Clean Water Action Project's Cole believes the EPA should not leave such a widespread problem to be dealt with piecemeal by the states. But EPA's Ms. Mlay said that the sources of ground water contamination very so much from region to region that the problem is easier for state and local officials to handle.

The Northeast, for instance has problems with road salt run-off, while agricultural states worry about contamination from pesticides. Many states are beginning to have problems from leaking underground storage tanks for gasoline and other substances. The underground tanks, an innovation to prevent fires about the time of World War II, are now aging and beginning to crack.

Ms. Mlay said that underground tanks are best regulated by local officials.

The GAO points out in its report, however, that EPA has not exercised its authority to set quality standards and testing requirements for ground water. For many chemicals, the EPA has set no standard for how much of the substance can be present in water without posing a danger to health.

"If you have no standards, there is no level of protection," said Clean Water Action Project's Cole. With no national standards, states that want to set their own stringent standards are caught in a dilemma. They may be forced to loosen their own strictures if an important local industry threatens to move to another state where the standards are easier.

The EPA strategy now under review does not set up a broad base of standards. It offers technical assistance to the states in preparing their own ground water programs and sets up categories for underground aquifers, which should get the most protection.

The New Strategy "doesn't come near to solving the problem," Cole said.

But with ground water being threatened by everything from dumps to road salt and from gasoline to pesticides, any solution to the growing ground-water problem has to weave a thin line between environmental concerns and modern reality.

"Our problem is finding a way to protect ground water without closing down the country," Ms. Mlay said.

THE IDEA IS TO KEEP NEW JERSEY'S WATER DRINKABLE

(By Erlinda Villamor)

Water, water everywhere, and there's a lot of it to drink in New Jersey from underground sources—if we can only keep it drinkable.

Researchers and state water officials are raising a warning flag over the continued fouling of our ground water, the largest reserve of potable water New Jersey has. It is the source of drinking water for more than 60 percent of the state population.

In Monmouth, Ocean and other southern counties, some 90 percent of the population draws its drinking supply from underground sources.

Some 750 million gallons of ground water per day are pumped out in New Jersey,

more than half of it from the Coastal Plain aquifers of South Jersey.

Experts say New Jersey's ground water, in its natural state, is generally very good although in some areas treatment is needed for high acidity, hardness, iron and manganese contents.

But high population and industrial density have polluted much of the water in our aquifers. According to the latest state Water Quality Inventory Report, there are no longer any major aquifers or area of the state untouched by groundwater pollution.

No one has any idea how many of New Jersey's approximately 35,000 potable water wells should not be used at all because of serious contamination.

Since it was formed 13 years ago, the state Bureau of Potable Water has closed down 771 public and nonpublic supply wells as unfit sources of drinking water. Most were found to be heavily laced with organic and industrial chemicals.

Evidence also has surfaced that some of the state's wells have been contaminated with suspected carcinogens, leading to more well shutdowns.

Three years ago, a Rutgers University research team analyzed samples from 670 wells. Sixteen percent of them exceeded standards for one or more of eight volatile organic compounds believed to cause cancer in animals. Water from 31 wells contained chlorinated pesticides and related compounds, which have been banned or restricted because of their toxic nature. Three were so badly contaminated they had to be put out of service.

In another study, scientists commissioned by the state for the Statewide Water Supply Plan looked into their glass of New Jersey ground water and found a bleak picture: more and more public supply and domestic wells contaminated by industrial wastes and spilled chemicals and petroleum products.

Despite a plethora of programs aimed at keeping ground water pristine, the report said, "There has not been a significant improvement in New Jersey's ground water quality."

New Jersey's water pollution control laws are considered among the nation's most stringent. But lack of money and manpower have hampered their implementation, according to a study prepared by five water consultant firms. Efforts to halt ground water contamination, they added, "are limited to responding to, rather than anticipating contamination problems, and to reviewing rather than deciding the feasibility of siting applications."

