SENATE—*Friday, May 3, 1985*

(Legislative day of Monday, April 15, 1985)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable PAUL S. TRIBLE, JR., a Senator from the State of Virginia.

Mr. TRIBLE. The prayer this morning will be offered by the Reverend William Scully, a Franciscan priest, who is special assistant to Senator WILLIAM ROTH.

PRAYER

The Reverend William Scully, O.F.M., special assistant to Senator WILLIAM ROTH, offered the following prayer:

Let us pray.

Heavenly Father, we beseech Your guidance today upon the Members of the Senate as they exercise their awesome responsibilities as guardians of the public trust and trustees of the American dream.

As the Members of this august body continue their deliberations on the budget, we ask You to grant them wisdom to distinguish between the substantive and the superficial, between the Nation's good and their own individual concerns. Strengthen and protect them this day against the relentless and seductive pressures from without. Infuse them with energy to fulfill their appointed tasks. Help them to resolve their differences this day without rancor and bitterness. Teach them to respect, appreciate and honor diversity of thought and opinions.

May they always treasure virtue and integrity. And, in their deliberations and actions, may they never sacrifice principles for expediency.

We ask this through Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 3, 1985.

To the Senate:

Under the provision of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL S. TRIBLE, JR., a Senator from the State of Virginia, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

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

RECOGNITION OF THE ACTING MAJORITY LEADER

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

COMMENDING THE VISITING CHAPLAIN

Mr. SIMPSON. Mr. President, I appreciate the remarks of our visiting Chaplain relating to continuing our efforts here not on the basis of win or lose. Eventually we will reach a result because, indeed, there is a great majority on both sides of the aisle who have a deep desire to see a $50 to $60 billion reduction in deficits in the first year with larger reductions in the second and third years.

There has been a common effort. There is no question about that. How we get there we will see unfold.

SCHEDULE

Mr. SIMPSON. Mr. President, the two leaders will have 10 minutes each under the standing order. We have a special order in favor of the Senator from Wisconsin [Mr. PROXMIRE]. Then there will be routine morning business not to extend beyond the hour of 9 a.m., with statements limited therein to 5 minutes each.

Following routine morning business, the Senate will resume consideration of Senate Concurrent Resolution 32, the budget resolution. Pending is amendment No. 50, relating to Medicare and Medicaid.

Mr. President, rollcall votes could occur as early as 10:30 a.m. and can be expected throughout the session this day.

Mr. President, I see a smile on the face of the Senator from Wisconsin, who is a delightful friend and whom I met early in my time here. He served with my father. I have always admired his tenacity and his abilities.

Mr. President, I reserve the remainder of my time and yield to the Senator from Wisconsin for his special order.

RECOGNITION OF THE ACTING MINORITY LEADER

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

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time of the minority leader be reserved for his use later today.

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

Mr. PROXMIRE. Mr. President, I would like to thank my good friend, the assistant majority leader. He adds so much to this body. If you say comity or comedy, either way, he is one of the most delightful and humorous people.

You know, this could be a very deadly, dull place, if we did not have the kind of humor and stimulation that my good friend provides. I cannot thank him enough for his kind remarks.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 15 minutes.

STAR WARS: THE TRILLION DOLLAR BOONDOGGLE

Mr. PROXMIRE. Mr. President, one of the great ironies is that we face a huge deficit. We live in a time in which we probably have the most irresponsible fiscal policy in the history of our country and at the same time the President has proposed a program which will put all other spending programs to shame because of its enormous extravagance. It will not be coming down for 5 or 6 years reaching its big cost, but eventually the cost is going to be enormous.

Let me approach that this way:

Mr. President, what is wrong with the administration's proposed strategic defense initiative or star wars program? Secretary Weinberger and President Reagan argue that it would simply reduce the threat of Russia's massive intercontinental ballistic missile arsenal. That Russian arsenal is far larger than our land-based deterrent. It is deadly accurate. It could destroy most of our land-based, nuclear weapon retaliatory capability. With it the Soviets could knock out our nuclear carrying bombers that are on the ground. They could completely eliminate American submarine bases and all submarines in port. They could totally devastate our cities. They could destroy more than half of our popula-

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

tion. Therefore—says the President—what is wrong with our building a defense against what is without question the greatest threat to our Nation and the American people in our history?

Is not such an obvious danger to our Nation the clearest and most urgent reason for spending whatever money the President says we require on national defense? Whether such a defense will cost hundreds of billions or even a trillion dollars or more, is not this the kind of challenge to our existence as a nation that we must pay any price to meet? After all, such a defensive system is not aimed at killing Russians or even attacking Russian military bases. It is aimed at saving American lives by destroying the nuclear warheads that would take millions of American lives. Indeed has not the President even offered to give the defensive technology once we have developed it to the Soviets so they can use it to save the lives of Russians? What is wrong with advancing a defense program that will make the terrible threat of intercontinental ballistic missiles obsolete? So what is the answer?

Mr. President, there is only one fundamental trouble with the administration's strategic defense initiative or star wars. It will not work. That is right, it will not work. There is not a shadow of a hint of a possibility that it could work. None. If the Congress should somehow become mesmerized into building this trillion dollar system, it will cause a great deal more damage than its immense cost. In a letter carried by the Wall Street Journal on January 2, 1985, six of the most respected and distinguished scientific experts in the country specify unanswerable reasons why this is so.

First they point out that SDI or star wars does not defend against or even try to defend against low altitude delivery systems. In other words bombers, cruise missiles or suitcase nuclear weapons would not be touched. The Soviet Union certainly would have to spend money to build new nuclear delivery systems. But they could and would shift to bomber and submarine carrying cruise missiles that hug the ground and fly under any intercepting net.

Now, Mr. President, I have raised this point over and over again with defenders of the star wars defense, and I have yet to receive any answer. Why can't the administration and other apologists of star wars like the Wall Street Journal respond? The answer is obvious. In fact star wars wouldn't work and couldn't work against this kind of underflying.

Second, the Soviets could simply exhaust the star wars defense by building more offensive missiles, and they could do it on the cheap. It is cheaper to build new offensive missiles than to shoot down old ones.

This is especially true because the Soviet Union, of course, has missiles which have great throw-weight and which now have only three or four or five warheads, in some cases even less, per missile. Of course, they could be further MIRV'd. That is one of the cheapest kinds of ways of adding to a warhead capability.

By spending less money, the Soviets could overwhelm any defensive system we built. Is there an answer to this? No. The next time you encounter a star wars advocate point out that the Russians could simply overwhelm it with more offensive missiles and watch him sputter.

Third, the Soviets can build countermeasures with hundreds of thousands of decoys and other penetration aids that could frustrate and use up any defensive system. They can harden the skin of the missiles so they can penetrate any net.

Fourth, to the extent the SDI or star wars was perceived by the Russians to be working—the prospect of a Soviet attack sharply increases. Here is why: If they did believe that, once in place, SDI would permit us to launch a preemptive strike and then to destroy the surviving Russians missiles, Soviet paranoia might persuade them to strike first, where and when and to the degree they wished.

Fifth, these expert scientific critics of star wars recognize an element with which each Member of the Senate as a practicing politician is very familiar. They call it "institutional momentum." As they put it:

> When a trillion dollars is waved at the U.S. aerospace industry, the project in question will rapidly acquire a life of its own—independent of the validity or its public justifications. With jobs, corporate profits, and civilian and military promotions at stake, a project of this magnitude, once started, becomes a juggernaut, the more difficult to stop the longer it rolls on.

Mr. President, the 99th Congress faces the most serious budget crisis in many years. Democrats as well as Republicans in this Congress recognize that we must cut spending. American taxpayers call for it. A decent sense of responsibility insists on it. We have to make some painful reductions in programs that obviously benefit small business, working men and women, farmers, and millions of Americans who need education, nutrition, and housing. Should this Congress at this time, facing a financial stringency likely to last for the rest of this century, begin to fund a star wars program that will probably cost over a trillion dollars before we finish it? Should we engage in this trillion-dollar boondoggle at a time when the Nation's outstanding scientists so convincingly argue that it will not work? Frankly, this Senator cannot conceive of a more irresponsible waste of the taxpayer's money.

I ask unanimous consent that the letter to which I referred, from the Wall Street Journal of January 2, 1985, be printed at this point in the RECORD.

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

'STAR WARS' SEEN AS UNWORKABLE AND DANGEROUS

Your editorial of Dec. 10 used a barrage of errors and distortions to attack our Star Wars analysis ("The Fallacy of Star Wars," New York: Vintage, 1984), carried out under the auspices of the Union of Concerned Scientists.

First, some corrections: Fast-burn boosters, which would be invulnerable to X-rays and particle beam weapons, were not first proposed by us, but by an aerospace contractor; that such boosters would require only a small penalty in payload has been confirmed in writing by the deputy chairman of the presidential panel on strategic defense.

Robert Jastrow's allegation that we made two dozen errors that "all tend to make . . . defense appear more costly and difficult" is undocumented as well as false. We granted Star Wars every benefit of the doubt allowed by the laws of physics: beam weapons that would move instantly from one missile to the next and never miss; no safety factors for malfunctions; lasers of a lethality for which not even a design concept exists; etc. No military system in history has ever attained the immaculate perfection we were willing to posit for Star Wars.

The very first version of our report did have two errors, which we corrected in testimony before the Senate Armed Services Committee within a month. They appeared neither in our Scientific American article nor in our book. Our errors were neither intentional nor infantile, as your editorial suggests.

Nor are they critical. The calculation of the number of satellite "battle stations" required is not simple. In particular, the one by "defense experts at Los Alamos" to which you allude is incorrect. But, as we emphasized from the first, the number of satellites is beside the point; as Edward Teller has noted "lasers in space won't fill the bill—they must be deployed in great numbers at terrible cost and could be destroyed in advance of an attack."

The other error, concerning particle beams, appeared only in the technical appendix of the preliminary version of our book; we consider it minor because in any case fast-burn boosters make particle beam weapons "impotent and obsolete."

Enough of trees; let us examine the forest: A nearly impermeable strategic defense system would indeed have the capability to "save lives" rather than to "avenge them," to replace strategic deterrence by defense. But such a system is not in the cards, as even the program's director, General James Abrahamson, readily admits. Anything short of an impermeable system tends to undermine, not improve, U.S. national security. Here are some of the reasons that we consider the Star Wars scheme unworkable and a grave danger to the United States:

Underflying: Star Wars does not defend against, or even address, low-altitude delivery systems—bombers and cruise missiles, and "suitcase" nuclear weapons. By themselves, they are able to destroy both nations;

Star Wars would accelerate their development.

Overwhelming: The number of strategic warheads in the Soviet arsenal (as in our own) is about 10,000. If even a few percent of these warheads exploded on U.S. territory it would represent an unparalleled human disaster and effective collapse of the United States as a functioning political entity. The Soviets could keep ahead of any American Star Wars system because it is cheaper to build new warheads than to shoot down old ones (and easier to shoot down orbiting defensive systems than incoming missiles).

Outfoxing: It is cheaper to build countermeasures than to build Star Wars. Some decades in the future when a (still highly premeable) U.S. Star Wars system might be deployed, the Soviets would have added tens or hundreds of thousands of decoys and other penetration aids to their arsenal. Their objective would be to fatally confuse the American Star Wars system, which can never be adequately tested except in a real nuclear war.

Cost: Former Secretaries of Defense Harold Brown and James Schlesinger, and senior Pentagon spokesmen of this Administration, have all estimated the full Star Wars cost as hundreds of billions to one trillion dollars.

Soviet preemption: Despite U.S. assurances, the Soviets perceive Star Wars as part of a U.S. first strike strategy, allowing us to launch a preemptive attack and then to destroy the remnant of any surviving Soviet retaliatory forces. In a time of severe crisis, this may tempt the Soviet Union to make a preemptive first strike against the United States.

Institutional momentum: When a trillion dollars is waived at the U.S. aerospace industry, the project in question will rapidly acquire a life of his own—independent of the validity of its public justifications. With jobs, corporate profits, and civilian and military promotions, at stake, a project of this magnitude, once started, becomes a juggernaut, the more difficult to stop the longer it rolls on.

We do not oppose defense in principle. We are in favor of carefully bounded research in this area, as in many others; we are also concerned that the line between research and early deployment of key Star Wars components not be blurred. Several of us have devoted considerable effort to research on missile defense. Some of us have advocated missile defense for individual missile silos. But we agree with Department of Defense experts who make it clear that cities cannot be so protected. Mr. Schlesinger has said "in our lifetime and that of our children, cities will be protected by forebearance of those on the other side, or through effective deterrence."

Hans A. Bethe
Richard L. Garwin
Kurt Gottfried
Henry W. Kendall
Carl Sagan
Victor Weisskopf
Cornell University, Ithaca, N.Y.

DR. MURIEL GARDINER

Mr. PROXMIRE. Mr. President, as a student, Dr. Muriel Gardiner, helped to save hundreds of people from the Nazis in occupied Austria.

Dr. Gardiner began her work in the underground when Nazis raided the medical school she was attending. Between 1934 and 1938 she helped supply passports and funds to Jews and other dissidents fleeing Austria.

After the Anschluss, foreign currency was required for travel outside Austria. Dr. Gardiner served as an important source of American dollars. She smuggled passports into Austria and even lent her passport to a friend who needed to escape.

As a medical student, she helped several Jewish medical students who went on to become physicians in the United States.

While Dr. Gardiner helped save numerous people from Nazi horrors, her adventures did not all have happy endings. Witness the case of Hans and Steffi Kunke. The Kunkes were young teachers who refused to leave without their friend, Ferdinand Tshuertsch. Before they could obtain a passport for Ferdinand, they were arrested. All three later died in a concentration camp.

Dr. Gardiner traveled the length and breadth of Europe in her efforts to obtain passports and money. She performed her dangerous underground work under the pressures of raising a young child and completing medical school examinations.

Dr. Gardiner is one of the real heros whose example should inspire us in the Senate to ratify the Genocide Convention. Ratification would serve as a fitting testament to this brave freedom fighter.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 9 a.m., with statements therein limited to 5 minutes each.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

SCHEDULE

Mr. DOLE. Mr. President, I indicate to my colleagues who may be in or on the way in that there is an amendment pending, the Packwood-Durenberger-Chafee-Heinz amendment on Medicare-Medicaid which represents a modification of that provision in the so-called White House-leadership package. It is my hope that we would have a vote on that, hopefully, by 10:30 or 11 o'clock. Then we hope to call up at least two or three additional amendments, unless the distinguished minority leader has amendments, and have votes on those yet today.

It would seem to me, in looking at the total picture that—though it may be hard to perceive—in my view we are making progress. It may not appear that way to the people who read the papers and watch television, but as I look at it, we are approaching what I believe could be a good conclusion. I am not certain when that conclusion will come, but I am confident that when it is all over, we will have, based on the first vote, a package that would reduce spending, without taxes, in the neighborhood of $300 billion over a 3-year period. It will not be easy, but as I have been looking at votes and visiting with Members on both sides, it is at least encouraging.

So I indicate to my colleagues that we hope to complete action today, at least from the standpoint of votes, by 2 or 3 o'clock.

DR. MILTON S. EISENHOWER: NATIVE KANSAN, 1899-1985

Mr. DOLE. Mr. President, it is no surprise to say that the name Eisenhower is a very special one in my home State. The name is synonymous with the high ideals of this Nation and tells us much about a family from Abilene, KS, that contributed so much to America. It is therefore with sadness that we mark the passing yesterday afternoon of Dr. Milton S. Eisenhower. Although he spent most of his adult life in the Baltimore-Washington area, his roots were firmly planted in the rich commonsense soil of Kansas.

During his distinguished career as an educator, Dr. Eisenhower was a wellspring of wisdom for eight Presidents, including his brother, Ike. President Eisenhower, in fact, often referred to his youngest brother as "the bright one in our family," no small tribute from one of the giant figures in our history. Indeed, he was never intimidated by the long shadow of his famous brother and dedicated his life to an active pursuit of helping his fellow man.

Mr. President, Dr. Eisenhower was born in Abilene on September 15, 1899. He excelled in local schools and later enrolled as a journalism major in Kansas State University, where he would return in 1943 as its president. During his college years, he worked as a cub reporter for the Abilene Daily Reflector, where he earned funds to put himself through school. It was his experiences at our great institution of higher learning in Manhattan that launched him on a brilliant career in education, taking him to the top leadership positions at Pennsylvania State

University and Johns Hopkins University.

Although his duties as a diplomat, administration official, educator, adviser, and presidential troubleshooter took him far from the heartlands, he never forgot his hometown. Dr. Eisenhower returned frequently to Kansas—almost always accompanying the President when Ike came home—and enjoyed visiting with the good people of Abilene.

Mr. President, we mourn the passing of this selfless, dedicated Kansan and extend our sympathies to his family and friends.

Mr. President, the Senator from Kansas requests that an obituary from today's Wichita Eagle-Beacon be reprinted in full following these remarks.

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

[From the Wichita Eagle-Beacon, May 3, 1985]

MILTON EISENHOWER DIES OF CANCER AT 85

BALTIMORE.—Milton S. Eisenhower, 85, last surviving brother of President Dwight D. Eisenhower and a durable public figure himself who served eight presidents and headed three universities, died Thursday at Johns Hopkins Hospital. He had cancer.

Eisenhower was a native of Abilene and had lived for the past 28 years in Baltimore, where he served twice as president of The Johns Hopkins University.

He also was president of Kansas State College—now Kansas State University at Manhattan—and of Pennsylvania State University during periods of rapid growth at both institutions in the 1940s and 1950s.

In government he worked as a high-level official for Presidents Calvin Coolidge, Herbert Hoover and Franklin D. Roosevelt and was a close unpaid adviser to every president, including his brother, from Truman to Nixon.

He served on 12 presidential commissions, was the chairman of five, including the controversial Commission on the Causes and Prevention of Crime after the urban riots of the 1960s, and received the highest civilian decoration from the presidents of seven foreign countries for his work in international cooperation.

He wrote two books, "The Wine Is Bitter" in 1963, a best seller on U.S.-Latin American relations, and "The President Is Calling" in 1974, a hard look at the job of being president of the United States.

During a life that took him from the plains of his native Kansas to the seats of world power, Eisenhower received 37 honorary degrees from 32 American universities and five foreign universities and sat on the boards of 13 corporations, including insurance companies and financial institutions from California to England.

James McCain, who followed Eisenhower as Kansas State president in 1950, recalled the former Kansan as "that rare combination of a man equally at home in public affairs and in higher education."