The State Department of Environmental Protection, the study said, is figuratively drowning in a sea of data collection activities, including surveys, monitoring programs and computerized manifests.

DEP officials therefore uncover a number of problems but are ill-equipped to solve them, the study said.

And it's no empty boast when state water officials say New Jersey has done more studies on water than most other states in the nation.

"We've found more chemicals and more problems in the water than any other states," says Barker Hamill of the Bureau of Potable Water. "Look at our Superfund sites. We've identified more of them than many other states," he added, ticking off a string of state legislation measures and bond issues on water protection.

"Once contamination of groundwater occurs," says Dr. Robert K. Tucker, of the Office of Cancer and Toxic Substances Research, an arm of the DEP, "the pollution is exceptionally persistent and extraordinarily difficult and expensive, if not impossible, to clean up."

Thus far, shutting down wells has been the state's only recourse when toxic and carcinogenic contamination is established.

But geologists say we cannot afford to continue drilling new wells and pumping more ground water. Plentiful though it may be, ground water is not exactly renewable. True, aquifers replenish themselves as water is drawn from them, but they can also lose the ability to store water. The region's aquifers have an excellent recharge rate and storage capacity, but studies have shown that increased pumping and severe contamination are beginning to wreak havoc on them.

The latest Water Quality Inventory Report estimates a loss over the next several decades of from 40 million to 50 million gallons a day (mgd) of potable ground water supplies if the rate of aquifer pollution is not abated.

"This is a substantial portion of the estimated 750 mgd of ground water used daily in New Jersey," says Keith Robinson, of the Bureau of Planning and Standards of the Division of Water Resources, which compiled the report.

Already, in several counties in North Jersey, high usage is straining aquifers and lowering the ground water levels, state water officials say. Researchers report that in parts of other counties such as Morris, Passaic, Hunterdon, Sussex and Warren, rock aquifers are considered poor and may not withstand more well-drilling and pumping.

Some 15 government agencies are involved in monitoring ground water quality, but their efforts are uncoordinated and have not produced any clear idea of the water level and quality, according to five consultants for the statewide Water Supply Plan. For instance, the consultants said, there are no estimates of the capacity of the state's major aquifer systems.

William Althoff, program manager for the state Geological Survey, an enforcement arm of the Division of Water Resources, says ground water problems are not being investigated as quickly as they should be. "We usually get a report when damage has already occurred," he said.

The Geological Survey investigates ground water contamination for the state Spill Fund and the federal Superfund programs.

"Right now we have 350 active ground water investigations," Althoff said. Of these, 22 are in Monmouth County and 23 in Ocean County, he said.

His office's backlog has reached some four dozen pollution problems.

In 1981, Althoff said, the Geological Survey investigated 220 instances of ground water pollution. By the end of last year, there were nearly 350 under investigation.

"It's a severe caseload. Pollution cases are just ballooning. We have nine investigators, which means roughly 39 cases to a person."

Even so, New Jersey's problem of contaminated ground water hasn't reached the point of no return. "The quality of our ground water in general is excellent. It meets national standards for drinking water as well if not better than any other state," says Hamill of the Bureau of Potable Water. In his view, much of the concern over ground-water centers around chemicals for which no standards have been set.

"New Jersey has done much bigger studies than most other states for these chemicals," Hamill says, "The fact that we have found more chemicals in our system doesn't mean we have more of them than in other states."

What is proving more worrisome are health effects of toxic chemicals the Rutgers University team identified in a study of the state's well water. Tucker, the head researcher, warned about the halogenated volatile organic compounds his team found in some of the analyzed wells.

With five of these chemicals—with such tongue-twisting names as tetrachloride, chloroform, dichloroethane, tetrachloroethylene and tricholorethylene—there is evidence from animal tests that they can cause cancer.

The other compounds are chemically similar to known carcinogens, although there is no laboratory evidence that they cause malignancy. Most of these chemicals are used in industry as degreasing solvents. Because they are highly volatile and easily find their way into the environment, these suspected carcinogens move easily with the ground water flow and linger just above it.

"They are the most serious threat to our ground water resources," Tucker said. Their presence in our ground water is linked to the large amount of synthetic chemicals produced and used in the state, he said.

Studies show that landfills are the most substantial source of ground water pollution in New Jersey.

Of the state's 300 registered landfills, only seven are lined. In addition, there are 134 known abandoned landfills and illegal dumpsites that continue to contaminate New Jersey's underground water system.

Studies have shown that an average landfill in New Jersey generates some 18 million gallons of leachate every year. That translates into some seven billion gallons of the toxic brew of chloride, iron, lead, copper, sodium, nitrate, pathogens and other hazardous substances.

Petroleum and chemical spills are a growing threat to ground water supplies. In 1981, the state Division of Waste Management, which is responsible for responding to spills, reported 2,512 spills.

A "significant" amount of such materials seeps underground, DEP officials say.

Ground water pollution is generally more difficult to trace and eliminate than surface pollution. That's why authorities say that minimizing spill incidents is considered so essential.

The state has a spill emergency response plan and a spill prevention program but they are woefully inadequate, according to a report of an investigation by the Public Interest Research Group. The majority of accidental spills reported are caused by underground storage tanks and buried pipelines, especially in industrial parts of the state.

A HOUSE WITHOUT WATER NOT A HOME

(By Susan De Santis)

Gilmer Ulrich, who has arthritis, used to bathe in a hot tub to relieve the pain. Now, she likens her bath to sitting in a tub of red pepper.

Her neighbor, Beverly Kelly, never hesitated to use water for drinking and cooking. But now, she can't differentiate between the water and perked coffee.

Georgette E. Beuth never worried about the purity of her well water. Now, a row of dying mimosa trees makes her wonder about her own mortality.

These are some of the residents of South Union Street in Stafford Township and their fears are justifed.

Chemicals that have caused cancer in animals have been found in their well water.

Tetrachloroethylene, trichloroethylene and dichloroethylene have been detected in at least 100 wells in Stafford Township. In some, the levels were well below the state limit of 100 parts per billion; others had concentrations three times higher.

The State Department of Environmental Protection has said there's no immediate health risk, but warned residents whose wells have high levels of the contaminants not to use the water.

"There's no particular guarantee because next week somebody can do a study to find this thing is much worse," said Barker Hamill, an environmental engineer with the DEP's Division of Water Resources. "But if I had to summarize it, water is safer than people think it is.

"I think for some people, the thought of their water being contaminated is worse than the actual contamination," Hamill said.

Take the experience of Joseph and Beverly Kelly, whose son, Matthew, 3, has never had the pleasure of turning on and drinking the tap water. He knows he must use water from gallon jugs supplied by relatives.

"Here you are jeopardizing your family's health," Mrs. Kelly said. "Is one of your children going to come down with cancer 10 years from now? The threat of cancer is all around us."

"This may be a little thing to them," Mrs. Kelly said of the authorities who have investigated the problem. "But for 30 families to go on like this for a year, at the very least they should get us water right outside our door—not direct us up the street to low-contaminated water that looks like perked coffee after a day or two."

Mrs. Kelly's problems started in June. The Ocean County Utilities Authority began installing interceptor lines at South Union Street, dropping the water table and inadvertently bringing the chemicals to the surface when water consumption resumed.

The source of the chemicals isn't known. Officials believe they could have been industrial byproducts lying dormant below the ground a couple of decades.

"It started way back when with cigarettes," Mrs. Kelly said of her concern for the environment.

"So, I gave up cigarettes 10 years ago. Then, it was one thing right after the other. You hear little bits and pieces. There's too many pressures. It's a constant worry as a parent: How do you protect your kids from being exposed to it?"

About 50 miles away in the Morganville section of Marlboro Township, Frank Dreusicke and his wife, Betty, can identify with the Kelly family. They and sons, Mark, 4, and David, 1, live about a mile from Burnt Fly Bog.