On his 85th birthday Sept. 15, his friends at Kansas State sent him a card signed by 2,000 people and Gov. John Carlin proclaimed the day "Milton Eisenhower Day" in Kansas.

Former WSU President Emory Lindquist was president of Bethany College in the 1940s when he served with Eisenhower on the Kansas Committee on the Selection of Rhodes Scholars.

"A man of great personal resources, I was impressed with his wide range of knowledge," Lindquist said.

Wichitan Marge Setter, a journalism school student during Eisenhower's tenure at K-State, visited him last year with Harry Marsh, the head of the journalism school. They convinced Eisenhower to tape record a greeting for the department's 75th anniversary.

"He was absolutely marvelous to visit," she said. "We had a wonderful afternoon with him. I enjoyed it partly because we reminisced about when he was at K-State.

"The thing he did (at the university) was to emphasize arts and sciences and what you call comprehensive courses so that when you were studying Euclid inventing geometry you heard what's going on in the world at the same time."

Asked what she remembered best about him, Setter said, "He was a brilliant man, really. It was his intellect. At any given moment to serve a point, he would quote the most apropos thing that related to the subject. He could pull a quote out of the air like that."

Born in Abilene on Sept. 15, 1899, Milton Eisenhower was the last of seven children, all sons, of David and Ida Eisenhower. Milton's older and more famous brother, Dwight, was born in 1890.

At the age of 4, Milton was struck with scarlet fever, which left him with permanently weak eyes. Scrawny compared with his athletic brothers, he pursued books and became a scholar.

He worked his way through what was then called Kansas State College in Manhattan, playing a dance-band piano and writing free-lance articles for Kansas newspapers.

Plagued by illness and financial problems, he eventually graduated in 1924. Shortly thereafter, he achieved exceptionally high scores on a federal civil-service examination and was posted to Scotland as vice consul in Edinburgh.

Two years later he was back in the United States, serving as chief assistant to President Coolidge's Secretary of Agriculture, William Jardine, who had been president of Kansas State College when Milton Eisenhower studied there. It was the first of many high positions he would hold in the next four decades.

Later he served, among other posts, as Roosevelt's personal representative in planning the first wartime Quebec Conference with British Prime Minister Winston Churchill.

Midway through the war, Eisenhower left government to serve successively as president of Kansas State, Pennsylvania State University and Johns Hopkins, spanning almost three decades from 1943 to 1972.

In the academic phase of his life, Eisenhower (all of his doctorates were honorary) presided over both expansion and liberalization of the three schools he headed.

While president of Kansas State from 1943 to 1950, the physical plant was increased 50 percent, and faculty salaries were increased 75 percent.

Eisenhower served as president of Johns Hopkins from 1956 to 1967, and again from 1971 to 1972, the only person to hold the position twice.

He retired from Hopkins in 1967 but was called back in 1971 to help trim deficits run up during the administration of his successor, Lincoln Gordon.

Eisenhower's wife, Helen Eakin, died in 1954. They had two children, Ruth Eisenhower Snider, who died in 1954, and Milton S. Jr.

He is survived by his son, who lives in Scarsdale, N.Y., and four grandchildren.

MILTON S. EISENHOWER

Mr. MATHIAS. Mr. President, Milton Eisenhower was endowed with the qualities of the ideal American: integrity, independence, industry, and intelligence. In a career of public service that began in the administration of Calvin Coolidge, he was generous in giving all his talent for the good of his country.

I feel both privileged and fortunate to have been able to draw on his experience and knowledge at various critical times during the last two decades. Not only his specific advice, but also his disciplined method of attacking problems has made a profound impression on me. I shall always be grateful to him.

The children and siblings of those who become global figures sometimes have difficulty in establishing their own identity despite considerable talent of their own. This was never true of Milton Eisenhower even when Dwight Eisenhower was President of the United States. Milton Eisenhower was always a figure in his own right, working hard to sustain his opinions and judgments and to advocate the causes he supported. The fact that those causes were usually right gave him an unusual dimension as a citizen and as a human being.

I count it among the blessings of my life that fate has allowed me the honor and pleasure of having Milton Eisenhower as a friend. This remarkable man has set a standard of public service that is matchless. He was an example to, and an influence on, generations of Americans who know him only for the breadth of his interests and achievements.

For his friends, he has been a constant source of wisdom, wit, and warmth. He possessed in abundance that greatest of all God's gifts, "an understanding heart."

It is difficult to capture a man of Milton Eisenhower's stature and spirit in words.

Mrs. Mathias, who also enjoyed Milton Eisenhower's friendship, shares my sorrow at his death. We join in expressing our sympathy to Milton Eisenhower, Jr., and to the Eisenhower family.

Mr. President, I ask unanimous consent that an editorial and an obituary from today's Baltimore Sun be printed in the RECORD.

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

[From the Baltimore Sun, May 3, 1985]

MILTON S. EISENHOWER

In 1951, a group of influential Republicans approached Gen. Dwight D. Eisenhower and asked him to seek the Republican nomination for president. "You don't want me," the general answered. "You want my brother Milton."

That story gained currency four years later, when Ike's supporters expected him to retire after one term in favor of his youngest brother—"the bright one in the family," the president called him. But in 1956, Dwight D. Eisenhower won a second term and his brother, Milton, accepted the presidency of the Johns Hopkins University.

So awe-inspiring was Milton S. Eisenhower's leadership of the Hopkins for 11 years (and a second term of ten months) and so substantial were his contributions to Baltimore ending in his death yesterday at 85, that it tended to overshadow his equally important role on the national scene.

He served eight presidents. He was the close confidant, adviser and sounding board for his brother, both before and during his years at the Johns Hopkins. He was an expert on farming, land use, opinion-making, Latin America, domestic violence, the organization of government and the office of the presidency.

Milton Eisenhower presided over Johns Hopkins University at a time of expansion that coincided with rising quality and fiscal prudence. He was a builder, fund-raiser, grantsman and pipeline to government. Above all, though, he was an educator and never for one second forgot it.

He was a Baltimore patriot and staunch Orioles fan. In politics, he remained a moderate Republican, defining himself as "a conservative on financial matters and a liberal on matters pertaining to human rights."

His strength at the university was more than just his connections in Washington, though those brought the likes of his brother and Prime Minister Harold Macmillan to the Homewood campus simultaneously, and lesser eminences by the score. His very special strength was his trusting communications with students, faculty, administration, trustees, alumni and community, rather than with some one or two of those groups. That was how he doubled the Hopkins endowment, tripled income, eliminated deficits, enlarged the campus, increased the production of doctorates and raised the quality of undergraduate education.

For three decades, Milton Eisenhower was a consummate Baltimorean. He was one of the great university presidents anywhere. As such he will be remembered here, though that is but one facet of his contributions to his country.

[From the Baltimore Sun, May 3, 1985]

MILTON EISENHOWER, ADVISER TO EIGHT PRESIDENTS, DIES

(By Mike Bowler)

Milton Stover Eisenhower, educator, author and adviser to eight presidents, among them his brother, Dwight, died yesterday afternoon at Johns Hopkins Hospital.

Funeral services for the 85-year-old former president of the Johns Hopkins University are scheduled tomorrow at 10 a.m. at the Church of the Redeemer, 5603 North Charles street.

Dr. Eisenhower, who lived in the 3900 block of North Charles street, had battled illness for several years and had been hospitalized several times in recent months with cancer.

Born in Abilene, Kan., the last of six brothers, Dr. Eisenhower left an indelible mark as public servant and educator. He was an adviser to presidents from Calvin Coolidge to Richard M. Nixon and a troubleshooter in labor disputes, foreign crises and other matters, foreign and domestic.

He was instrumental in shaping U.S. policy in Latin America in the 1950s and later helped lay the foundation for the Alliance for Progress, the vast Latin American economic and social development program of the Kennedy administration.

As the only man to lead the Johns Hopkins University twice, he tripled income and doubled endowment, raising faculty salaries to fourth-highest in the nation. He was known as a thoughtful, reasoned administrator who did not interfere in faculty affairs, and he became an expert of the U.S. presidency and the nomination process for presidential candidates.

In an active retirement, Dr. Eisenhower raised money to fight violence in America, led a drive for a six-year U.S. presidential term and continued a love affair with the Baltimore Orioles. At a Memorial Stadium party on his 75th birthday, the Orioles presented Dr. Eisenhower with a $1-a-year "contract" as a right-handed reliever and asked him to throw out the first ball.

He wrote two books, including "The President Is Calling" in 1974. The book was a close-range assessment of the eight presidents he had come to know intimately and an evaluation of the Constitution and laws and traditions affecting the presidency.

A man of medium height, clear blue eyes, trim build, erect carriage and crisp, direct but amiable manner, he kept up an enormous range of activities in his professional and private life.

Close friends and admirers mourned the loss of Dr. Eisenhower. "He was a man of great good sense and great good humor who did great good in the world," said Stephen E. Ambrose, historian at the University of New Orleans and biographer of both Milton and Dwight D. Eisenhower. "He was one of the most intelligent men I ever met, and the kindest."

George S. Wills, a Baltimore public relations man who had known Dr. Eisenhower for 30 years, said, "One of his greatest contributions was providing a wonderful example of how to grow old. He displayed courage and grace under very difficult circumstances, particularly the last three years."

Steven Muller, president of Johns Hopkins, had served as provost under Dr. Eisenhower and then had succeeded him as head of the university. "Working with him and for him was one of the really great experiences in my life," Dr. Muller said. "He was a totally admirable person. He had a lively, very practical mind. He possessed a wealth of information. . . . There wasn't a mean bone in his body.

"Whenever I felt I needed to talk, he was always ready to tell me what he thought, what he knew," said Dr. Muller. "Long before I came to this university, he had restored it to solvency, and he knew everything about it. But he never interfered, never tried to impose his will."

Maryland Senator Charles McC. Mathias, Jr., one of a close group of friends who met regularly with Dr. Eisenhower to discuss world affairs, said, "He represented the epitome of citizenship. He knew a citizen's duty: be informed, be involved. As a result, his advice was always current and important."

Senator Paul S. Sarbanes of Maryland said Dr. Eisenhower's counsel "was especially sought by those of us who valued his wisdom."

Born in Abilene September 15, 1899, Milton Eisenhower was the youngest of six brothers: Arthur, banker in Kansas City, Mo.; Edgar, corporation lawyer in Tacoma, Wash.; Dwight, commander of Allied Forces in World War II and President from 1952 to 1960; Roy, pharmacist in Junction City, Kan., and Earl, electrical engineer and newspaper owner.

Majoring in journalism at Kansas State Agricultural College (now Kansas State University of Agriculture and Applied Science), he interrupted his studies for two years to earn expenses as city editor of the Abilene Daily Reflector. After having received his bachelor of science degree from the college, he joined its faculty as assistant professor of journalism, leaving in 1924 when appointed to the diplomatic service.

The next two years were spent as vice consul in Edinburgh, Scotland, and as a part-time graduate student at the University of Edinburgh.

Then Dr. Eisenhower moved from diplomacy to the Department of Agriculture, where he held a number of posts during the next 16 years, starting as assistant to the secretary and becoming director of information and coordinator of the land-use program.

The outbreak of World War II brought new responsibilities.

Appointed director of the War Relocation Authority by President Franklin D. Roosevelt, Dr. Eisenhower supervised the Japanese evacuation camps in California but later criticized the authority for its work. "He ran [the camps] with as much fairness as was humanly possible," said Dr. Ambrose, his biographer.

Dr. Eisenhower's specialty on the international scene was Latin America, but he had missions in other nations during World War II, and he played a prominent role in the beginnings of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

In June, 1942, President Roosevelt named him associate director of war information, and in December, after the Allied invasion of North Africa led by his brother, he was sent to Algeria and Morocco. His mission was to resolve problems of refugee relief and relocation and to establish an organization for psychological warfare in Europe.

Next he began a new career, and for a quarter-century he was to serve three universities as president, beginning with Kansas State, in 1943. Seven years later he assumed the top position at Pennsylvania State University, and in 1956 he arrived in Baltimore to head Johns Hopkins.

In 1953—he was then the president of Penn State—he made the first of several fact-finding tours to South America as President Eisenhower's special ambassador. During the period from 1953 to 1961, Dr. Eisenhower helped reshape U.S. policy in Latin America. In 1963, he wrote a book about U.S-Latin American relations, "The Wine Is Bitter."

In the book, Dr. Eisenhower wrote in italics that "revolution in Latin America is inevitable. Only the form it takes is uncertain."

Dr. Ambrose said Dr. Eisenhower was "the real father of the Alliance for Progress, although Kennedy got the credit."

President Eisenhower used to say that Milton "was always the bright one in the family."

When a congressman expressed regret that Milton did not have an official post in the administration, the president replied, "If it weren't for his name, he would have a very high governmental position."

In fact, as noted by Neil A. Grauer, a Baltimore author and a friend of Dr. Eisenhower who interviewed him last fall, Dwight's brother "was a savvy veteran of the capital's bureaucracy long before his brother came to Washington."

"He had deep affection for his brother," said Mr. Wills. "He probably had more quiet influence on Dwight than any of the more publicly known figures we know through the history books. Milton wasn't on the government payroll, but during the Eisenhower years he was usually at the White House on weekends."

Dr. Ambrose said Dr. Eisenhower strongly influenced his brother's presidency, "Ike trusted him completely and leaned on him heavily," he said. "Indeed, Ike could not have carried the terrible burden of eight years in the White House without Milton's support."

In 1967, believing that he was bringing his formal academic responsibilities to a close, Dr. Eisenhower retired from the Hopkins presidency—in his final commencement, the trustees announced they had named the new library on the Homewood campus in his honor—and promptly began another career, becoming a director of 13 corporations.

These included the Chessie System, insurance companies, financial institutions in California and others in this country and in England. He also became a governor of the New York Stock Exchange and a director of the Chicago Board of Trade.

Dr. Eisenhower served President Lyndon B. Johnson almost as extensively as he had his brother. He advised the president on the Dominican crisis and, after the assassinations of Martin Luther King, Jr., and Robert F. Kennedy, chaired the Presidential Commission on the Causes and Prevention of Violence.

"The commission may not have brought about sweeping changes," said Dr. Ambrose, "but all of its practical recommendations got done—things like updating police departments."

Dr. Eisenhower returned to Hopkins a second time as president in 1971 following the forced resignation of Lincoln Gordon. The resumption of his university duties did not leave him time to keep up with his directorships, and he resigned many of them.

As for his way of life in retirement the second time in 1972, Dr. Eisenhower described many interests.

"I like to swim. I paint watercolors, mostly landscapes. I read everything, all the way from novels to the most serious books. I keep up constantly with the monthly reports by economists like Walter Heller and Milton Friedman."

Dr. Eisenhower became cochairman of the National Committee for a Six-Year Presidential Term, a group of about 250 business and civic leaders and former government officials.

Thirty-three American and six foreign universities conferred honorary degrees on Dr. Eisenhower.

Dr. Eisenhower was married in 1927 to Helen Eakin, of Washington. Mrs. Eisenhower died at Penn State in 1954, and Dr. Eisenhower never remarried.

The Eisenhowers had a son, Milton, Jr., now director of a division of International Business Machines, and a daughter, Ruth Eisenhower Snider, a voluntary worker in numerous community activities and the wife of a Baltimore radiologist. She died last year. There are three grandsons and one granddaughter.

The family will receive visitors at the Church of the Redeemer tonight from 5:30 to 6:30.

The university requested that memorial contributions be sent to the Eisenhower Scholarship Fund, Johns Hopkins University, Baltimore, Md. 21218.

50TH ANNIVERSARY OF THE LEO BURNETT CO.

Mr. DIXON. Mr. President, I would like to call to the attention of my colleagues the approaching 50th anniversary of the founding of one of my State's best known and most successful businesses—the Leo Burnett Co., the world's eighth largest advertising agency.

The company's trademark, Mr. President, is a hand reaching for a cluster of stars. The symbol sums up the philosophy of Leo Burnett himself, who said: "When you reach for the stars, you may not quite get one, but you won't come up with a handful of mud either."

Well, the Burnett agency has not come up with much mud since August 5, 1935, when it opened its doors for business in Chicago.

Its billings have increased in those 50 years from well under $1 million a year to nearly $2 billion a year, worldwide, in 1984.

The agency has virtually invented a Chicago school of advertising and helped make the city a vital center of the industry. The company has always played a major role, as well, in the service and community organizations which help to make Chicago a great place to live, and the help it has provided to nonprofit agencies is well-known.

Its influence is felt far from the city of Chicago, too, in the 37 offices it maintains in 32 countries around the world.

Mr. President, on the night of May 17 in Chicago, friends and admirers of the Leo Burnett Co., will gather to celebrate the company's birthday at the 1985 Facets Award benefit.

To the officers of the company and to its 3,000 employees, I offer my best wishes, and I commend to my colleagues the splendid accomplishments of the Leo Burnett Co.

NATIONAL DISTRICT ATTORNEYS ASSOCIATION SYMPOSIUM ON CHILD SEXUAL ABUSE

Mrs. HAWKINS. Mr. President, the lack of justice for the child victims of sexual assault has not gone unnoticed by the legal community. In fact, often it is the attorney, prosecutor, or judge who is frustrated in their lack of ability to protect these children who are fighting the hardest for improvements in the legal intervention in sexual child abuse cases. The national organizations that represent these legal disciplines have been very active in efforts to improve legal intervention in these cases.

The National Council on Juvenile and Family Court Judges held a symposium on this issue in Vermont and has another forum scheduled for this August. The American Bar Association's National Policy Conference on Legal Reforms in Child Sexual Abuse Cases held a 2-day symposium on this issue on March 8–9, 1985, and is in the process of developing their final report. The National District Attorneys' Association is also actively involved in this issue. They will be holding an emergency symposium on Child Sexual Abuse on May 4–5, 1985, in Arlington, VA.

Mr. President, I think that this symposium will be very worthwhile in developing systems to both protect the child victims and punish the offenders. Mr. President, I ask unanimous consent that an article describing the National District Attorneys' Association symposium on child sexual abuse be printed in the RECORD as if read.

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

PROSECUTORS TO MEET ON CHILD SEXUAL ABUSE

WASHINGTON.—An emergency Symposium on Child Sexual Abuse has been called by the National District Attorneys Association (NDAA), May 4–5, 1985, in response to the growing concern of prosecutors nationwide at the alarming increase in reported child sexual abuse cases.

More than 100 prosecutors from throughout the United States will attend the Symposium at the Crystal City Marriott Hotel (Arlington, Virginia), held in conjunction with the NDAA Legislative Conference, May 3–8, 1985.