The federal Environmental Protection Agency considers the bog one of the most polluted hazardous waste sites in the country. The 160-acre tract near Spring Valley Road and Tylers Lane is known to contain polychlorinated biphenyls, lead, arsenic and cadmium.

The EPA has promised to spend $7.3 million over the next two years to clean up the bog, but the Dreusickes wonder if they are endangering the health of their family in the meantime.

Dreusicke is a member of the Burnt Fly Bog Citizens Advisory, a group that pressures state and federal officials to clean up the bog.

"I told the committee if I were Rockefeller's son, you wouldn't see me here," Dreusicke said, explaining that if money didn't matter he would have moved away long ago.

"If you are in a life-threatening situation, naturally you are going to leave," Mrs. Dreusicke added.

The Dreusickes live on five acres of property off Spring Valley Road. Outside the windows of their living room, a meandering path and the dense trees obscure all evidence of the proximity of Burnt Fly Bog.

But there are constant psychological reminders of the bog's presence.

Mrs. Dreusicke had a miscarriage between the births of her two sons, and she wonders if pollutants from the bog could have been the cause.

Dreusicke closed his well and paid $1,200 to hook into water supplied by Marlboro Township when tests for lead in his water hovered around the state limit of .05 parts per million.

One part per million is the equivalent of an apple in 2,000 barrels of apples, a very small quantity, indeed.

Dreusicke is careful not to overreact to the test results. He realizes there are certain risks in an industrial society. As a contract administrator for Du Pont in Linden, he sees both sides of the issue.

"They want the best of all worlds," he says of consumers who promote environmental issues, but aren't willing to pay higher prices for consumer goods once pollution control is implemented.

The control of hazardous wastes is a science in its infancy, he adds, and the often-conflicting analyses of health risks can prove baffling to victims of environmental pollution.

"There is no magic test for the four million chemicals," admitted Joseph Przywara, environmental health coordinator for Ocean County.

"In most cases, in these concentrations, they are irritants to the skin," Przywara said of the chemicals found in the Stafford Township wells. "Usually, it affects the liver system or kidney system. We don't know what's going to happen over time."

John Preczewski, an engineer with the DEP's Division of Water Resources, said two deep test wells will be drilled at South Union Street to determine if water can be drawn from a lower aquifer under a layer of clay.

"You're working with something in the dark," Preczewski said. "It's like being blind."

It will be a year next month that Stafford Township residents have been living with polluted water. Stafford Mayor Carl Block admires their patience.

"What goes by as a week for me seems months to them because they have to deal with it day in and day out," Block said.

But he thinks the residents are lucky that something is being done about their problem.

"There's nothing to say that there is not another part of the township with a worse pollution problem that they just didn't discover yet," he said.

Clifford Beuth, who lives with his wife Georgette on South Union Street, is willing to take that gamble. He has put his house up for sale.

Beuth bought the house 20 years ago for $14,000, but the house, with its wood-burning stove, large kitchen and country charm should be worth $65,000 today.

Olga Osusky, real estate agent for Century 21 Parade of Homes in Stafford Township, said she doubts anyone will buy the house until a pure water supply is available.

"One person looked at the house and found out about the water and we have never heard about it again," Beuth said. "I have been trying to build equity in this home for 20 years."

"We're paying taxes on something that isn't worth a dime," Georgette added.

LEGLER VERDICT SENT A CLEAR MESSAGE, BUT IT'S NOT OVER

(By Daniel S. Clay)

For 97 families living in the Legler section of Jackson Township, years of fear, frustration and struggle were capped by a shining moment on Nov. 16 when they got the word. An Ocean County jury had awarded them $15.6 million for their suffering as a result of water pollution.

The award was interpreted as a clear warning to government agencies and industries. No longer could they expect to escape punishment after injuring and endangering people by polluting their water.