"As elected public officials it is imperative for prosecutors to work with federal, State and local agencies to devise systems to both protect the child-victims and punish the offenders," said NDAA President Robert J. Miller, District Attorney from Clark County, Las Vegas, Nevada.

The Symposium will examine model prosecutorial programs and will feature panel discussions on a wide range of issues including, in part: confidentiality of the victim, the effect of press coverage on cases, plea bargaining and videotaping.

Following the two-day Symposium, the prosecutors will hear from a number of government officials, including Attorney General Edwin Meese, Senator Majority Leader Robert Dole, Assistant Attorney General Lois Haight Herrington, Assistant Attorney General Stephen Trott, Associate Attorney General D. Lowell Jensen and Congressman William J. Hughes (D-N.J.), Chairman of the House Judiciary Subcommittee on Crime.

The National District Attorneys Association is a 35-year old non-profit organization representing more than 6,500 prosecutors and law enforcement professionals

THE TIP OF THE ICEBERG

Mrs. HAWKINS. Mr. President, in the New York Times recently, a very informative article appeared entitled "Mexico Drug Arrests: 'Tip of Iceberg.'"

Mr. President, since the brutal kidnaping and murder of DEA Agent Enrique Camarena Salazar by narcotics dealers, world attention has been focused on Mexican problems of drug trafficking. It seems now that things are even worse than we thought.

In this article, it is indicated that high-level corruption exists within the Mexican Government. Though encouraged by recent progress of Mexican efforts to curb its illicit narcotics trade, U.S. officials are concerned over increasing signs of high-level Mexican Government involvement in drug trafficking activities.

Thus far, for example, there have been two men captured who are reputed to be major figures in the Mexican drug trade, along with several dozen accomplices, some of whom were past, and present, members of Mexican police forces. One police commander is charged with having taken a large bribe to permit the flight of one of the country's leading drug dealers.

There has been a discernable "lack of vigor" on the part of Mexican authorities in pursuing drug traffickers. John Gavin, U.S. Ambassador to Mexico, was quoted in this article as saying: "What has been turned up is just the tip of the iceberg." The article states also that Ambassador Gavin has modified the stated confidence he had indicated for the drug control efforts of Mexico's President de la Madrid. People close to the investigation have hinted in recent days that information gathered over the last month has raised concern that at least one Cabinet member, and possibly the son of another Cabinet member, may have links to drug traffickers or have been compromised by them. There are increasing indications, as well, the article continues, that some State Governors, State prosecutors, and local politicians may have had a role in allowing Mexico's drug trade to reach its current levels. Though this opinion is shared by numerous Mexican drug control officials, as yet no public charges have been made against anyone in such a prominent position.

The de la Madrid government is obviously experiencing great difficulty in rooting out corruption within its ranks. The main problem seems to be a reluctance to accomplish this without causing a major disruption of the country's political system, especially because pivotal elections are scheduled for July. I would like to take this opportunity to express my wholehearted support of these efforts by the Mexican Government, and to express my hope that they will continue until they are successful.

Mr. President, for the sake of the very survival of Mexico, that nation must do what is necessary to rid itself of illicit narcotics. The drug production and drug trafficking that currently go on in that troubled nation is like a cancer that is eating away at Mexican society. My motives in wanting this situation changed are not entirely unselfish, however; for the sake of the children of my Nation, who are being destroyed by Mexican drug trafficking and production, I urge Mexican officials to take whatever steps they must to eradicate drugs in their nation.

Mr. President, I ask unanimous consent that the New York Times article entitled "Mexico Drug Arrests: 'Tip of Iceberg,'" be inserted in the RECORD.

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

MEXICO DRUG ARRESTS: "TIP OF ICEBERG"

(By Richard J. Meislin)

MEXICO CITY, April 27.—While encouraged by recent progress in rooting out drug-related corruption here, Mexican and United States officials are concerned over indications that it may reach to higher levels of the Mexican Government than first thought.

Investigations, which began after a United States narcotics agent and his pilot were kidnapped and killed in February, have succeeded in capturing two men reputed to be major heads of the Mexican drug trade and several dozen accomplices, including past and present members of Mexican police forces. One police commander is charged with having taken a large bribe to permit the flight of one of the country's leading drug dealers.

United States officials here and in Washington, who only recently were harshly critical of their Mexican counterparts for what they viewed as a "lack of vigor" in pursuing drug traffickers, have been lavish in their praise of the recent Mexican actions.

But the United States Ambassador here, John Gavin, told visiting businessmen from Dallas recently that it was too early to "fall into the trap of self-congratulations" because "what has been turned up is just the tip of the iceberg."

A POINTED OMISSION

While reaffirming his praise for what he called "the seriousness of President de la Madrid's commitment to fight drug trafficking," the Ambassador pointedly failed to repeat a statement he had often made before: that he had full confidence in the honesty and integrity of President Miguel de la Madrid's Cabinet. Aides to Mr. Gavin said the omission was not accidental.

Officials of the embassy here would not discuss what information led Mr. Gavin to modify his previous statement. But people close to the investigation have hinted in recent days that information gathered over the last month has raised concern that at least one Cabinet member and the son of a Cabinet member may have links to drug traffickers or have been compromised by them.

There are increasing indications as well, these sources say, that some state governors, state prosecutors and local politicians may have had a role in allowing Mexico's drug trade to reach its current levels. No public charges have been made against anyone in such a prominent position.

Some of the information is believed to have come from Rafael Caro Quintero and Ernesto Fonseca Carillo, the two men captured and charged in connection with the killing of Enrique Camarena Salazar, an agent of the United States Drug Enforcement Agency, and Alfredo Zavata Avelar, a Mexican pilot who sometimes flew surveillance missions for him.

A third person, Miguel Félix Gallardo, is still being sought. He is reputed to be a key figure in Mexico's cocaine operations, and is also believed by Mexican and United States investigators to have had a role in the killing of the agent and the pilot.

LINKS WITH POLICE REPORTED

Mexican officials have said the two men in custody, who have also been charged with a variety of drug-related offenses, have given extensive information on ties between drug traffickers and police forces in the country. While some of this has been made public in the Mexican courts, mention of political figures has been viewed by the Mexican public as suspiciously lacking.

The problem for the de la Madrid Government, according to officials knowledgeable about the thinking of its upper echelons, is to root out corrupt elements without causing a major disruption of the country's political system. This concern has been sharpened by the approach of elections in July for Congress, seven governors and dozens of municipal officials.

The analogy often heard in Mexican political circles is that of trying to pull bricks from a wall without causing the whole thing to collapse. "Except this isn't just a few bricks." a Mexican journalist said. "It's a whole chunk."

The Government has taken actions in recent days that have not been publicly linked to the drug trade, but appear to be linked to revelations of corruption.

ORDERS POLICE REORGANIZED

On Wednesday President de la Madrid announced a major reorganization of the police forces, which would strengthen federal control and remove police powers from several smaller forces run by Government ministries and industries. The announcement described the reorganization as a "clarification of the police functions that by constitutional mandate, remain reserved only for the preventive and judicial corps."

In a more drastic action, the Governor of the State of Morelos, Lauro Ortego, dismissed the state's entire judicial system, including the state attorney general, police and administrative personnel, in what he said was an effort to stamp out growing signs of corruption. He said a new force would be recruited from among law students.

Although there has been no public announcement, investigators said nearly 100 agents of the Federal Security Directorate, a political police force in a counterintelligence unit run by the powerful Interior Ministry have also resigned in recent weeks. Some parts of the directorate have been cited by United States investigators as a major problem in fighting the drug traffic.

Ambassador Gavin said those who were waiting for "the last shoe to fall" would have to wait for some time. "This," he said, "is a centipede."

VIEWS ON THE BUDGET RESOLUTION

Mr. DODD. Mr. President, as the Senate has considered the budget over the last several days, we cast votes on subjects of great importance to all of us. Given the nature of our procedures here, these votes potentially can be subject to varying interpretations. I would like briefly to state my views on what has transpired in connection with this resolution and what factors will guide my decisions on the issues which will be debated over the next week.

At the outset, I share with all my colleagues the feeling that significant deficit reduction is our highest priority. That commitment should not be called into question on this floor. The fact that we may have as many different ways of addressing this problem as we do Members, is not based on any lack of sincerity for addressing this problem.

For the past several years, on my trips home to Connecticut I have been concerned about the lack of public outcry about the seriousness of the deficit problem. It was only during the most recent Senate recess that I found a broad public recognition in my State for immediate, substantial action to reduce hemorrhaging Federal expenditures.

I visited more than 40 towns in 1 week and found a growing recognition of the serious future consequences of unchecked Federal spending. Most importantly, I found a genuine willingness to contribute to the resolution of this problem from all segments of the population.

From senior citizens to the corporate executives in my State the message was the same: "Reduce the deficit, and if you will do it equitably, we will contribute to the effort."

Therefore, Mr. President, my votes have been and will be guided by the dual principles of accomplishing serious deficit reduction and doing it in a manner that is fair and equitable.

I believe further that such an effort can be accomplished without either increasing the tax burden on individuals or compromising our national security.

Quite frankly, Mr. President, I considered voting for the so-called "White House package" as a signal of my commitment to deficit reduction. I believe that we must, when we conclude our deliberations on this issue, produce a package that provides overall deficit reduction of $50 billion in the upcoming fiscal year and $300 billion over the next 3 years.

Upon reflection, however, it was, and continues to be, my belief that the leadership package fails on the essential question of balance and equity. I do not believe that we cast purely procedural votes in this Chamber, particularly in instances where that vote encompasses the funding of every function of Government.

My concerns about that package were so extensive that they could not be rectified with only a few quick fixes. I cannot support, under the guise of deficit reduction, the wholesale termination of longstanding, essential, and economically efficient Government responsibilities.

For several weeks, I have struggled with many notions with this budget proposal. I am, however, at a loss to understand how we are doing anything except creating more costly problems for the future by eliminating today such programs as Amtrak, urban development action grants, and student assistance.

Reduce them? Yes, given the enormity of the Federal budget crisis.

Reform them? Emphatically yes. We should always be looking to spend the taxpayers' money in the most efficient manner. But terminate them? In most instances the case simply cannot be made.

Earlier this week, I voted for the amendment offered on behalf of Senators HAWKINS and D'AMATO to restore full cost-of-living increases to Social Security recipients. I commend them for insisting that that amendment be offered immediately following the leadership package. I feel that the Social Security proposition in the leadership package would seriously erode the income of our senior citizens over time, given the 3-year nature of the proposal. In all candor, I have, and may again, vote to support a 1-year freeze on all COLA's with appropriate protections for those who are completely dependent on the payments involved. Again, I will do so not in isolation, but only in conjuction with an overall package that is balanced.

The senior citizens in my State have told me they are prepared to make this sacrifice so long as all segments of our society are making their contributions. Our senior citizens are well aware of the fact that they suffer equally, or more so, from the high interest rates brought about by the deficit.

Yesterday, I voted against tabling an amendment by Senators GRASSLEY and HATFIELD to reduce the defense level in fiscal year 1986 to a level commensurate with the increase in inflation. This is not my preferred outcome with respect to defense spending. As the majority leader has said in connection with another issue, I am fairly confident this will not be our last vote with respect to defense spending on this resolution. Ultimately, I am inclined to support what I understand will be included in Senator BYRD's substitute, which will provide for a 1 percent real growth increase for defense in each of the next 3 years.

It seems to me that this will signal our priority for national security by providing an increase when every other element of the budget is being reduced, but will do so in a way that provides for a constant level of spending rather than the ups and downs reflected in the Grassley-Hatfield amendment.

In conclusion, Mr. President, we are going to be asked to cast a lot more votes on this budget over the next week. Members will all be seeking their preferred solution to the deficit problem. Eventually, every one of us will have to surrender some of our priorities. It is my hope, however, that during the course of this debate the American people never lose sight of the fact that there are legitimate and sincere differences of opinion as to how to accomplish the goal of deficit reduction. This problem was bipartisan in the making and the solution that puts us on the path to a balanced budget will require not accusations, but political will; and not an abuse of procedures, but, most importantly, true bipartisan cooperation.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

FIRST BUDGET RESOLUTION FOR FISCAL YEAR 1986

The ACTING PRESIDENT pro tempore. The clerk will report the pending business before the Senate.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 32) setting forth the congressional budget for the United States Government for the fiscal years 1986, 1987, and 1988 and revising the congressional budget for the United States Government for the fiscal year 1985.

The Senate resumed consideration of the concurrent resolution.

Pending:

Packwood Amendment No. 50 (to Amendment No. 43, as amended), relating to medicaid and medicare.

The ACTING PRESIDENT pro tempore. Who yields time? If neither side yields time, the time will run equally.

Mr. BYRD. Mr. President, I yield myself 30 seconds on the amendment.

Mr. President, who is in control of time on this side?

The ACTING PRESIDENT pro tempore. The minority leader.

Mr. BYRD. I thank the Chair.

Mr. President, I yield that time to Mr. CHILES.

I yield the floor.

Mr. PACKWOOD. Mr. President, this is a relatively simple amendment and a relatively modest limitation on Medicare and Medicaid expenditures.

I have had placed on the desk of each Senator a chart prepared by the Library of Congress which indicates budget outlays of larger clusters of na-

tional expenditures in constant 1984 dollars, such as national defense, human resources, net interest, and others. Not to argue the merits of whether we spend too much or too little on defense or human resources, but simply to show in constant dollars, where we spend our money.

It will be noted that on national defense we spend as much today, 1986, as we did in 1953. Actually, if you mean military hardware, it is slightly less, because the second page of the chart indicates how much of that goes for military retirement. It has gone from about $1 billion to $16 billion over that period, while military expenditures have stayed roughly the same.

The third page shows the outlays for Social Security. It indicates that in 1957 we added disability and in 1966 we added Medicare. It will be noted that the outlays for Social Security, in constant dollars, have gone from $10 billion to $250 billion.

I add that to indicate where the large increase in national expenditures has happened over the past almost 30 years.

In terms of Medicare and Medicaid for 1986, 1987, and 1988, under the baseline, if we make no change in the law, those expenditures will go up $330 billion.

The amendment I have offered on behalf of Senator DURENBERGER, Senator HEINZ, Senator CHAFEE, and myself would produce saving out of that $330 billion for Medicare and Medicaid of about $17.5 billion—about a 5-percent saving.

Mr. President, I am confident that the Finance Committee, out of $330 billion in expenditures for Medicare and Medicaid over the next 3 years, can easily meet a combined mark of $17.5 billion. It is actually suggested to be broken down $16.3 billion Medicare, $1.2 billion Medicaid. But we should have no difficulty meeting it.

I, therefore, encourage approval of this amendment.

Mr. HEINZ. Mr. President, I am pleased to join my distinguished colleagues in introducing an amendment to modify the Medicare and Medicaid provisions of the Senate budget resolution to protect senior citizens against unfair and unnecessary cost. It seeks to eliminate the most onerous of the proposals in the resolution and reduces the burden of out-of-pocket expenses for essential health care services. This amendment acknowledges that there are better ways to come up with dollars to pay for the Medicare and Medicaid Programs than shifting the burden onto the backs of this Nation's sick, poor, and elderly.

While this leadership amendment will substantially help to protect Medicare beneficiaries, it is also fiscally responsible.

None of us can afford to underestimate this grave economic crisis—a $200 billion deficit. Health care costs, in particular, are escalating far faster than inflation. This puts tremendous pressure on the Medicare Program. Congress has an inescapable responsibility to Medicare beneficiaries to do whatever it can within its power to contain those costs and still provide quality care.

Mr. President, this amendment both reduces the burden on the poor, sick, and elderly and preserves the emphasis on deficit reduction. Most important, this amendment retains the full participation of physicians and hospitals in the effort to control Medicare costs. It is only fair that if we are to slow the rapid increases in the costs of health care, that we start by limiting the amount we pay to the providers participating in the Medicare Program.

Second, this amendment allows us to eliminate the beneficiary cost-sharing provision that would have placed the greatest burden on those who are the sickest. For example, this amendment would eliminate the copayment on Medicare home health visits. This copayment, Mr. President, would be especially cruel and unjust: It would impose what is, in effect, a tax on the sickest and most frail citizens. At a time when patients are being discharged from hospitals sicker and quicker under the new payment system, we cannot be making it more difficult for them to receive urgently needed medical care at home.

Our amendment would also eliminate the increase in the part B deductible and slow the rise in the part B premium to a reasonable level. It would also reduce the cut in direct costs of graduate medical education—funds which are used by those hospitals which provide the bulk of care to the indigent and uninsured.

Moreover, Mr. President, this provides substantial protection to the Medicaid eligible population by eliminating the proposed cap and by reducing proposed savings by more than $1 billion. A cap would have changed the very nature of the Medicaid Program and would have jeopardized our fundamental commitment to low-income persons. I am speaking of older Americans in nursing homes, SSI recipients and AFDC families. We cannot turn our backs on persons who most need and deserve some protection. This amendment allows the members of this body to repair the safety net by continuing to protect the truly needy.

I urge my colleagues on both sides of the aisle to support this amendment because it will enable us to protect the poorest an sickest elderly and still hold the line on rising costs in the Medicare and Medicaid Programs. In particular, we must protect older Americans from excessive increases in out-of-pocket costs. Let's be clear why. Today the elderly are paying in excess of $1,500 each year for health care. This means they are paying the same percentage of their income as they did before Medicare was enacted.

Maybe to many Americans $1,500 may be affordable. But it's not affordable to an elderly widow trying to get by on the average Social Security benefit of $400 a month.

Some will argue that the lowest income elderly receive additional support through in-kind benefits, such as food stamps, Medicaid, and housing subsidies. It is true that these essential programs allow some of the elderly to keep their heads above water.

Unfortunatly, many elderly poor are not eligible for participation or are not enrolled in these programs. These are the most vulnerable citizens who fall through the cracks.

There is a common misconception, for example, that the elderly poor are all protected by Medicaid and any changes in Medicare will not affect them. But today, there are over 2 million older Americans who are below the poverty line—roughly $5,000—who are not covered by Medicaid. On top of that, there are an additional 6.2 million elderly without Medicaid coverage who have incomes below $10,000 per year. Together, this represents 40 percent of all noninstitutionalized Medicare beneficiaries.

It is this group, Mr. President, that we must protect. If we do not enact this amendment many older Americans, including the poor and near-poor, will be forced to pay an additional $200 out of pocket each year by 1990. This will surely force many of them to forego other necessities such as food, clothing or heating, in order to pay for essential health care services. For those teetering on the edge of poverty there is no margin for absorbing such an additional cost burden.

Our amendment will offer a substantial reduction in the savings target for Medicare and Medicaid. It is true that some cost sharing for beneficiaries will remain in the budget resolution, even if this amendment is adopted. I oppose some of these provisions. I can and do urge our colleagues to support this amendment, however, because I am confident that when the Finance Committee meets to reconcile the budget resolution, it will be able to replace those remaining provisions which have an onerous impact on beneficiaries with more innovative approaches to Medicare savings.

For example, the Finance Committee can replace some of these provisions with such measures as mandatory second surgical opinions, which will reduce unnecessary surgery, save lives, and save the Medicare Program as much as $500 million or more.

In addition, by remaining vigilant of waste and abuse in the health care in-

dustry, we can save the Federal Government millions of dollars every year.

In the case of pacemakers alone, we could save $96 million a year if we just required the pacemaker industry to make good on its warranties.

These and other cost-saving initiatives could be used to further reduce any excessive burden on Medicare beneficiaries.

I urge my colleagues in the interest of fairness, equity, reason, and fiscal responsibility, to support this leadership amendment.

Mr. PACKWOOD. Mr. President, I yield back the remainder of the time on the amendment on our side.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER (Mr. DURENBERGER). All time on the amendment has expired.

Mr. CHILES. Mr. President, I yield time on the bill and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. CHILES. Mr. President, we have the Packwood amendment before us this morning, and the amendment adds back about $1.8 billion in Medicare over the next 3 years, but it would leave total cuts of about $16.3 billion, and it would add back only $800 million over the next 3 years in Medicaid, leaving total Medicaid cuts of about $1.2 billion.

The original Medicare-Medicaid cuts in the administration-Republican Senate package would have been $20.1 billion over 3 years, with $18.1 billion in Medicare and approximately $2 billion in Medicaid.

The issue really needs to be in Medicare whether we are going to increase beneficiary out-of-pocket cost. Are we going to say increase premiums, increase the deductibles, or add a new copayment here and there? Are we going to delay eligibility?

I have looked over the numbers, and even if you accept every one of the President's proposals for freezes on all of the providers, on hospitals, doctors, and everyone else, as well as his proposal for an extra $3 billion in cuts for hospitals beyond the freeze, you are still going to have to come up with something to save another $3 billion over 3 years to reach the Packwood Medicare savings.

It seems to me that there will not be anything left but the beneficiaries.

So I point out to the body that we will have an opportunity to vote on a better Medicare-Medicaid package later, a package that I proposed in the Budget Committee, and it was adopted unanimously in the Budget Committee on the first round, and under that proposal, it did reject increases in Medicare beneficiary out-of-pocket costs. It did not penalize Medicare beneficiaries for increases in health care costs. Instead, it directed efforts to contain costs at the source.

I think that proposal and one that we will have an opportunity later in this process to vote on continues the efforts in health care cost reduction. It strengthens the Medicare trust fund by freezing providers for 1 year, and under that plan, we will still save $12 billion, and I point out that we have already saved $30 billion to $40 billion for Medicare over the last 4 years.

The Republicans on the Budget Committee applauded the amendment I proposed as fiscally responsible before it was passed by a vote of 20 to nothing.

The Republican leadership plan, the one that the Packwood amendment proposes to amend today, would freeze those payments to hospitals for 1 year, but then it goes beyond that and it cuts another $600 million in 1986, and the additional cuts are $3 billion over the next 3 years.

Those cuts are not cutting into profit margins of prosperous hospitals. They are cuts that could force public hospitals to close their doors.

Most of this additional cut would come from a 50-percent reduction in the indirect teaching adjustment. This is now used to compensate hospitals that take care of more than their fair share of Medicare beneficiaries and poor people who have no insurance and cannot pay for care at all.

Public hospitals, county hospitals, and large teaching hospitals have to absorb the cost of poor people refused by other hospitals.

The administration claims that the indirect teaching adjustment is without justification and that it was doubled over what it previously was when the new Medicare reimbursement system was enacted 2 years ago. It pays for some of the cost of hospital interns and residents, but the change was then made specifically to adjust for large indigent caseloads until a better formula could be found.

The prospective reimbursement legislation ordered the administration to find a way to make a better adjustment, but the administration has so far refused.

Using this indirect adjustment is not the best proxy for indigent care in keeping public hospitals from closing their doors, but we cannot cut it out completely until we find another way.

The Republicans in the Budget Committee, expressed great concern about this issue, but they voted to cut out the payments.

There is a detailed report language in the budget resolution reported out of the committee on this problem put in by Senators DOMENICI, GORTON, and QUAYLE, as well as Democrats. Senator DOMENICI and other Republican Senators expressed great concern about public hospitals because of the cutbacks by Medicare and private insurance, and Senator DOMENICI said that we would include language to express the committee's concern, and, "Hopefully, someone can find a way to do that."

But the report has no teeth, and with this cut in the resolution, there is no way that could be done.

Now, the proposal that we will have before us later I think goes much further than the Packwood amendment and would assume that there would be a 1-year freeze on hospital reimbursements even though the congressionally appointed prospective payment assessment commission has recommended that there be an increase of 2.5 percent in reimbursement rates for the next year. Under the plan, the hospital payments under Medicare would still be reduced by $2 billion in 1986 and $9.3 billion over the 3 years.

That, Mr. President, is a big enough cut. It would have the same effect on the Medicare hospital insurance trust fund as the Republican leadership plan, and savings would still be sufficient to insure that the trust fund would be able to make payments long into the mid to late 1990's.

Mr. President, I was glad to hear Senator PACKWOOD say last night that he wanted to add back money to Medicaid so that he could get rid of the Medicaid cap, the Medicaid cap that the President insisted upon. The cap that was going to cost each and every State millions of dollars and that was going to unfairly penalize those States wanting to improve their programs and maybe provide medical care to children who might be 5 years old or a little older.

I am glad Senator PACKWOOD is squarely on the record as the chairman of the Finance Committee. But again looking at the proposal that he has before us, where are the cuts that he would leave in Medicaid going to come from? This amendment would still cut Medicaid by $1.2 billion over 3 years compared to the leadership and the President's proposal to cut it $2 billion over the next 3 years.

One proposal that has been circulating, and one that might be a workable idea, is to set out new Medicaid rules which would force all States to collect all payments they can from private health insurance coverage held by Medicaid recipients. The GAO has issued a report recommending that that be done. But we also know that CBO says that you could get no more than $450 million over the next 3 years from some action like this. That leaves another $750 million over 3 years that the amendment sponsors

say are unspecified savings. Where are they going to come from?

There are a number of ways you can get those additional Medicaid savings, all of which involve reductions in State payments. Maybe it will not be permanent, but it will be reductions in State payments and that will translate into a cut in services.

We have tightened up Medicaid, tremendously cutting payments and setting up fraud and abuse units. What we have found is if you try to squeeze any more blood out of the turnip, the States just cut back on services to kids and on services to old folks.

Mr. President, I yield 5 minutes to the distinguished Senator from Massachusetts [Mr. KENNEDY] to speak on the amendment.

Mr. KENNEDY. Mr. President, I support the Republican add-back amendment on Medicare and Medicaid. For the third time in 3 days, the Senate is repudiating the Republican White House leadership package on the budget. On Wednesday, we saved the Social Security COLA; on Thursday, we reduced the excessive amount for military spending to a level commensurate with our real priorities; and today we are taking a step toward restoring the integrity of Medicare and Medicaid.

But unlike our action on Social Security and defense, the Medicare-Medicaid add-back amendment is inadequate, because it restores only 40 percent of the unfair beneficiary cuts urged by the Republican leadership in these two health care programs that are lifelines for the elderly and the poor.

This amendment restores only $1.9 billion of the $4.7 billion in beneficiary cuts proposed by the Republican leadership in Medicare for the period 1986-88, and only $800 million of the $2 billion cuts proposed in Medicaid.

The $4.7 billion in Medicare cuts in the Republican package are too harsh, standing alone. But coming on the top of the $6.2 billion in cuts for the same period already enacted during the past 4 years, the deep new slashes proposed in the present package are cruel and unacceptable.

It is true that we need spending restraint in Medicare and Medicaid. But the right way to achieve restraint is to reduce the soaring cost of health care through incentives to encourage doctors and hospitals to charge less—and not by enacting harsh additional cuts in the already dwindling benefits now available in these programs.

All of the proposed Republican beneficiary cuts are objectionable and all of them should be restored—just as we restored the full COLA in Social Security. But adopting this amendment, we will be making a downpayment on our commitment to decent health care for the elderly and the poor—and we shall be back with a Democratic amendment to do the job correctly. This is one issue where we must insist that 40 percent of the loaf is not enough.

Mr. President, I rise in support of America's aged and disabled Medicare beneficiaries. This amendment will restore some of the egregious Medicare cuts in the Republican package, but it does not go far enough. It eliminates less than half of the cuts in this package that harm beneficiaries. I am serving notice, right now, that I will support this amendment, but I will also be offering a further amendment to strike all the unfair beneficiary cuts in this package.

I might say in passing, Mr. President, that the chairman of the Senate Finance Committee and the chairman of the Health Subcommittee are sponsors of this amendment, but they are apparently ashamed enough of what it holds for beneficiaries that they will not tell us what's in it. While provider cuts are identified with great detail, beneficiaries' cuts are called "unidentified cuts."

Members of this body have to assume that a modified version of most of the beneficiary cuts in the original package are still left in by this amendment.

I have always had a special feeling for the Medicare Program. My brother, John Kennedy, made the enactment of Medicare one of the central issues in his campaign for the Presidency in 1960, and it became one of his highest legislative priorities.

Medicare has done more to bring dignity and security to the lives of America's senior citizens than any social innovation since Social Security. In the dark days before Medicare, the elderly lived with the knowledge that any serious illness would mean the loss of a lifetime of savings. In the dark days before Medicare, the elderly were frequently denied the benefits of modern medical science because they could not afford to pay for them.

But, the enactment of Medicare changed the lives of America's senior citizens. Medicare brought our senior citizens greater financial security and assured them access to the best medical care America has to offer. As a result of Medicare, the senior citizens of America enjoy the blessing of longer and healthier lives.

This year is the 20th anniversary of the passage of Medicare. It is ironic that, at the end of Medicare's second decade, this budget package proposes to break the promise of Medicare—a promise that has already been eroded by excessive health care cost inflation.

The enactment of this budget package would make every elderly American the scapegoat for this administration's horrendous budget deficit. This so-called budget compromise simply rubberstamps every objectionable Medicare benefit cut and premium increase in the Reagan budget.

The authors of these unfair proposals either do not know or do not care that Medicare covers less than half the elderly's health care costs.

They either do not know or do not care that America's senior citizens will have to pay an average of $1,800 this year out of their own pockets to purchase the health care they need.

They either do not know or do not care that excessive health care cost inflation has meant that this $1,800 represents 15 percent of the elderly's income—the same percentage they had to pay in the dark days before Medicare; and

They either do not know or do not care that this will skyrocket to 19 percent of income by the year 2000 even without any changes in Medicare benefits.

Let me review with you the Medicare proposals in this budget package that my amendment would eliminate.

The proposals in this package would injure every Medicare beneficiary, sick or healthy, aged or disabled. They would: raise the part B premium; impose a copayment for home health care; raise the part B deductible; and delay Medicare eligibility for 1 month.

These cuts are even more outrageous when we look at the cumulative effect of the Medicare benefit cuts contained in this budget package over the next 5 years and the impact of Medicare cuts already enacted.

The proposals in this budget package would take a staggering $15.3 billion away from the 30 million elderly and disabled Medicare beneficiaries over the next 5 years.

As if these proposals are not bad enough, they would be on top of cuts already enacted since this administration has been in office that will take $11.5 billion from Medicare beneficiaries during the same period.

The cumulative total of this budget package, plus Reagan budget cuts already enacted is $26.8 billion—about $900 per beneficiary, and remember, the per capita income of these elderly and disabled Americans is only about $11,000 per year.

AVERAGE ELDERLY PAYMENT FOR HEALTH CARE

Even under current law, the amount the elderly will have to pay for medical care will increase substantially. In 1977, the average elderly person had to pay $698 for the medical care they needed; by 1985, that had risen to $1,800; and by the year 2000—even if none of the benefit cuts in this package are enacted—the medical bill of the average senior citizen will be over $4,600. The elderly already pay too much for medical care.

REPUBLICAN PREMIUM INCREASE

Under current law, the premium will rise from $186 today to $253 by 1990. On top of that already substantial increase, this proposal would almost

double the current law premium to $424.80.

The part B premium was originally set at 50 percent of program costs. In 1976, the Congress recognized that, because of excessive health care cost inflation, the premium was going up much faster than beneficiary income. Accordingly, the premium increase was capped by the percentage increase in the Social Security benefit.

In 1982, and again in 1984, this cap was temporarily lifted and the premium was fixed at 25 percent of program costs. In 1988, under current law, the premium will, once again, be capped by the Social Security benefit increase.

The budget proposal would permanently reverse Congress' wise policy. It would tie beneficiary premiums to an excessively high rate of inflation in program costs and would raise the share of program costs financed by the premium from the current 25 to 35 percent.

This proposal would permanently victimize Medicare beneficiaries for an excessive health care cost inflation Congress has failed to control. Last year, program costs went up three times as fast as the Social Security COLA. Over the next 5 years, Medicare beneficiaries would have to pay an additional $12.5 billion just to maintain their part B coverage.

1990 COLA COMPARED TO PREMIUM INCREASE

Another perspective on the premium increase is provided by comparing it to the 1990 Social Security COLA.

By 1990, the difference between the current law premium and the premium under the budget proposal will eat up about two-thirds of the entire Social Security COLA.

The COLA adjustment was supposed to pay for the increases in the cost of food, shelter, fuel, and all the other essentials the elderly need. If this proposal is adopted, most of the COLA will go to pay for the part B premium increase, leaving only a fraction for the elderly's other needs.

For the 15 million beneficiaries below the median Social Security benefit, the difference between the current law premium and this budget proposal's premium will eat up a full 90 percent of the COLA.

When Senator DURENBERGER brought the Medicare reconciliation bill to the floor last year, he said that the Finance Committee had dropped an identical proposal to raise the part B premium to 35 percent of program costs from the reconciliation package because the President had told them not to harm Medicare beneficiaries. I ask: Was it wrong to harm Medicare beneficiaries in 1984, but right to harm Medicare beneficiaries in 1985? Are our senior citizens safe only in election years?

I would point out that the Republican amendment on the floor right now will still almost certainly raise the premium to at least an unacceptable 30 percent by 1990. The increase even in this amendment will take 40 percent of the average COLA and 60 percent of the COLA for a senior citizen with less than the median benefit.

HOME HEALTH COPAYMENT

This budget proposal will impose a home health copayment on beneficiaries using more than 20 days of home health care a year. Congress abolished all home health copayments in 1972; it does not make sense to reimpose them now.

Approximately 1½ million beneficiaries currently use home health services each year, and approximately 500,000 need more than 20 visits. This proposal will cost the average person needing more than 20 visits $130 extra in 1986 and $300 extra by 1990.

This chart shows the cost of home health care to the 66,000 very sick beneficiaries who need more than 100 visits a year. This group averages about 120 visits, and each one would have to pay about $500 extra for home health services next year.

This proposal is particularly unfair because the incentives in Medicare's new prospective payment system will lead hospitals to release sicker patients earlier. Average length of stay for Medicare beneficiaries declined 10 percent in just the last year. Beneficiaries not needing a hospital level of care should not stay in the hospital, but they should have skilled care available in the community. If this proposal is adopted, the Government will get all the savings from prospective payment, but our elderly beneficiaries will be stuck with the costs.

According to the CBO estimates, none of these so-called savings from this proposal arise from reduced utilization. They represent a simple cost-shift from the Federal Government to the sick and aged.

This proposal is unfair to sick beneficiaries and will encourage longer hospital stays. It will cost the sick, elderly, and disabled a total of $600 million over the next 5 years, a cost that is even more unsupportable because approximately 70 percent of all the beneficiaries using home health services will already have undergone the costs of a prior hospitalization.

PART B DEDUCTIBLE INCREASE

This proposal is yet another burden for sick beneficiaries. It would increase the deductible from $75 to $92 by 1990 and cost beneficiaries a total of $700 million over the next 5 years.

DELAY IN ELIGIBILITY

This proposal would delay Medicare eligibility 1 month—from the first day of the month in which the beneficiary turns 65 to the first day of the month after the 65th birthday.

Over the next 5 years, this proposal will cost the elderly $1.5 billion. When the Finance Committee brought this proposal to the floor last year, their own figures indicated that 160,000 elderly beneficiaries would be exposed to the costs of uninsured illness during that month.

The Congress recognized 2 years ago that it is wrong to raise the age of eligibility for Social Security. We should recognize today that it is wrong to raise the age of eligibility for Medicare.

As we review the Medicare proposals affecting beneficiaries that are included in this package, one fact is clear above all others. They callously ignore the needs of America's senior citizens.

I believe it is wrong to tax the elderly and disabled to pay for a tax reduction program from which they did not benefit. I believe it is wrong to add to the medical costs of those who already pay too much for the medical care they desperately need. And I believe it is wrong to come back here, year after year, in these budget debates and break the promise of Medicare in order to pay for this administration's failed fiscal policies.

In his televised address to the Nation on the budget, the President said, "We will never renege on our pledge to our elderly and disabled citizens." I hope that my colleagues will take him at his word and support this amendment to help protect our senior citizens. And I hope they will vote with me when I offer my amendment to complete the job this amendment only begins.

Let me now turn to Medicaid.

This budget proposal contains many shocking and inhumane proposals, but proposals to cut health services to the poor must rank near the top of the list of the many destructive proposals in this budget.

Under the budget compromise, Medicaid would be capped at the rate of increase of the medical care component of the Consumer Price Index. Under this amendment, that objectionable cap would be abolished, but 60 percent of the cuts in the original proposal—$1.2 billion—would be kept.

There could not be a worse time to cut health programs for the poor than today.

The number of people with any health insurance at all during a particular point in the year has increased 10 million since 1977, from 25 million to 35 million.

The proportion of the poor and new poor covered by Medicaid has declined from 63 percent to 50 percent since 1975.

Public hospitals all over the country are reporting dramatic increases—on the order of 300 to 400 percent—in so-called "economic transfers." We are seeing newspaper reports again, for the first time since the 1960's, of people showing up at emergency

rooms with life-threatening conditions being turned away because they have no health insurance.