After years of litigation, the Legler folks and their lawyers had proven that the township's operation of the dump at Homestead Road led to the contamination of their wells, causing them physical and mental anguish.

Barring a successful appeal, the township and its insurance companies will have to pay. And the ruling established a precedent being used in pollution suits in other sections of the country.

The aftermath was expected to be a return to the relative quiet of normal family and community life, a time to put behind the memory of that landfill with the stench and rats and the fouled wells.

The expected serenity was short-lived, though. The federal Environmental Protection Agency has reported that the asbestos level in the municipal water Legler residents now use was relatively high.

In fact, said the EPA, the Legler water system, built after the well contamination, had one of the highest asbestos fiber counts in the state.

So, after staying away from township meetings for a while, some Legler residents are back, raising their voices anew even though authorities maintain there's no proof asbestos in water is as hazardous as airborne asbestos.

Families that had hoped to take the money, sell their homes and move away feel entrapped. There's no market for their homes, and the money has been slow in coming.

The bulk of the jury award must await the outcome of an appeal. Several families, though, have gotten partial payments ranging from a few hundred dollars to $15,000 as settlements with other defendants.

The appeal isn't expected to be resolved before January. Meanwhile, the interest clock on the $15.6 million award is ticking away to the tune of $5,100 a day. It could add another $2 million if the decision stands till the end of this year.

Forty-six other residents of the Legler section have filed a notice that they will be seeking the same compensation for their suffering during the 1972 to 1980 period the landfill was open.

Lawyer Arnold Lakind, Lawrence Township, who helped prepare the Legler case, sees "defendants becoming much more responsive. They acknowledge that people can be hurt and they're much quicker to act."

Example: A month after the Legler verdict, Allied Fisher, a chemical repackaging firm in Bridgewater Township, agreed to

pay to hook up 470 homes to the municipal water system as a paratial solution to a problem of several years.

In Niagara Falls, N.Y., Lois Gibbs, president of the Homeowners Association of Love Canal, said the Legler outcome has given residents of the Love Canal new hope in their suit against Hooker Chemical Co.

In that case, 1,300 residents sued the company and the city. Hooker had offered $8 million to settle, she said, but there are almost three times as many people involved, and they are seeking damages for physical injuries.

She said residents are considering a $20 million settlement offer which would include $8 million from Hooker and the balance from insurance companies. If 90 percent of the residents agree, that would end the case.

Anthony Roisman, a former Justice Department lawyer now affiliated with a Washington-based law firm dealing in environmental matters, said corporations have become more serious about how they treat the environment.

He cites a Harvard University study that had taken a strong position on the reliability of evidence linking infant deaths and leukemia to polluted water.

The Legler residents charged, and the jury agreed, that the township was negligent in permitting cancer-causing chemicals to be dumped into the landfill, and that led to contamination of their wells.

Of the $15.6 million. $8 million was awarded to provide medical surveillance, $5 million for what had happened to the quality of life and $2 million for past, present and future emotional distress.

In their suit, Legler residents cited the deaths of three infants from kidney diseases during the years the landfill was open, and they claimed others suffered kidney and liver problems. But a ruling by Superior Court Judge James M. Havey denied them the right to collect for major illnesses and death.

However, that legal door may not be closed entirely, according to lawyer Lakind, who cites a suit in federal court in which damages are being sought for deaths and other kidney diseases caused by water pollution.

Still to be resolved by Judge Havey is how much each Jackson Township insurance carrier and the township itself must pay.

Susan and James McCarthy, Route 571, had planned to take the more than $200,000 awarded to their family and head for New Hampshire. They lost an infant girl to a rare kidney disease in 1975, and they had hoped to go to an area where the environment is clean.

"We felt we were on cloud nine for a couple of months," Mrs. McCarthy said. Then they picked up the newspaper one day and read about the asbestos fibers.

McCarthy, who said he has his own filtration system in his home, said this latest problem convinced him that "you can't trust government to protect the health of the people; you have to protect yourself."