More and more hospitals are adopting explicit limits on the amount of charity care they will provide, and the Medicare reimbursement proposals contained in this budget are likely to make the problem worse.

What is the impact of all these trends? A recent Robert Woods Johnson study reported that 1 million Americans annually are denied care that they request because they lack the ability to pay for it, and another 5 million do not even seek care they feel they need because they know they cannot afford to pay for it.

MEDICAID CAP

What does this proposal offer the millions of Americans who are sick and poor? It offers them a Medicaid cap that will take away $3.7 billion in Federal support for care for the poor over the next 5 years. Even this amendment would keep 60 percent of those cuts.

Who would be the victims of a Medicaid cap? Of the 22 million people who depend on Medicaid, 3 million are poor, aged Americans, 3 million are poor, blind and disabled Americans, 5 million are poor parents, and 11 million are poor children. Are these really the people this body thinks should pay for deficit reduction?

As bad as any Medicaid cuts are, a Medicaid cap is the cruelest form of Medicaid cut. It will take more from the poor and sick every year it is in operation, because the projected increase in Medicaid costs—even without significant expansions in caseload—is about 30 percent faster than the growth in the MCPI.

A Medicaid cap will hurt the poor in every State in the country, but it will hurt people residing in the poorest States the worst, because their programs are so pathetic already. In the 10 States with the lowest Medicaid eligibility levels, eligibility is only one-third of the poverty level—that's $3,468 for a family of four. A Medicaid cap means these States will never catch up. And any Medicaid cuts will keep these States from improving their programs.

The Members of the Senate have received a letter signed by a bipartisan group of 37 Governors from both political parties and all sections of the country stating, "Reductions in Federal Medicaid funding will force us to reduce basic medical care. That is unacceptable to us, and we believe it should be unacceptable to the Congress."

Medicaid cuts would reduce basic medical care to the poor, the sick, the aged, and the disabled. I hope the Senate will demonstrate by its votes today, and on the more comprehensive and meaningful amendment that I will offer later in this debate, that such cuts in health care for the poor are indeed unacceptable.

PACKWOOD MEDICARE AND MEDICAID AMENDMENT

Mr. BRADLEY. Mr. President, I support the amendment offered by my colleague from Oregon [Mr. PACKWOOD] to reduce the Medicare and Medicaid cuts included in the budget package now before us.

Mr. President, this amendment restores roughly $1.8 billion for Medicare, only 10 percent of the savings assumed for this program. It is my understanding that the restoration would be used to reduce the increases in out-of-pocket costs to the elderly. The budget now before us assumes that the Medicare premium paid by the elderly will be increased from 25 percent to 35 percent of total program costs. This would more than double the premium—from the current figure of $15.50 a month to about $35 a month by 1990. This is on top of the doubling of the premium that has already occurred since 1980. Funding for this amendment could be used to reduce the increase from 35 percent to 30 percent of costs—a step in the right direction.

It must be kept in mind, Mr. President, that health care now takes as much of older Americans' median income as at the inception of the Medicare Program. On average, Medicare beneficiaries pay an estimated $1,500 per year in out-of-pocket medical costs—almost 30 percent of their total health bill. This trend, combined with increasing health costs, is forcing many elderly Americans on fixed incomes to make hard choices between health care and necessities like food and shelter.

Mr. President, the budget package now before us also calls for a cap to be placed on the Medicaid Program. The effect of this cap would be to turn this program into a block grant, thereby significantly reducing over time the health care protections in current law. In New Jersey, this proposal would result in a $64 million loss of reimbursement for care provided under the Medicaid Program. This will present a severe strain on the State's budget. But even more important, the Medicaid cap jeopardizes implementation of the New Jersey "Medically Needy" Program, which has the potential of serving 100,000 low-income children and 100,000 low-income elderly. We must not cap the Medicaid Program. This amendment takes off the Medicaid cap and cuts the level of savings to be achieved in Medicaid almost in half.

But, Mr. President, it must be kept in mind that this amendment does not go far enough. We need to restore more funding even if this amendment is adopted, since the package will still assume nearly a doubling of the Medicare premium and $1 billion in Medicaid cuts. In addition, the budget before us would impose cost-sharing on Medicare home health services after the 20th day of care, as well as severe cuts for medical education. The copayment proposed would seriously hurt the capacity of home care providors to provide quality of care, since 500,000 beneficiaries need more than 20 visits.

Mr. President, I am firmly committed to reducing this intolerable deficit. But we cannot ask the elderly and poor families to shoulder such an unfair burden of the savings to the Federal Government. This amendment very modestly reduces that burden. I therefore urge my colleagues to support this amendment.

Mr. BAUCUS. Mr. President, I will vote for this amendment but I am not satisfied with it.

The amendment is a small Band-Aid on a package that opens a gaping wound in the pocketbooks of America's senior citizens.

At best, this amendment is a first step toward a fair deficit reduction package. I will support this first step but I will be back with my colleagues to offer an amendment that achieves budget savings without reneging on the commitment we have made to provide America's seniors with access to affordable, quality health care.

This amendment does slightly ease the burden the Republican budget package would impose. But it leaves in place proposals that this body has wisely rejected time and time again. We have rejected delays in Medicare eligibility. We have rejected increases in the Medicare part B deductible. We have rejected increases in copayments for vital services. And we agreed to stabilize the part B premium at 25 percent of program costs. The Republican package and even this amendment ignore these past decisions.

Mr. President, I will support this small step, but we have a long way to go before this package is fair and equitable.

Mr. D'AMATO. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Oregon. The cost of health care for the elderly continues to represent an overwhelming portion of the income of senior citizens. It is estimated that the elderly pay an average of 15 percent or $1,700 of their income a year for health care. We cannot ignore the economic plight of the elderly.

The cost of the White House-Senate Medicare proposals to the elderly for fiscal years 1986 through 1988 will be close to $5 billion. This does not include additional costs passed on to beneficiaries by physicians who decide not to participate in the Medicare part B because of the proposed freeze on reimbursement rates.

The cost of the Medicaid proposal would hurt the poor of our Nation,

some of the people who need adequate health care the most. A Medicaid cap would be acceptable if Medicaid roles were static. They are not. In my State especially, the Medicaid cap would cost $261 million in fiscal year 1986 alone. Medicaid has been the target of reductions since 1981. To continue this trend for an additional 3 years would be disasterous to the health care needs of the needy.

Under part B, the beneficiary is responsible for 20 percent of the cost of physician services, as well as monthly premiums, $15.50 a month, and a yearly deductible, currently $75. The proposed increase of the premium would cost beneficiaries $2.073 billion by 1988, for a 3-year total cost to beneficiaries of $3.386 billion. To increase the $75 deductible would cost $180 million over 3 years.

I am also concerned about the proposed copayment for home-care visits after 20 is shortsighted and burdensome as well. Medicare should not be discouraging home care, rather it should provide incentives for home care. Home care is significantly less costly than hospital care while also being more humane. I am afraid that the affect of this copayment will not only be a $315 million added burden on beneficiaries, but also discourage home care and actually be more costly to Medicare in the long run.

I support this amendment which will dramatically reduce the proposed increases to Medicare beneficiaries and I ask my colleagues to join me in support of this amendment.

THE MEDICAID AND MEDICARE AMENDMENT

● Mr. DURENBERGER. Mr. President, I join with my colleagues Senators PACKWOOD, CHAFEE, and HEINZ to introduce an amendment to refine the leadership budget package. I voted for the package because it is a serious attempt to reduce the Nation's Federal budget deficit. In speeches throughout this country I have said time and time again that the deficit is the major issue facing this Congress.

Good budget policy, however, is not always consistent with good health policy. The amendment I introduced with my colleagues from the Finance Committee will provide the committee the added flexibility it needs when its sets policy for savings from the Medicare and Medicaid Programs.

The amendment would set savings goals for 1986 through 1988 of $16.3 billion from Medicare and $1.2 billion from Medicaid. These numbers can be reached. It is important to point out though, that these numbers come on top of major contributions Medicare and Medicaid have contributed to deficit reduction over the last 4 years. Since 1981, Medicare has contributed $28.2 billion to deficit reduction and $3.5 billion came from Medicaid. Twenty-four percent of the Medicare savings came from increases in beneficiary out-of-pocket costs and the remainder from lower payments to hospitals, doctors, and other health providers.

Part of these savings came from our health care reforms, such as the establishment of the new prospective payment system for hospitals under Medicare. Other savings came from arbitrary cut backs and freezes.

More can be done. But, it should be understood, unlike other parts of our budget, those involved in health care for this Nation's elderly, disabled and poor have taken it upon themselves to bring down costs. If the Defense Department had the equivalent of Medicare prospective payment reform, we would not have had the $7,500 coffee pot.

The Finance Committee will likely reach its Medicare savings goal from an array of measures. The centerpiece of the Medicare savings are likely to be freezes on hospital DRG rates and physician fees.

I will support both, but do not think either is good health policy. In 1983, when Congress adopted the prospective payment system we promised the hospitals fair increases to help in their transition to this tough new payment system. The first year they got an increase of inflation plus one percent for technology and volume. The next year they got inflation plus one quarter. This year we are going to freeze the DRG rate which in an inflationary time means we are going to actually give them a 4 to 5 point cut.

Last year, we froze the physicians. It makes no sense to freeze the physicians again—but we have a deficit and everybody needs to contribute. At a minimum, however, it is essential, as the leadership package proposes, to carve out the physicians who accept 100 percent Medicare assignment. We promised physicians last year when the freeze went into effect, that those who participated in this program to accept 100 percent assignment would be rewarded. The 30 percent of physicians who have participated deserve our support.

Other provisions likely to affect hospitals are the reduction assumptions concerning direct and indirect payments for clinical training. These subsidies should be trimmed and reshaped. I plan to propose refinements in the direct payment for intern and resident salaries in the next few days.

As for the indirect adjustment for medical education. This adjustment is unfortunately misnamed. It is actually an adjustment for the fact that teaching hospitals tend to treat sicker and frequently poorer patients which require greater intensity of services. Until we come up with a severity index for the DRG system and make other refinements we must be very careful how we treat this adjustment.

The adjustment presently allows teaching hospitals an additional 11.59 percent per DRG for each ratio of 0.1 residents to beds. So, for example, a hospital with 50 residents and 100 beds would get an additional 58 percent for every DRG (5×11.59 percent). This ratio provides the best proxy we now have. The adjustment was arbitrarily set when we wrote the Social Security Amendment of 1983. The current adjustment may be overrich and could be cut. The 50-percent reduction assumption in the leadership agreement would cause irreparable harm, particularly for hospitals which treat a disproportionate share of poor patients. It is important we take these factors into account in the Finance Committee deliberations and develop a more appropriate means to reduce the indirect adjustment. We do not want to throw the baby out with the bath water.

Our amendment will also ease the burden on the elderly. It will allow the Finance Committee to reduce the amount of out-of-pocket payments made by beneficiaries to contribute to Medicare savings.

The leadership package askes a lot of beneficiaries. Under its provision the Congress would likely move to raise part B premium to 35 percent of the program costs, increase the deductible for part B by indexing it, and require $4.80 beneficiary home health copayment per visit after 20 free visits.

Some combination of these cost increases for Medicare eligible individuals will likely be dropped. This amendment assumes we would reduce the part B premium increase to 30 percent of program costs and, eliminate the home health copayment.

The increase in part B premium is warranted. The program was designed for the Federal Government to contribute 50 percent of the costs and the beneficiaries to pay the other half. Over the last 10 years, the Government portion, from general revenues, has increased 594 percent, while the out-of-pocket premium costs to the beneficiaries went up 132 percent.

The problem with raising premiums and deductibles for Medicare is that it affects the rich and poor alike. 14.1 percent of the elderly live below the poverty line. Another 30 to 40 percent live on minimal fixed incomes and may be totally dependent on Social Security. For the low income elderly the higher cost sharing is unfair.

I proposed in the part B Premium Redistribution Act last session that Congress design a graduated premium which asks for greater contribution from the elderly who can afford additional out-of-pocket expenses while reducing premiums for the poor beneficiaries. My bill would have reduced the monthly premium and raised the

contribution toward Medicare from the better off on their tax forms.

It may not be the time politically to move to this concept of graduated contributions for Medicare beneficiaries. Although it is not coincidential that Paul Kirk, Chairman of the Democratic National Committee, suggested we examine this approach only a few weeks ago. The powers that be in his party compelled him to change his tone. But, the fact that he even suggested it politically indicates that even Senator KENNEDY's former colleagues are beginning to realize how unfair to the poor, the taxpayers and all of us it is to give the rich and poor alike the same shake under part B and the other social insurance programs regardless of their means.

Our amendment also reduces the savings achieved from Medicaid from the leadership budget package. The leadership budget package assumes that $2,010 billion would come from a cap on Federal contribution to Medicaid. Instead the amendment sets a goal of $1.2 billion which can be achieved through administrative reform. This is as far as we should go.

Medicaid is becoming less and less adequate as a health care program for the poor. The proportion of the Nation's poor and near poor covered by Medicaid declined from 63 percent in 1975 to under 50 percent today. Medicaid programs in 14 States covered fewer than ⅓ of the poor in 1980 and coverage has continued to decline since that time. In 1984, Medicaid eligibility began at incomes 22 percent below the poverty level in five States.

The cap would preempt States such as South Carolina and Mississippi from expanding their base. Mississippi has a particularly worrisome infant mortality problem—capping Medicaid would limit the State's ability to reduce its infant mortality.

Also, it has been argued that States have not done enough to keep Medicaid costs down. This is untrue and unfair. A cap will not provide the incentives needed for States to cut costs. They have sufficient constraints already. A cap would only cut into current benefits.

In virtually every State Medicaid already pays physicians far less than the Federal Medicare levels. It has been estimated that to increase State Medicaid physician fees to Federal levels, Medicaid expenditures on physician services would need to be increased by 55.7 percent. Yet, in Ohio, for example, payment by Medicaid to doctors and hospitals has not increased since 1970.

In fact, Medicaid rates are so low that physician participation in Medicaid is often inadequate. This has frequently forced Medicaid recipients to seek ambulatory care in costly hospital emergency rooms and outpatient departments.

Access can, however, be improved without necessarily increasing costs.

More than a dozen States have received waivers to implement primary care case management systems. While a number of States are aggressively pursuing expanded Medicaid participation in HMO's. Medicaid recipient HMO enrollment has increased 83 percent since 1980.

States have been implementing reforms on the hospital side as well. Data indicates that Medicaid hospital expenditures would have to be increased by about 10 percent to bring them to Federal Medicare levels. The majority of States have adopted hospital payment systems which are either totally prospective or establish prospective limits on costs that will be allowed. Only nine States still use traditional Medicare cost-based reimbursement methodologies and hospital expenditures in these nine States constitute only 4.7 percent of Medicaid outlays on inpatient hospital care nationally.

Medicaid is more than a health care program for the poor. It is also a long term care program for the elderly.

The cap would particularly hit long term care for the poor elderly. Medicaid is the program of last resort for the poor elderly and disabled.

I do not believe it is good policy to force people on the dole to afford long term care. Many spend down to qualify for Medicaid. This is not what the program was designed for. Nevertheless, the cap would only exacerbate the long term care problems of Medicaid. Reform is needed. But, it must be more comprehensive and well thought out.

The States have made important reforms to hold down the cost of long term care for Medicaid.

A wide range of State Medicaid policies are in place to contain long term care costs. The Federal Medicare program still uses inflationary cost-based reimbursement systems for nursing homes. In contrast, 30 States use prospective payment systems for skilled nursing facilities and 6 more include prospective elements in their systems. Nine States have adopted systems to link reimbursement to the level of patient needs.

In addition, patients remaining in nursing homes are more frail because States are developing community-based alternatives for individuals in need of long term care who can be more appropriately and cost-effectively cared for in noninstitutional settings. In fact, 46 States have received approval to develop such alternative care systems under the waiver authority Congress enacted in 1981.

The proposed cap would make no adjustment for increases in our frail elderly population in need of long term care. The cap would make it particularly difficult to meet growing needs in States with disproportionately large elderly populations such as Florida, which has an influx of the elderly, or South Dakota, which has an out-migration of younger people.

In general, State Medicaid programs have been very aggressive in containing Medicaid cost increases through a broad range of measures. Since 1980, State Medicaid programs have adopted over three times as many cost-saving program decreases as program increases.

The entire area of health care for the indigent and long term care for the disabled and elderly needs reform. But, the budget process, this year, is not the place to screw down on those who are least able to fend for themselves.

My colleagues and I have proposed this amendment for Medicare and Medicaid because it is fair. It gives the Finance Committee a mark we can work with. I appreciate the work the leadership and my colleagues have done to develop an alternative to the leadership budget package for Medicare and Medicaid.●

Mr. CHAFEE. Mr. President, the amendment before us is the result of a great deal of discussion by those of us who were concerned about the original cuts in Medicare and Medicaid proposed in the White House-Senate agreement.

This amendment eliminates all references to a cap on the Medicaid Program and reduces the savings mark for the Finance Committee in this program to $1.2 billion over 3 years. I believe we can reach this mark with changes which will not adversely affect those who need the program the most.

The amendment also reduces the increase in the premium for part B from 35 percent to 30 percent over 5 years and eliminates the home health copayment requirement.

Overall, the amendment reduces the savings mark for the Finance Committee to meet through savings in the Medicare and Medicaid Programs from approximately $20 billion to $17.5 billion, a mark I believe the committee can meet without great difficulty.

Throughout this process, I have been very concerned about the impact of the spending reduction marks. Initially, they were simply too large to achieve without having an extremely adverse affect on the elderly, disabled and poor. I was especially concerned about the proposed cap on the Medicaid Program.

Under the cap each State would have received only what it is currently getting from the Federal side of the equation adjusted for medical services inflation. The Federal match for all practical purposes would be eliminated and the program would be changed from an entitlement to a block grant.

A cap means that States would not be able to increase eligibility or services.

One of the populations which would have been severely affected by the cap proposal is the elderly. Long-term care services for the elderly alone account for almost one-half of the cost of the Medicaid Program. Medicaid assumed this role by default—many elderly individuals who are in nursing homes entered as private pay payors. Once their savings become depleted—they had gone through all of their savings and assets—they ended up on Medicaid. Half of all nursing home residents are the newly impoverished.

As my hearings on longevity clearly indicated, the projected increases in the elderly population, especially those over 85, are astounding. This means that the number of elderly individuals who require long-term care will be rapidly growing. If a Medicaid cap were a part of this package, it would mean that States would have difficulty in providing care to this growing population.

Another affected population is the developmentally disabled. More of these individuals would end up in institutions under a cap because the States would not be able to pay for expanded community based services.