Anthony Massaro, another of the successful plaintiffs, believes the case proves "you can fight city hall and win." And he believes the township is much more concerned about the asbestos problem now than it was about the landfill pollution.

In August 1972, the first load of liquid waste trickled through the porous sand at the new landfill on Homestead Road in Legler. It soon became a torrent reaching 110,000 gallons a day.

The sandy soil was more porous than adjacent areas because the township was using the former site of an ilmenite mining operation.

Tests in October, 1978, showed wells were contaminated. On Nov. 8, 1978, the word went out that well water was polluted. And for the next 17 months, the township supplied residents with 17-gallon drums of water.

COUNTY: WATER OK

Armed with a $98,000 grant, Ocean County spent the last 18 months monitoring its shallow water aquifers.

Results showed no harmful levels of pollutants, except for some elevated chloride levels in coastal wells, says Alan Avery, director of the county's Water Quality Project.

"The sampling showed a very good water quality," Avery reports.

The study was a cooperative effort between the county, the state Department of Environmental Protection and the United States Geological Survey to develop a monitoring program for shallow aquifers used for water supplies.

"We took samples from more than 200 locations in the county in all the aquifer sections, especially the Kirkwood and Cohansey aquifers," Avery said. "Those samples done by the USGS were analyzed by the Ocean County Board of Health and sent to the USGS. The government recommended sampling sites and procedures to follow if the county wanted to embark on its own monitoring system in the future."

Should Ocean County choose to, Avery said, the system would be based on documented samples for comparisons.

A FRAGILE RESOURCE

Too many of us, for too long, have taken for granted the quality of the water that flows from our taps. At a casual glance, water seemed the most renewable of resources.

But water is as vulnerable as it is abundant. Members of 97 families in the Legler section of Jackson Township recently were awarded judgments totaling more than $15 million against township authorities and others who permitted the dumping of cancer-causing chemicals that polluted the private wells that supplied their homes.

Here in New Jersey, a dangerous deficiency exists in safeguards for water users: State government lacks the resources to independently sample and test its 1,450 wastewater plants and 620 water purveyors on any basis that could be called systematic or comprehensive. Most testing that is performed is done by plant operators. And testing laws make no mention of the estimated 200,000 residents who draw their water from private wells.

On the federal level, the U.S. Environmental Protection Agency acknowledged only this year the serious threat to ground water. Last month, the EPA created an Office of Groundwater Protection, but its strategy to date "doesn't come close to solving the problem," according to one scientist. It sets up no broad base of standards for the purity and protection of water sources. Of 546 hazardous waste sites in the United States isolated under the Superfund legislation, 410 have ground water contamination problems. More than 100 of those sites are located in highly industrialized, densely populated New Jersey; there are 600 known toxic waste sites in the state.

The news is not all bad; the quality of ground water in its natural state is excellent. But the latest state Water Quality Inventory Report says no major aquifers or areas of the state remain untouched by ground water pollution.

But the number of wells that yield such water is diminishing; no one knows to what extent.

The problem is not one of knowledge, but of resolve. A great variety of problems exists—polychlorinated biphenyls (PCBs) in fish from coastal waters, bacteria-polluted clams that can cause hepatitis, a variety of inorganic pollutants that infiltrate water supplies, and sewage-borne bacteria that cause or aggravate a variety of ailments, especially in the very young and the ill.

One major trouble spot soon may be alleviated. The federal EPA last month ruled out continued dumping of sewage sludge at an ocean site just 12 miles off Sandy Hook. But it will take the sea years to recover from decades of dumping.

A variety of legislative remedies has been offered, from the federal Superfund law that authorized $1.6 billion over five years to clean up hazardous waste sites, to the proposed renewal, sponsored by Rep. James J. Howard, of the Clean Water Act to help fund new and improved sewage treatment plants. Also being considered is an increased state liquor tax that would generate a billion-dollar trust fund to clean up toxic waste sites, purify contaminated water sources and fund research. Rep. James J. Florio's federal Resource Conservation and Recovery Act, passed by the House and awaiting Senate action, would create a national ground water commission, establish standards for dealing with hazardous waste, and fund ground water research. And in Trenton, the state Department of Environmental Protection is required under a new law to issue a more comprehensive schedule for testing public water supplies.