A Medicaid cap would place enormous pressures on the States to limit their benefits package to emergency services and basic hospital, nursing home and physician care. The development of community based alternatives and preventive health care services would be harmed.

In short, a cap would not take into account changing demographic patterns and needs among the various States, such as increases in the elderly population at risk of nursing home placement or increases in the number of unemployed or working poor families.

Overall, I am pleased with this amendment. It is a workable and satisfactory compromise—one which I hope all of my colleagues will support.

Mr. LEVIN. Mr. President, I support the amendment offered by my colleagues Senator PACKWOOD and Senator CHAFEE. It is a step in the right direction. It is clearly better than the White House-Republican leadership proposal which would make cuts of $3.8 billion in 1986 and $18.1 billion over a 3-year period. Of the $18.1 billion, almost $5 billion, or 28 percent of the total Medicare cuts, would come directly from increased charges to Medicare beneficiaries. The leadership proposal also caps the Medicaid Program, a move vehemently opposed by many State officials.

The amendment before us eliminates the Medicaid cap and somewhat reduces the amount of out-of-pocket costs to beneficiaries under the leadership proposal.

Medicare beneficiaries already pay far too much out-of-pocket costs for medical care—an average of $1,500 per person or one dollar in every seven of already limited income.

Medicare only covers 40 percent of the elderly's Medical costs. It is not fair to add to this burden by further reducing Medicare's limited benefits. We should not further victimize our elderly for an excessive medical cost inflation they did not create and cannot cure.

I am also supporting this amendment because of my concern for the severe underpayment to hospitals that serve a significantly disproportionate number of low income and Medicare patients. Because such hospitals are already, in effect, heavily dependent on the Medicare Program, continued underpayment threatens their very survival. I am not willing to add on to an already inadequate reimbursement level.

We have already made significant progress in Medicare savings under the new prospective payment system, thanks to the support and cooperation of hospitals across the country. We ought not penalize them or put an additional burden on them because of that cooperation and support.

So for these reasons I will support the amendment before us. However, when there is a subsequent amendment which would remove all of the out-of-pocket costs increases to Medicare recipients, then I would support it because it is preferable to the amendment before us now. However, since the Packwood Amendment we are now voting on is an improvement over the White House-Republican leadership plan, I will support it in the interim.

Mr. GRASSLEY. Mr. President, I rise in support of Senator PACKWOOD's amendment to restore reductions in the Medicaid and Medicare Programs which are assumed in the Senate-White-House compromise budget resolution. One major provision of this amendment eliminates the proposed cap on the Medicaid budget. Capping the Medicaid Program to the rise in the medical Consumer Price Index would not accommodate increasing caseloads and maintain services for the aged, blind, disabled and AFDC recipients that depend on the Medicaid Program for medical services.

Adjustment of Medicaid funding by the MCPI, which is estimated to be 5.9 percent, would create a shortfall of $17 million in fiscal year 1986 in the State of Iowa alone, according to our Department of Human Services. Because Iowa uses approximately one-half of its Federal Medicaid dollars for the elderly, such a cap would fail to provide for our growing elderly population. This cost-saving measure would create an adverse and inequitable impact on our disadvantaged and aged individuals, and is contrary to our goal of treating all programs and beneficiaries fairly.

In addition, this amendment offered by Senator PACKWOOD eliminates assumed savings in the Medicare Program that would result from increasing out-of-pocket expenses for Medicare beneficiaries. The compromise budget resolution proposes a phased-in increase in part B premiums, requires home health care copayments and indexes the part B deductible by the medical economic index beginning in 1987. I feel that the restoration of Medicare funding resulting from this amendment is consistent with my budget freeze proposal which assumes no policy changes or increased costs to beneficiaries. Although we should not categorically rule out any change to these programs during the budget process, we must continue to formulate a budget plan which embodies equitable function numbers and program fairness.

Mr. GLENN. Mr. President, I will be pleased to join other Senate Democrats in cosponsoring and supporting amendments to the budget resolution to eliminate the proposed increases in Medicare beneficiary out-of-pocket costs and the proposed cuts in Federal Medicaid spending. I look forward to the hour when Senator CHILES, myself, and others will have a chance to offer our own health budget proposals.

As ranking Democratic member of the Senate Special Committee on Aging, I am deeply concerned about the heavy financial burden already being borne by elderly citizens for their health care. Today, the Medicare Program pays for less than half of older Americans' total medical care expenditures. Under current law, significant increases in out-of-pocket costs are already scheduled to be paid by Medicare beneficiaries. The hospital deductible, as well as the hospital and nursing home copayments, are indexed to rise with increases in the daily costs of stays.

With the enactment of the Medicare prospective payments system for hospitals, lengths of stay for hospitalization have been going down while the daily cost of a stay has been rising more than anticipated. Therefore, the Medicare hospital insurance deductible—paid by the sickest of beneficiaries—is rising dramatically, from $400 this year to a projected $476 in 1986, to $524 in 1987.

Congress has enacted a number of Medicare savings over the past few years as part of an effort to reduce the Federal deficit. Some of these budget plans have directly increased the cost sharing borne by elderly citizens under the program. We simply cannot allow larger and larger out-of-pocket payments from Medicare beneficiaries to become a regular fixture in our annual

budget process. Similarly, further cutbacks in the Medicaid Program can only mean additional rationing of desperately needed health care for our most vulnerable populations.

Just as we must protect the 30 million elderly and disabled Americans served by the Medicare Program, we must care for those populations assisted by Medicaid. Medicaid beneficiaries include 11 million children living in poverty, 5 million poor adults with dependent children, and 6 million low-income aged, blind, and disabled individuals.

President Reagan's earlier budgets slashed Federal Medicaid spending and we cannot afford any deeper cuts in this program. State Medicaid budgets have been cut; reimbursement and benefit restrictions have been implemented throughout the country. With the previous cutbacks in Medicaid, the new Medicare hospital reimbursement limits, and tight fiscal times, we are hearing more and more about the problems of uncompensated care for the medically indigent without health insurance. There are news stories about hospitals experiencing difficulties in absorbing the growing cost of this care. There are other stories in the press about the troubling phenomenon of patient-shifting between hospitals, where institutions attempt to pass on the most expensive, revenue-losing patients.

Further cuts in the Medicaid Program can only exacerbate the growing national problem of uncompensated care. In my home State of Ohio, the costs of indigent care for hospitals have been and continue to rapidly rise. Additional cuts in Medicaid will only shift these costs to States and local hospitals, and this approach is entirely unacceptable to me.

Finally, I would like to point out that the amendment to the budget resolution which I am cosponsoring with Senator CHILES would reduce the level of proposed cuts in reimbursement for the indirect costs of care incurred by teaching hospitals. This reimbursement serves a purpose beyond providing our young people with a medical education—it helps pay for the costs of providing health care to indigent and uninsured individuals. I know that Ohio would suffer from the budget plan to cut this assistance in half, and I will continue to oppose the 50-percent reduction.

Mr. KERRY. Mr. President, yesterday evening the Senate had the opportunity to consider an amendment on the subject of corporate and individual minimum income taxes, and comprehensive tax reform. I voted for that amendment, Mr. President, but in light of the time limits which constrained the debate, I would like to take this opportunity to expand upon the points I raised in my colloquy at that time.

The amendment is simple, and advances a principle which I have long supported: substantial tax reform which makes the Tax Code fairer. It does this by insuring that those who use loopholes to escape taxation are made to pay their fair share, and by lowering the burden on poor and working Americans who are currently overtaxed.

I must respectfully disagree with those who argue that this Republican amendment represents a new tax. The Congress had never intended that some of the richest individuals and most profitable corporations in the country would be exempt from any taxes at all. It is simply the case that by employing small armies of accountants and tax lawyers and engaging in wasteful paper entrepreneurialism, a select few have managed to exploit loopholes in unintended ways to avoid the burden that most Americans dutifully share. What the Congress is doing is not imposing new taxes, but simply catching up with those crafty few aren't paying the old ones.

The second objective of the amendment, that revenues raised from the minimum tax be used to lower rates and increase the zero-bracket amount of income for tax purposes, is also a goal that I support. It is important to note, however, that the extent to which such changes are implemented must be considered within the overall process of deficit reduction and comprehensive tax reform. In this connection, I feel it is important to remember that the administration, most Members of Congress, and virtually all of the Nation's most respected economists continue to argue that genuine deficit reduction must take priority over tax reform.

It is in this context that I cast my vote in support of the Dole-Packwood amendment yesterday.

The PRESIDING OFFICER. All time on the amendment has expired.

The question is on agreeing to the amendment of the Senator from Oregon. 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. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST] is absent due to illness.

The PRESIDING OFFICER (Mr. D'AMATO). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 93, nays 6, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—93

Abdnor	Boren	Chiles
Andrews	Boschwitz	Cochran
Armstrong	Bradley	Cohen
Baucus	Bumpers	Cranston
Bentsen	Burdick	D'Amato
Biden	Byrd	Danforth
Bingaman	Chafee	DeConcini
Denton	Heinz	Nunn
Dixon	Hollings	Packwood
Dodd	Inouye	Pell
Dole	Johnston	Pressler
Domenici	Kassebaum	Pryor
Durenberger	Kasten	Quayle
Eagleton	Kennedy	Riegle
Evans	Kerry	Rockefeller
Exon	Lautenberg	Roth
Ford	Laxalt	Rudman
Garn	Leahy	Sarbanes
Glenn	Levin	Sasser
Goldwater	Long	Simon
Gore	Lugar	Simpson
Gorton	Mathias	Specter
Gramm	Matsunaga	Stafford
Grassley	Mattingly	Stennis
Harkin	McConnell	Stevens
Hart	Melcher	Thurmond
Hatch	Metzenbaum	Trible
Hatfield	Mitchell	Warner
Hawkins	Moynihan	Weicker
Hecht	Murkowski	Wilson
Heflin	Nickles	Zorinsky

NAYS—6

Helms	McClure	Symms
Humphrey	Proxmire	Wallop

NOT VOTING—1

East

So the amendment (No. 50) was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. DOLE. Yes, I yield.

Mr. BYRD. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. The majority leader has the floor. He has yielded for a question to the minority leader.

Mr. BYRD. Mr. President, I thank the Chair. I am only taking the floor and asking the majority leader to yield to inquire of the distinguished majority leader as to what the program will be for the rest of the day, how many votes we will have, and what he foresees for Monday and beyond.

Mr. DOLE. Mr. President, let me indicate that I would like to have a couple more votes. I think we can do that rather quickly. I know there are a number of commitments starting about 1 o'clock.

We will try to accommodate everyone we can.

On Monday, we will come in at a fairly early hour, but I have indicated to the distinguished minority leader that votes will not occur before 4 p.m. on Monday, and we may have to stack a vote or two.

Mr. BYRD. Mr. President, I know that the distinguished majority leader hopes to finish this measure by——

Mr. DOLE. I would like to finish this by——

Mr. BYRD. Midweek?

Mr. DOLE. Well, Tuesday and Wednesday are sort of shot full of holes, but maybe by Thursday—at the latest 1 week from today. We really do want to finish it next week and I know that it may cause some problems, say, next Friday, but if we are near the end, we may complete it on that day.

Mr. BYRD. Mr. President, will the distinguished majority leader yield further?

Mr. DOLE. Yes.

Mr. BYRD. I want to express the hope likewise that we finish acting on this measure by Wednesday or Thursday. And it should not take us longer than that.

How much time do we have on each side on the resolution?

The PRESIDING OFFICER. The majority leader has 8 hours and 49 minutes; the minority leader has 12 hours and 32 minutes.

Mr. BYRD. I thank the Chair.

I thank the distinguished majority leader.

AMENDMENT NO. 51

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself, Mr. MATTINGLY, Mr. NICKLES, Mr. HELMS, Mr. MCCLURE, Mr. THURMOND, and Mr. DENTON, proposes an amendment numbered 51 to Amendment No. 43.

Mr. GRAMM. 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:

In the pending amendment, do the following:

On page 13, increase the amount on line 20 by $300,000,000.

On page 13, increase the amount on line 21 by $300,000,000.

On page 14, increase the amount on line 4 by $300,000,000.

On page 14, increase the amount on line 5 by $300,000,000.

On page 14, increase the amount on line 13 by $300,000,000.

On page 14, increase the amount on line 14 by $300,000,000.

On page 28, decrease the amount on line 15 by $300,000,000.

On page 28, decrease the amount on line 16 by $300,000,000.

On page 28, decrease the amount on line 23 by $300,000,000.

On page 28, decrease the amount on line 24 by $300,000,000.

On page 29, decrease the amount on line 6 by $300,000,000.

On page 29, decrease the amount on line 7 by $300,000,000.

On page 37, decrease the first amount on line 11 by $319,000,000.

On page 37, decrease the second amount on line 11 by $287,000,000.

On page 37, decrease the amount on line 12 by $336,000,000.

On page 37, decrease the amount on line 13 by $335,000,000.

On page 37, decrease the first amount on line 14 by $356,000,000.

On page 37, decrease the second amount on line 14 by $354,000,000.

On page 42, increase the first amount on line 6 by $319,000,000.

On page 42, increase the second amount on line 6 by $287,000,000.

On page 42, increase the amount on line 7 by $336,000,000.

On page 42, increase the amount on line 8 by $335,000,000.

On page 42, increase the first amount on line 9 by $356,000,000.

On page 42, increase the second amount on line 9 by $354,000,000.

On page 44, decrease the amount on line 10 by $319,000,000.

On page 44, decrease the amount on line 11 by $287,000,000.

On page 44, decrease the first amount on line 12 by $336,000,000.

On page 44, decrease the second amount on line 12 by $335,000,000.

On page 44, decrease the amount on line 13 by $356,000,000.

On page 44, decrease the amount on line 14 by $354,000,000.

On page 45, increase the amount on line 21 by $319,000,000.

On page 45, increase the amount on line 22 by $287,000,000.

On page 45, increase the first amount on line 23 by $336,000,000.

On page 45, increase the second amount on line 23 by $335,000,000.

On page 45, increase the amount on line 24 by $356,000,000.

On page 45, increase the amount on line 25 by $354,000,000.

On page 52, decrease the amount on line 1 by $300,000,000.

On page 52, decrease the amount on line 3 by $300,000,000.

On page 52, decrease the amount on line 4 by $300,000,000.

Mr. BYRD. Mr. President, 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. GRAMM. Mr. President, I offer this amendment for myself, Mr. MATTINGLY, Mr. NICKLES, Mr. HELMS, Mr. MCCLURE, Mr. THURMOND, and Mr. DENTON.

The essence of the budget is making hard decisions, setting priorities, and in that spirit, this amendment aims to transfer funds from function 750, administration of justice, to function 350, the agricultural function. It transfers $300 million, the amount funded for legal services under function 750, to the agriculture function, function 350.

Mr. President, these funds transferred from Legal Services to agriculture would be sufficient, for example, to provide crop insurance and soil and water conservation. I think it is important in times of tight budgets that we set priorities, that we look at the importance of programs. We face great difficulties in rural America. We know that there have to be changes in farm policy, that we have to move toward a market oriented agriculture. But I do not think anyone who represents rural America, as I do in rural Texas, believes that that transition is going to be easy. It is going to be extremely difficult. What I am attempting to do in this amendment is give us greater flexibility in that transition by terminating an important program, an important program with a big constituency but yet in my opinion not a program as important as agriculture, not a program as important as crop insurance, not a program as important as soil and water conservation, by removing funding equivalent to the amount in the budget for Legal Services and transferring that money to function 350.

Now, Mr. President, it does not take a long litany of explanation to outline problems with legal services, and rather than engaging in a protracted debate, I would simply like to read my colleagues a few examples of the abuses of the legal services that are contained in a new book that is coming out from two distinguished economists who happen to be students of students of mine, Dr. John T. Bennett and Dr. Thomas DeLorenzo, both at George Mason University. This book is entitled "Taxpayer Funded Politics."

Let me outline to you some examples of what I believe the public conceives to be a misuse of funds under Legal Services.

No. 1, the California Legal Service assistants sued the University of California to stop research that would have improved agricultural productivity. According to the complaint, the development of labor saving and cost reducing farm machinery would "benefit narrow groups of agribusiness interests with no valid public purpose and contribute to agricultural unemployment or the displacement of farm workers."

A second example; In New York, the Legal Services sued to have welfare benefits paid to an illegal alien. In Tampa, FL, the bay area Legal Services Administration persuaded the Federal district court to prevent the implementation of a statewide functional literacy test as a prerequisite for high school graduation.

In Youngstown, OH, the East Ohio Valley Services Corp., sued the United States Steel Corp., to require the company to sell its mill to a community organization that received taxpayer subsidies.

Legal services grantees in Maine, Colorado, Massachusetts, and South Carolina have sued to reclaim hundreds of thousands of acres for Indian tribes. According to the Legal Services Corporation grantee, two-thirds of the State of Maine should revert to Indian tribes.

Legal Services Corporation grantees have argued that alcoholics should receive supplemental security benefits.

I could go on and on. One interesting suit in an era where we talk about hammers and toilet seats as they relate to defense, local legal service organizations in Montana, Iowa, and

Connecticut have sued to force State governments to use taxpayer funds for sex-change operations. One suit sought $7,000 to $10,000 to relieve "frustration, depression, and anxiety" caused by "gender identity conditions."

Now, Mr. President, we are down to making choices in trying to bring spending under control. I submit that my colleagues should get a copy of this book and read hundreds of other abuses of Legal Services and other funded public entities, but my point is not that Legal Services does no good. My point is that in an era of tight budgets we have to set priorities. I hear a lot of people say "Cut across the board," but when I run out of money at the end of the month, I do not say to my two sons, "We are going to go to the movie house a little less and we are going to drink a little less milk." I say, "We are just not going to the movie house."

My point is that if we look at the difficult choices in agriculture, if we look at crop insurance and soil and water conservation, the relative needs and benefits, if we weigh that against Legal Services, they are so overwhelming that I am hopeful the Senate will decide to transfer this $300 million from function 750 to function 350 to allow us to proceed to fund crop insurance and soil and water conservation at the expense of Legal Services.

Mr. MELCHER. Mr. President, will the Senator yield for a quesiton?

Mr. GRAMM. I will be happy to yield.

Mr. MELCHER. I thank my friend for yielding. Can I conclude the Senator has made a determination that he would like to eliminate Legal Services?

Mr. GRAMM. I am providing a budgetary transfer that would eliminate the amount of money currently expended on Legal Services from function 750 and transfer those funds to function 350. My clear intent, and the chairman of the Agriculture Committee as a cosponsor of this amendment, is to take those funds and use them to ease our transition into a new era of market-oriented agriculture.

I have also made the point that the amount of funds transferred is roughly equivalent to the funds on which we currently face a shortfall under this budget in crop insurance and soil and water conservation.

Mr. MELCHER. Mr. President, will the Senator answer this: If the amendment were to fail, would he care to submit an amendment to eliminate legal services?

Mr. GRAMM. I am not going to speculate on the amendment failing. I hope it is going to be adopted.

I think that if we went out and submitted to the American people whether they wanted their money used to fund sex changes or to fund crop insurance and water conservation, whether they thought the problems of this country were going to be solved in the courtroom or in the fields on our farms, the answer would be overwhelming; and I hope the Senate will reflect the public will.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, who can yield time to me?

The PRESIDING OFFICER. The minority leader, from the time in opposition.

Mr. CHILES. I yield 5 minutes to the Senator.

Mr. MELCHER. I thank the Senator from Florida.

Mr. President, the needs for additional funds in soil and water conservation and crop insurance are patently clear, and they must be provided. However, if we are going to attempt to make this particular transfer, it probably will not work. I think every Member of the Senate knows that I am not a lawyer. That is not my profession. So I must make my individual judgment on the need for legal services on the basis of advice from members of the bar in my State and pay some attention to it.

The members of the bar of Montana are in favor of continuing legal services. The last I heard, the American Bar Association made a very staunch defense of the need for legal services.

One of our sons is a practicing attorney in Montana, and he tells me about the pro bono work that the law firm he works for does for the community, the area they serve in Montana. That is pro bono work; and he, as the youngest member of this law firm, gets to do a lot of pro bono work that firm does for the community. That is well and good, and I am pleased that the profession of law takes that upon themselves, those in private practice, to do pro bono work.

However, in addition, I am impressed when they tell me that they feel that Legal Services is necessary in Montana to do the basic work that is not provided for those who cannot afford to hire attorneys.

I will, of course, follow the advice of those who are in that profession in the State of Montana, and I will follow the advice, as I understand it, the very staunch advice and recommendation, of the American Bar Association, and I will vote to retain Legal Services.

This is like drawing a red herring across your track, and you are expected to smell it and sniff it and follow it and say this could be more money for agriculture. Knowing how urgently those funds are need for soil conservation work and for crop insurance, perhaps the authors of this amendment would expect me to vote with them on this particular transfer. However, that is not the case at all. I shall not vote with them on this amendment. I oppose the amendment, for the reasons I have stated, in considering the need for Legal Services.

The PRESIDING OFFICER. Will the Senator suspend?

Mr. MELCHER. I ask for 2 additional minutes.

The PRESIDING OFFICER. That is not the question. The question is that this is like a noisy den of kindergarten people. The staff should stop talking or leave. Let us give our colleague the dignity and respect of hearing him, without this commotion.

Mr. MELCHER. I thank the Chair.

Mr. President, when it comes time to determine how much we are going to have for soil conservation, we must have more. Since it is an investment in the future and one that will help this country's economy, I suspect that the majority votes in the Senate will be to make the addition of funds that are essential for soil conservation. I think the same can be said for crop insurance.

So I suggest that we be very careful. I vigorously oppose the amendment. I shall not vote for it. I ask other Members of the Senate to vote their own consciences, on the basis of whether or not we should retain Legal Services, and then face the matter of soil conservation and Federal crop insurance at a later time.

Mr. CHILES. Mr. President, I yield 3 minutes to the distinguished Senator from Illinois [Mr. SIMON].

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I thank the Senator from Florida.

Mr. President, I join my colleagues from Montana in saying that we have needs in the field of agriculture.

I also agree with my friend from Texas when he said that we have to set priorities. The difficulty with this amendment is that it sets the wrong priorities.

What they have done is to look over this whole field of where we have money in the Federal budget. They looked at the defense field and said, "No, we can't touch anything there." They looked at the revenue field and said, "No, we better not hit General Electric," whose net income is $6.5 billion and is not paying a penny.

They looked over the whole landscape, and they finally found this little agency that provides legal services for the poorest in our society; and they said, "Let's give this money from the poorest of the poor and put it in the field of agriculture."

I come from an agricultural State and I want to see agriculture prosper, but I do not want to do it out of the hides of the poor people of this Nation.

My friend from Texas cites abuses. He could get two of his students to write a book about abuses in the field

of agriculture. He could get two of his students to write a book about abuses in any field. Obviously, you can get a book about abuses in the field of religion.

The gauge of something is not whether there are occasional abuses but whether the program as a whole is a good program and a needed program.

Let me just give you a practical example I know of just recently. A family of very, very limited means finally got together enough money to buy a little refrigerator, and the refrigerator did not work, and they could not get any satisfaction from the local store. So they went to Legal Services, the only kind of an out they have.

This may not be the intent of my friend from Texas, but what he is doing is saying to those poor families, "Sorry, you are not going to get any help."

I think there are ways of solving our budget problems without reaching down to the poorest of the poor, as this amendment does, and I sincerely hope that this amendment is rejected and rejected resoundingly.

Mr. GRAMM. Mr. President, our colleagues from Montana and Illinois have outlined in the most classic terms why we are jeopardizing the greatest recovery in the postwar period. The truth is they are for everything. They want crop insurance. They want soil and water conservation. They want Legal Services. They cut defense yesterday by $17 billion. The problem is they do not want to make choices except the choice to raise taxes on the working people of this country.

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

Mr. GRAMM. I will yield when I am finished.

Except the choice of jeopardizing the recovery that brought jobs, hope, and opportunity to our people; except the choice of jeopardizing the 7.5 million jobs we have created in the last 3 years; except the choice of jeopardizing the progress we have made in bringing inflation under control.

I say to my friends the budget is about priorities, not a priority that says I am for A and I am for B and we are going to take the money from the guy behind the tree—not those kinds of choices. It is choices among priorities within the budget.

We cut defense yesterday by $17 billion. My colleague talks about passing over defense. Defense has not been passed over .

What I have done here is taken two sets of programs, a program that has been greatly abused, and a program that needs funding as a transition to difficult times.

I do not accept the logic that the solution is simply to fund both. My logic is it is time to make a choice, and what this amendment does is it makes the choice. It lets the people of this country know in terms of relative priorities are we going to solve the problems of America in the courthouse, do we want the Federal taxpayers' money used in Montana for sex changes, do we want the taxpayers' money to be used to stop agricultural research in California, do we want it to go in suits involving welfare for illegal aliens, do we want it to go to stop elections in Texas, or do we want the money to go to make a smooth transition in agriculture?

When you have to make a choice, not a choice that says, "I want everything" everyone has a constituency, any group that has a letterhead I am for them, it is a choice——

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

Mr. GRAMM. I do not yield.

It is a choice that has to be made among priorities, and what this amendment is is tough choices, the kind of choices people have to make in their own budgets, the kind of choices that every business and every family faces. It is a choice of having to say no on some things you want. I do not accept the logic that we can have everything. I do not accept the logic that, no, turn this amendment down, do not set priorities, or you do not have to set priorities.

We will fund Legal Services, we will fund soil and water conservation, and how will we do it? We will do it by raising taxes on the working people of America.

I do not know where you were on November 6, but the American people went to the polls and they said in the clearest possible terms in 49 of the 50 States and in the States of both Senators who have spoken against this amendment, "Don't raise our taxes; control spending."

That is what I am attempting to do here to set priorities, to control spending.

I am happy to yield to my colleague from Montana.

Mr. MELCHER. I thank my friend for yielding.

Mr. President, I know that his intent is that the transfer be made to soil conservation because he said so repeatedly, but the amendment is a transfer to function 350, which does not, of course, include soil conservation.

Mr. GRAMM. Mr. President, if I may reclaim my time, both functions 300 and 350 are reconciled under the instructions to the Agriculture Committee. The Agriculture Committee chairman is a cosponsor of this bill, and the entire jurisdiction of the reconciliation for that portion of 300 and 350 will fall within the jurisdiction of that reconciliation and the change will be effected there.

So what I am doing is simply providing funds, taking the $300 million which funds Legal Services out of function 750 and transferring it to function 350.

Mr. MELCHER. Mr. President, if the Senator will yield further, soil conservation is covered by function 300, and if he means it to be available for soil conservation, his amendment should so state. But we cannot find that in his amendment.

Mr. GRAMM. Mr. President, reclaiming my time, if the Senator will look at the reconciliation portion of the amendment, he will find that functions 300 and 350 are reconciled in the Agriculture Committee where the transfer is made in terms of reconciliation. So the Agriculture Committee Chairman HELMS, who is a cosponsor of this amendment, will have the ability under reconciliation to bring up and consider that transfer.

Mr. MELCHER. Mr. President, I think I understand the intent of the Senator's amendment. It, however, does not fit in with the priority of the budget, which breaks down into function and despite the reconciliation that he speaks of what that reconciliation does, it is by priorities and is by function, and I hope the amendment is defeated at any rate despite his noble intention.

Mr. GRAMM. Mr. President, reclaiming my time, I return to my point concerning the budget. The language in the Budget Act is very clear that the budget is binding on committees of jurisdiction. It is not binding in individual functions, but the reconciliation is binding and the reconciliation for 300 and 350 both fall within the jurisdiction of the Agriculture Committee. The chairman of that committee is a cosponsor of this amendment.

Mr. EXON. Mr. President, on behalf of the managers of the resolution, I yield 3 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I thank my colleague for yielding me this time to respond to this amendment.

The distinguished Senator from Texas talks about setting priorities, and I agree with him that priorities should be set, but not in this manner.

I think we have to set priorities within the agricultural scheme itself. For example, I have an amendment that I probably will be offering to the budget which will raise some revenues by closing a tax loophole that works against our family farmers and that is the use of schedule F losses, farm losses to deduct from other income that a person might make.

My colleague from Iowa in the other body has introduced a bill to do just that, to limit the amount of losses that you can deduct in agriculture against other income to the national

median income of about $25,000 a year.

Now, by doing that we could raise a couple billion dollars a year which could go into soil conservation and to helping farmers during this difficult period.

That is how we should be setting priorities within the agricultural scheme itself.

The last thing that we should be doing is trying to take from the poorest of the poor of our society to meet this need in agriculture, which I will admit to my colleague from Texas is very great. I do not know about the farmers that he represents. I know the farmers I represent in Iowa would to a person be against taking from the poorest of the poor to help them through this period of transition that they are undergoing right now.

There are other places of waste and inefficiency, other places in the budget that we can transfer to get some money into agriculture.

I also respond to my distinguished colleague from Texas that right now, because of the hardship that so many small family farmers are undergoing, they are now using Legal Services, using it more than they ever have in the past. Many of the farmers I represent in Iowa who have gone broke farming have big debts and cannot pay those debts because they did not have any money. Even in bankruptcy they are not discharged from paying their taxes to the Federal Government.

I have farm families right now that are absolutely busted, have gone through bankruptcy, have nothing, and owe the Federal Government $20,000 in taxes which cannot be discharged in bankruptcy. And where do they go to get the legal help that they need? They go to Legal Services.

So this amendment really is counterproductive for the very people that the Senator from Texas says he wants to help through this transition period. I agree that we are undergoing a transition in agriculture. I may disagree with my colleague from Texas as to the direction this transition is going. But it is a transition. Many small farmers are being hurt and being driven out of agriculture. Now more than ever they need recourse to the courthouse to help them. The only recourse many of them have is through Legal Services. So this amendment is hurting the farmer.

The PRESIDING OFFICER. The Senator's 3 minutes have elapsed. Who yields time?

Mr. HARKIN. Mr. President, may I have a couple more minutes?

Mr. EXON. Mr. President, I yield 2 additional minutes to the Senator from Iowa.

Mr. HARKIN. Thank you.

Second, on the waste, as my colleague from Illinois said, there is waste in every program. One of the biggest wastes was in agriculture. A couple of years ago in the PIK Program 50 percent of all the PIK money went to 5.4 percent of the largest farmers. There is the waste.

Last, as a former Legal Services attorney myself, I can personally attest to the need for making the Constitution and the laws of our land accessible to the poor. The Constitution and the scales of justice in this country mean nothing if you cannot get into the courthouse door. What this amendment effectively does is close the courthouse door to the poorest in our society. Again, I say that farmers I represent in my State of Iowa would never say that they want to have money taken that closes the courthouse door to the poorest of the poor to help them in agriculture.

There are many, many other areas in which we can reduce waste and inefficiency and fraud and abuse. But this is one area that we cannot take money from and close the courthouse doors, as I said, to the poorest of the poor. I yield back my time.

I thank my colleague.

Mr. EXON. Mr. President, as the majority leader indicated, we would like to move along. As far as we are concerned, we have two additional requests for time: Senator CRANSTON and Senator RUDMAN. We hope then that we can yield back the balance of our time pending any further request. But at this time I yield to Senator CRANSTON for 3 minutes.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, once more we have an amendment before the Senate which seeks to eliminate funding for the Legal Services Program. Once more, I rise in opposition to efforts to terminate this vital program.

Mr. President, the Congress of the United States has repeatedly refused to go along with the desire of the Reagan administration to terminate the Legal Services Program.

The reason is simple: A bipartisan majority of this body and the other body hold fast to the belief that this program is necessary to bring equal justice to low-income Americans.

There is no pervasive constitutional requirement that poor people be provided with legal counsel in civil proceedings.

But there is a moral obligation to do so.

Government cannot demand—or expect—respect for the law if it provides protection only to those who can afford to pay.

Legal Services is based upon the fundamental idea that the poor, no less than the wealthy, are entitled to legal representation to redress grievances and defend their interests.

The Legal Services Program breathes life into the principle that every person, regardless of wealth, is entitled to access to the halls of justice and to the protection of the laws of the land. Contrary to what the opponents of Legal Services claim, the work of Legal Services attorneys is focused on the everyday problems of low-income Americans. In 1981, 30 percent of the cases handled by Legal Services attorneys related to family issues, 18 percent were housing problems, 17 percent involved income maintenance, including Social Security cases, and 14 percent involved consumer law.

If there are those—and there are those in this body—who wish to do away with Legal Services, I suggest that the better procedure would be to bring in a straightforward amendment that would simply abolish all funding for Legal Services. To mix this in with a tradeoff of money away from Legal Services, money for crop insurance and for soil conservation, is to muddy the waters. We should evaluate crop insurance and soil conservation on the merits of those programs. If we need more for those programs, then put such an amendment before the Senate. I would like to point out that the sponsors of this amendment may feel it necessary to use this roundabout way to get money for those purposes because they are now on record as having voted for the White House-Republican leadership resolution now pending, which cuts back money for soil conservation and for crop insurance.

Perhaps that is an embarrassment. The way to deal with that, if money is needed for that, is to bring forward an amendment to increase spending for that purpose, rather than get into a situation where we are evaluating not soil conservation and crop insurance on their merits, but considering them in the light of Legal Services and considering Legal Services in the light of those other programs. That kind of a divisive approach is not the way to build support for farm programs in this body. It is not the way to build support for other programs that have merit.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. EXON. Mr. President, I yield 1 further minute.

Mr. CRANSTON. I would like, therefore, to suggest that this amendment be defeated, that we focus on the fundamental issue which is posed by this amendment, whether or not the Legal Services Program should continue. It should. The amendment should therefore be defeated.

I would like to add that I am not for spending on every program that anybody can ever devise. I favor a deeper cut in the deficit than the Republican leadership-White House resolution has presented to this body, and I will do

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my best to see that is the bottom line when we are done.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. How much time is remaining on the amendment?

The PRESIDING OFFICER. The Senator from Texas has 16 minutes; the minority has 14 minutes.

Mr. EXON. Mr. President, I yield 5 minutes to the Senator from New Hampshire, the chairman of the committee of jurisdiction on the matter at hand.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. I thank the Senator from Nebraska. The issues of equal access to justice have been well discussed here. I must say that the Senator from Texas is a very skilled debater. The Senator has obviously picked the most outrageous of abuses that we can all agree should never occur. But the fact of the matter is that many of those abuses occurred prior to 1981, and a bipartisan group of conservative, moderate, and liberal Members of this body have been working since that time to cure those abuses.

It seemed to me that this debate would not be complete without at least some facts concerning the Legal Services Corporation as it now functions. Let me indicate those facts for the RECORD.

Last year, of all of the cases handled, 28 percent were family law cases, child custody cases and other family disputes; about 13 or 14 percent were in the area that the Senator from Iowa referred to a few moments ago. These had to do with consumer finance, tax liability, bankruptcy, unfair sales, and other unfair consumer practices. Twenty percent were in the area of housing. About 20 percent were in the area of income maintenance; 3 percent in employment, mainly job discrimination; 2 percent in health; and a little bit more than 1 percent in juvenile law.

Of all of the cases closed in 1983, only 8.5 percent resulted in court decisions; 5.5 percent in decisions of administrative agencies; and an overwhelming among, 53 percent involved counsel and advice concerning other ways to resolve disputes. There were 1.3 million cases handled at a cost of $305 million.

In the last 3 years, there has been a great deal of reform in the Legal Services Corporation. As a matter of fact, there is now a board appointed by this President which hopefully will be confirmed by this Senate in the near future which will further institute reforms we all believe are necessary. But the fact of the matter is that in language agreed to in a compromise involving Senators HATCH, DENTON, GRASSLEY, LAXALT, WEICKER, EAGLETON, KENNEDY, and myself a year and a half ago, we have imposed very substantial limitations on the Legal Services Corporation which virtually prohibit lobbying, prohibit representation of illegal aliens, limit the bringing of class action suits against Federal, State, or local governments except under very unusual circumstances, and, most importantly, place the conduct of Legal Services Corporation at the local level under the supervision of generally conservative local bar associations.

I would say to my friend from Texas, who told me yesterday of the lawsuits involved in the election there last year, that I think that the conduct he spoke of was outrageous and I think the Texas Bar Association certainly ought to be able to bring the kind of supervision against the Texas Legal Services Corporation to make sure that kind of abuse does not recur.

Mr. President, let me simply say that in every program this Government is involved with there is abuse. I can say fairly as one who, as attorney general for New Hampshire, was probably sued by the Legal Services Corporation more than anyone else in this body, that I came here with a view of helping to reform that system. I believe it has been reformed. I believe it has broad bipartisan support. Quite frankly, Mr. President, I do not believe this is the time to throw out the baby with the bathwater. I think this particular amendment ought to be overwhelmingly rejected.

I thank the Chair and I thank the Senator for yielding.