In the end, public knowledge of the issues, and public resolve, will carry the day—or apathy will. It is a sad phenomenon that water, once abundant, pure and cheap, has become so jeopardized, and potentially so costly. But we must either pay the price for clean water, or face the day when water supplies will be neither abundant nor safe enough to use with confidence whenever we wish.●

CELEBRATION OF THE 25TH ANNIVERSARY OF TROUT UNLIMITED

● Mr. LEVIN. Mr. President, this month marks the 25th anniversary of Trout Unlimited, founded in Michigan by Mr. George Mason in 1959 as a national trout and salmon resource conservation organization.

Trout Unlimited's special anniversary celebration will be held in Traverse City, MI on June 14–17. Today, more than 35,000 members belong to this organization and many will celebrate the 25th anniversary in Michigan. Trout Unlimited has affiliate chapters in Canada, New Zealand, and Japan.

Trout Unlimited was established by Mr. George Mason, president of American Motors, who loved to fish the AuSable River, still a major source of trout. Other fishermen, such as Mr. George Griffith, were concerned about

the future of wild trout and made great contributions to the future of Trout Unlimited.

Trout Unlimited works with State and Federal fishery agencies in scientific research and field projects, helps physically clean up streams and lakes, restores degraded trout and salmon habitat, and conducts water quality surveillance programs. This organization also supports maintaining the genetic integrity of unique trout, salmon and steelhead stocks and protecting salmonid habitat by supporting good forestry and agricultural practices.

It is through chapters and councils that Trout Unlimited's conservation is accomplished. Members devote their valuable volunteer time to performing stream improvement projects which benefit the coldwater fishery. They also support local research and work with other groups on projects of common interest.

I commend Trout Unlimited for its 25 years of conservation efforts.●

CONGRATULATING MARY V. BECK ON 50 YEARS OF PUBLIC SERVICE

● Mr. LEVIN. Mr. President, on June 17, the Ukrainian American community is sponsoring a testimonial banquet honoring a distinguished Ukrainian American and a very special person, Mary V. Beck. In 50 years of service to the American and Ukrainian communities, Mary Beck has been a trailblazer. She was the first woman elected to the Common Council of the City of Detroit; the first woman elected to be the president pro tem of the council; the first woman elected to be the president of the common council and acting mayor of Detroit; and the first woman to be appointed as chairperson of the Wayne County Port Commission. And these are just a few of her firsts.

Although we did not quite serve on the council at the same time, her ability and interest in making government efficient, responsive, and caring were known and admired long after she left. Her tireless efforts to serve the people of Detroit in an individual and meaningful way should be a model for those who seek to hold public office.

Mary Beck's commitment to human rights and the plight of dissidents in Communist countries also demonstrates her concern for people and the difficult challenges they confront. As the executive director of the Ukrainian Information Bureau, she continues to speak out at forums both in this country and abroad on behalf of those who are oppressed and yearn to be free. Her persistence and determination have carved out a special place for her as a spokesperson for the cause of liberty.

This coming Sunday many people will pay tribute to Mary Beck. Today, here is the Senate, I wanted to take this opportunity to let my colleagues know of her long and continuing record of service and to convey to her my warmest congratulations on this celebration of her 50 years of public service.●

ORDER FOR H.R. 5565 TO BE HELD AT THE DESK

Mr. STEVENS. Mr. President, I ask unanimous consent that once the Senate receives from the House, H.R. 5565, a bill concerning the relocation of certain Federal facilities in the District of Columbia, it be held at the desk pending further consideration.

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

JOINT REFERRAL OF HATFIELD BILL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Hatfield bill, introduced today, dealing with allowing the buy-out of certain forest service and Bureau of Land Management timber contracts, be jointly referred to the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Energy and Natural Resources.

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

ORDER PLACING SENATE RESOLUTION 404 DIRECTLY ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that Senate Resolution 404, congratulating the Boston Celtics, introduced by Senator KENNEDY today, be placed directly on the calendar.

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

Mr. BYRD. I thank the distinguished Senator.

Mr. STEVENS. I thank my good friend.

ORDERS FOR THURSDAY

ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate recesses this evening, it stand in recess until 10:30 a.m. tomorrow morning.

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

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. STEVENS. Mr. President, after the time for the two leaders under the standing order, I ask unanimous consent that there be special orders not to exceed 15 minutes each for Senators DOMENICI, PROXMIRE, and LEVIN.

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

ORDER FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. STEVENS. Mr. President, following those special orders, I ask unanimous consent there be a period for the transaction of routine morning business to not extend beyond 11:30 a.m., during which Senators may speak therein for not to exceed 2 minutes each.

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

PROGRAM

Mr. STEVENS. Mr. President, following routine morning business, it is the hope of the leadership that we will be able to turn to the consideration of Calendar No. 832, which is H.R. 4616 pertaining to restraints in motor vehicles for child seats under a very brief time agreement.

If this is possible, there will be a rollcall vote on that. If it is not possible, it would be the intention of the leadership to return to the pending measure, which is the Defense Department authorization bill.

I might state that the Senate is expected to stay in session very late tomorrow night in the hope of finishing the DOD authorization bill this week. In addition to that, it is fairly apparent that there will in all probability be a rollcall vote before 12 noon tomorrow.

Mr. BYRD. Mr. President, will the distinguished assistant Republican leader yield?

Mr. STEVENS. Yes; I will be happy to yield to my good friend.

Mr. BYRD. Mr. President, the distinguished Senator from Alaska has attempted to clear Calendar Order No. 832, H.R. 4616, for this evening.

I am supportive of the amendment relating to a national drinking age. I want very much to see that amendment adopted. I have attempted to get clearance so that I could go back to the Senator and give him a favorable response. But at this late hour of the night—and at a point several hours before this hour of the night—it became impossible to clear this legislation because so many Senators are not in their offices.

However, I want to assure the distinguished Senator that it will be my intention again in the morning to renew our efforts. I personally feel that we can clear this matter for him. I would like to see it cleared so that no amendments to it would be in order. I would like to see it cleared for a very short time for debate.

I just want to assure the Senator that in the morning, when the telephones are operating and the staffs are in their offices, we will make our run again to see if we can help him get an order in this matter.

Mr. STEVENS. Mr. President, I thank the distinguished Senator from West Virginia. I am very pleased that he is willing to make the effort he has made this evening.

We all understand that last-minute requests sometimes run into temporary snags. We hope to do our best to clear that bill for action tomorrow, if at all possible.

I will state, however, that the understanding we have with the managers of the DOD bill is that they do not wish to have action on the DOD bill interrupted, and that is understandable. If it cannot be cleared by the time we proceed on that bill, we will proceed with the regular DOD bill tomorrow.

Mr. BYRD. If it is cleared, it will be with the understanding that it will be taken up at an early hour.

Mr. STEVENS. Yes.

Mr. BYRD. It should not interrupt action on the DOD bill more than a half hour. I will try to do it in less than that.

Mr. STEVENS. That is the hope on this side. We hope that can be done. I thank the Senator.

RECESS UNTIL 10:30 A.M.

Mr. STEVENS. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess in accordance with the previous order.

The motion was agreed to; and at 12:10 a.m., Thursday, June 14, 1984, the Senate recessed until Thursday, June 14, 1984, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 13, 1984:

DEPARTMENT OF STATE

John William Shirley, of Illinois, 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 United Republic of Tanzania.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. James M. Rockwell, XXX-X... [redacted], U.S. Army.