Mr. CHILES. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I, too, want to join those who have spoken to this body this morning urging that the Senate reject the proposal of the Senator from Texas. There is no question about what the purpose of that amendment is. That is to basically end the Legal Services Program in our country.

The Senator from Texas points out some of the alleged abuses, abuses as he perceives them.

The fact of the matter is that this administration now has a responsibility, having made the recommendations to this body for the administration of that program, bears a very heavy responsibility, to insure that that program is adequately administered.

In the Human Resources Committee, at the time of the reauthorization, we are reviewing the performance of that board.

The cases which the Senator from Texas mentioned here today, and the failure of effective administration, is really something that ought to be directed toward the administration rather than to the merits of the particular program.

Basically, Mr. President, we are going to decide today whether we are going to put the dollar sign on the courthouses of this country. We know that the most powerful corporations have resources to be able to defend their interest. The wealthiest individuals have the resources to be able to defend themselves and to bring cases when they feel aggrieved.

The real question is whether we are going to say that the Constitution of the United States is only going to apply to those individuals and those institutions which have resources, or whether we are going to say that we believe the Constitution of the United States is going to be made available to all Americans, and that those Americans from a variety of different circumstances, who are deprived of resources, will at least be able to bring their petitions to a legal service group in their local communities where they are served and to have those issues adjudicated in a court of law.

The fact of the matter is, Mr. President, more than 75 percent of the cases that are brought by the Legal Service lawyers are brought successfully. If the amendment of the Senator from Texas carries, we are basically saying to millions of Americans that their legitimate and rightful complaints are going to be denied to them in our country at this time.

In the time that is available, I will not mention both the types of individuals who are most affected and who are utilizing these services, Mr. President, because they have been referred to during the course of this brief debate. But I think, Mr. President, if we are going to say that the rule of law should apply equally across our society that we do not want to say the rule of law will apply equally to all those Americans except the neediest in our society and they basically will be denied access to a judicial system.

There are those countries which deny that opportunity to millions of their citizens. They are the ones that exist under the kinds of regimes of the extreme left and right.

I would hope, Mr. President, that we would not, in this vote this afternoon, say to those people of limited financial means that the courthouse doors are closed to them. They have legitimate interests, causes, and rights, but we are not going to see that those rights are protected.

I think that is basically a flawed argument. I think it is disingenuous, and I think it is fundamentally and basically wrong. I would hope the amendment would be defeated.

Mr. CHILES. How much time remains on the amendment?

The PRESIDING OFFICER. Sixteen minutes for the Senator from Texas and 6 minutes to the Senator from Florida.

Mr. GRAMM. Mr. President, I ask unanimous consent that a litany of abuses that I have referred to be printed in full in the RECORD.

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

POLITICS AND JURISPRUDENCE: ILLEGALITIES AT THE LEGAL SERVICES CORPORATION

In 1965, for the first time the federal government allocated taxpayer funds to provide civil legal services to the poor. In that year, the Office of Economic Opportunity (OEO) began awarding these funds to local nonprofit corporations—primarily legal aid societies that had formerly been supported by charitable contributions, some local and state governmental grants, and the United Way. By 1970, federal funding for legal services through OEO amounted to about $71.5 million per year. In response to President Nixon's decision to reorganize the executive branch, based on recommendations made by the Ash Commission, Congress enacted legislation in 1974 to established the Federal Legal Services Corporation (LSC), an "independent, private corporation" funded by taxpayers. The Legal Services Corporation Act of 1974 contained the justification for forming the LSC, as a corporation: "The legal services program must be kept free from the influence of or use by it of political pressure."

The goals established by Congress in the act were reasonable and well intentioned: ". . . there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances; there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel. . ." The Constitution guarantees the poor legal representation in criminal proceedings, and the LSC appeared to extend the availability of this legal representation to civil cases, including income maintenance problems, health matters, and landlord-tenant disputes. Limitations were placed on client eligibility: only households with incomes less than 125 percent of the poverty threshold were to be represented. Thus, the establishment of LSC did not appear to be a radical departure from past practices, but merely a natural extension of services that had long been provided by government.[1]

From relatively modest beginnings, LSC grew rapidly. In 1976, the last year of the Ford administration, the budget was $92.3 million; four years later, at the end of the Carter administration, the annual budget had more than tripled to $300 million. Much of the budget growth was stimulated by the "minimum access plan," which provided civil legal services to the needy in every county in the United States. LSC itself is principally a grantmaking agency, a conduit for taxpayers' money to the local organizations that actually provide legal aid. The corporation makes grants to more than 300 legal aid groups throughout the nation and in Puerto Rico, Guam, and the Virgin Islands (see Appendix Table XII-1). These groups are private, non-profit corporations that theoretically provide legal services to the poor.

From a financial perspective, making the LSC an independent corporation caused a major change in its operations. Under OEO, any funds not spent by the end of each fiscal year must revert to the Treasury; however, LSC as a private corporation, could now accumulate unspent funds. When efforts were being made to increase LSC's appropriations to meet the "critical" legal needs of the poor, LSC had accumulated millions of dollars that were earning interest. According to a GAO study conducted in 1980,

"The Corporation's grantees are not required to return funds not expended by the end of the fiscal year. As a result, millions of dollars of unused grant funds have been accumulated by grantees and deposited in checking and interest-bearing savings accounts and, in some cases, invested in interest-bearing Treasury bills.

"According to the Corporation, yearend fund carryovers by grantees have been small. However, in three of the four regional offices we visited, some grantees had relatively large carryovers when compared to their total grants. For example, one grantee had a carryover of $562,000, or 27 percent of its 1978 grant. For 37 grantees, reports by independent auditing firms showed that each had yearend fund carryovers which exceeded $100,000 and averaged 20 percent of grant funding. These 37 grantees accounted for about $8.7 million of 1978 carryovers." [2]

In 1980, LSC's total accumulated surpluses exceeded $45.9 million (more than 15 percent of LSC's federal appropriation) and were more than $60 million in fiscal year 1981 (see Appendix Table XII-2). In fiscal year 1982, the fund balances held by grantees had declined to $34.0 million, but interest received during that year on these invested funds was $9.4 billion. During the three-year period 1980-1982, grantees collected interest in excess of $23.8 million accumulated surpluses.[3] Some of the grantees had spent large percentages of their grants to purchase real estate; ". . . for example, the Birmingham Area Legal Services Corporation purchased a building for $500,000, a figure that represents half of its annual grant." [4] The executive director of the New Orleans Legal Assistance Corporation, an LSC grantee, wrote:

"Through various methods, with the (tacit) agreement and sometimes encouragement of regional and national staff, field programs have been able to accumulate sizable sums of carryover monies. Over the years, NOLA (that is New Orleans) has accumulated a significant fund balance of approximately $469,000. The program has been planning to purchase real property since 1981. In order to do so, many projects were postponed until enough money was accumulated to make a substantial downpayment or outright purchase of property. . . .

"While it is true that our clients need our services more than ever, it does not necessarily follow that devoting carryover funds to direct client services is in the clients' best interest in the long term." [5]

It is difficult to discern how the legal problems of the poor are resolved by investments in real estate and interest-earning accounts. There are also questions about the need for large increases in taxpayer funding that LSC officials were seeking. Moreover, it is evident that those in legal services believed that they knew what was "best" for the poor—the dictates of Congress notwithstanding.

COURTING THE POOR?

The LSC has always been surrounded by controversy, partly because of the legal activities that it has purportedly pursued on behalf of the poor. By any standard, some of the cases taken by LSC grantees seem, at best, dubious in serving the poor or in insuring that the federal taxpayers' funds are well spent. Consider the following examples.

1. Local legal service organizations in Montana (1979), Iowa (1980), and Connecticut (1981) sued to force state governments to use tax funds for sex change operations. In the Connecticut case, the attorney for Hartford's Neighborhood Legal Services said that the city has a "legal responsibility to provide medical care." The suit sought between $7,000 and $10,000 to relieve the "frustration, depression, and anxiety" caused by a "gender identity condition." [6]

2. California Rural Legal Assistance sued the University of California to stop research that would have improved agricultural productivity. According to the complaint, the development of labor-saving (and cost-reducing) farm machinery would benefit, "a narrow group of agribusiness interests with no valid public purpose, contributes to agricultural unemployment or the displacement of farm workers, or the demise of the small family farm, or the deterioration of the rural home and rural life."[7] Taken to the extreme, this logic dictates that all agricultural machinery should be banned. It is well known that capital-intensive agriculture has greatly enhanced productivity and output and reduced prices, all to the benefit of consumers, not "a narrow group of interests."

3. A Texas lawsuit established the constitutional right to free public education for illegal aliens, and New York state was required to pay welfare benefits to a parent who was an illegal alien.

4. In Tampa, Florida, The Bay Area Legal Services persuaded the federal district court to prevent the implementation of state-wide functional literacy tests as a prerequisite for high school graduation because the high failure rate among black students was partly attributable to past discrimination.

5. The LSC grantee in Ann Arbor, Michigan, required the school board to adopt a plan to make teachers responsive to problems of students who speak "Black English" and to require teachers to use knowledge of dialect in teaching students to read.[8]

6. In Youngstown, Ohio, the East Ohio Legal Services sued U.S. Steel Corporation to require the company to sell its mill to a community organization that received tax subsidies.

7. Legal service grantees in Maine, Colorado, Massachusetts, and South Carolina have entered litigation to reclaim hundreds of thousands of acres for Indian tribes. According to LSC's grantees, fully two-thirds of the state of Maine should revert to the Passamaquoddy and Penobscot Indians. Approximately 350,000 people would have been displaced had the suit been successful. Another suit on behalf of the Wampanoag Tribe claims ownership of the town of Mashpee, Massachusetts, about 17,000 acres.[9]

8. LSC grantees argued that alcoholics should receive Supplemental Social Security benefits.[10]

Other examples include suits seeking disability payments for homosexuals; [11] requiring a new school board election in Hereford, Texas; challenging the way federal agents search for illegal aliens; making expulsions from a junior high school in Newburg, New York, subject to racial quotas; supporting anti-nuclear groups in their attempts to stop power plant construction; blocking increases in transit fares; representing a Ku Klux Klan member in a $1.5 million civil suit in Chattanooga; overturning regulations that suspend welfare payments to participants who refused jobs offered in a Connecticut workfare program; mandating the payment of compensation to inmates in a

Louisiana prison that had no income-producing programs; and seeking the release of prisoners in an Indiana facility because of overcrowding.

One case deserves careful scrutiny: *Simer* v. *Olivarez,* a class action suit brought by LSC grantees against the Community Services Administration (CSA) in federal district court in Chicago in September 1979.[12] The continuing resolution that Congress passed to keep the CSA operating in fiscal year 1979 contained a $200 million appropriation for emergency energy assistance to help the poor cope with rising energy costs. To ensure that the funds were used to pay heating bills, the Office of Management and Budget had stipulated that funds for this purpose could not be spent after June 30, 1980, after which all unspent funds would be returned to the Treasury. Even though the CSA had claimed that the poor were in a crisis situation and could not pay their heating bills, $18 billion was not spent by the deadline. Several LSC grantees—each having received between $285,000 and $850,000 annually from LSC plus other support from the Department of Health and Human Services—"discovered" these unspent funds and rounded up eight plaintiffs to bring a class action suit could be brought contending that returning the unspent funds to the Treasury would violate the Administrative Procedures Act and due process laws. Three of the plaintiffs later said that they had no knowledge of the suit and others claimed that they had been "steered" into the action by the "public interest" law firms.[13]

After preliminary hearings, the suit was settled before trial by "arms length bargaining" between CSA and the LSC grantees. Under terms of the settlement, each poor family in whose name the suit was brought would receive $250, the maximum benefit allowed by the energy assistance program. This left $17.998 million to be distributed. Congress had allocated the money to aid the poor; and in their agreement order, the litigants appeared to follow both the letter and the spirit of the law:

"So, what we did, your Honor, with the money left over, was to try to provide a program whereby people who would meet all the requirements of the 1979 program would gain the benefits of this money . . . this is . . . a fair and just way of resolving the matter.[14]

There was no intention of giving any money to poor families or individuals, however, and no effort was made to identify "people who would meet all the requirements of the 1979 program." Instead,

. . . CSA sought a settlement which would allow it to use the funds to finance pet projects which otherwise might have been terminated because of opposition or lack of interest in Congress.

How will the $18 million (less $2,000) be spent? As outlined in the legal settlement, $4 million will go to a hypothermia program run by former CSA grantees to alert people to the dangers of freezing to death; over $2 million will be spent to subsidize solar power programs; and roughly $3 million will go to public advocacy and legal services. The remaining $4 million, originally intended for emergency energy conservation kits, will probably end up in the advocacy kits as well.[15]

CSA was also to receive $350,000 to fund four positions in its own offices, positions that Congress had not approved.

"Thus, CSA and the public advocacy and legal services groups may have hit upon a marvelous recipe to render Congress' intentions moot and feather their own nests: Leave money unspent, be sued and settle as thou and they can best profit." [16] The Washington Post's story on the Simer case was headlined "How to Beat Congress by Losing a Lawsuit." [17] Interestingly, the tactics used in the Simer case had been successfully applied the previous year in the same court and with some of the same individuals appearing as litigants in *Grieg* v. *Olivarez.*[18]

It seems, then, that LSC and its affiliated grantees do not see the civil legal problems of the poor as their principal concern; rather, their emphasis is on achieving social and political change through the judicial process and on redistributing income and wealth by expanding the welfare system in the courts. They are also attempting to undermine the rights of private property owners and to expand the role of government in the private sector. Earned rewards, such as high school diplomas based on performance, are to be replaced by "rights" to which everyone is entitled. These organizations encourage "alternative lifestyles" and try to obtain judicial approval for social programs, such as taxpayer-financed abortions. Under the ruse of providing access for the poor to the justice system, taxpayers are being forced to finance social and economic policy changes that many of them would oppose.

Those who are connected with the LSC are pursuing their own interests with taxpayers' money. Marshall Breger has argued that " . . . many Legal Services lawyers perceived themselves as strategists in the War on Poverty and . . . focus[ed] their energies on cases of social significance." [19]

Cases with "social significance" are identified solely by the attorneys employed by LSC; they have enormous discretion in selecting the cases that are pursued and can even initiate suits for which no client has asked for assistance. There is ample evidence that LSC attorneys are politically liberal: "The radicalization of Legal Services has proceeded apace since the late sixties and early seventies . . . . The National Lawyers Guild, the major organization of radical lawyers in the United States, according to its own report had 1,000 members in 1979 working in Legal Services programs."[20] Legal Services is a radical political movement, and tax-financed politics have permeated the agency since its inception.

POLITICS AT THE LEGAL SERVICES CORPORATION

The LSC was established as an independent corporation so that political pressures could not influence its activities. The act established as an independent corporation so that political pressures could not influence its activities. The act establishing the corporation also banned political activities by the corporation and by its grant-receiving affiliates, but loopholes were added to the law that have permitted the LSC to broadly interpret its mandate in the political arena. Section 1007(a)(5) of the Legal Services Corporation Act of 1974 [42 U.S.C. Section 2996f(a)(5)] reads:

"[The Corporation shall] insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, or State proposals by initiative petition, except where—

"(A) representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or

"(B) a governmental agency, legislative body, a committee, or a member thereof—

"(i) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member, or

"(ii) is considering a measure directly affecting the activities under this title of the recipient or the Corporation."

Congress also wished to ensure that LSC used no funds for "politically-motivated" training by including in Section 1007(b)(6) of the act the proviso that

"[No Corporation funds may be used] to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients."

Congress further banned organizing by the LSC and its affiliates in Section 1007(b)(7) of the act, mandating that "[no Corporation funds may be used] to initiate the formation, or act as an organizer, of any association, federation, or similar entity, except that this paragraph shall not be construed to prohibit the provision of legal assistance to eligible clients." In short, Congress took extraordinary measures to prevent LSC from being influenced by or engaging in political activities. Nevertheless, LSC and its affiliates were determined to use blatant political activism to achieve goals that could not be accomplished through judicial activism.

Ferreting out political activity by LSC grantees is difficult because the Freedom of Information Act does not apply to organizations that receive LSC funding. Nevertheless, there is abundant evidence.

LINC'S GRANTS

Among the grants made by LSC were those for the "law in neighborhood and community services grants" (LINCs). A survey was sent to recipients by Reagan appointees at LSC to determine how the funds from this program had been used. One of the categories on the survey was "legislative advocacy," and responses indicated that political activity was common. For example:

The Office of Kentucky Legal Services reported that its client advocacy included "legislative advocacy with clients and client groups around a broad range of issues including Medicaid cuts, child care, etc." The organization also produced a "monthly newsletter on legislative issues (weekly during legislative session)." [21]

The New Mexico Legal Support Project in Albuquerque responded that it had engaged in "Legislative and Administrative Advocacy Training" and the "Development of [a] State Advocacy Network." [22]

Texas Legal Services Center in Austin reported that it had conducted a "Texas People's Leadership Development Conference";

"[begun] Multi-Forum Advocacy Training . . . [and] Set up [a] statewide Advocacy Task Force." The organization was also engaged in "(1) Assisting with a conference to 'Build a Network in Defense of the Undocumented' (2) Block grant/leg. Advocacy Client Training (3) Setting up a (Client)—organizational newsletter which will network all active groups and organizations in Texas." [23]

The Friends Committee on National Legislation in Washington, D.C., indicated that it had engaged in "legislative advocacy against budget cuts in human services program . . . " and had begun a newsletter. [24]

Raleigh Tenants Association of North Carolina had "lobbied to pass state laws improving tenant rights." [25]

The Client's Council of Legal Services of Southeast Nebraska had developed a "welfare-rights oriented client group" and had instigated "legislative advocacy by clients." [26]

Women Aware, Inc. of Sioux City, Iowa, had sponsored "workshops on legislative advocacy," was an "intervenor in [a] . . . utility rate increase," and co-sponsored a Welfare Rights handbook." [27] The respondent added: " . . . the hand of God [was needed] to place the Moral Majority back into their cages." [28]

One of the most explicit incidents of using taxpayers' funds for political action was submitted on a LINCs grant report by the Wadley-Bartow Citizens League of Wadley, Georgia. A "brief overview of the program" indicated:

"We have conducted bi-weekly seminars/workshops, and disseminated information on voter education, citizenship, and the legislative process. Films have also been shown and poster/leaflets distributed throughout the community.

"Door-to-door canvassing [was done] in order to stimulate interest and participation. This was done in addition to newspaper articles, leaflets, and radio announcements, plus free transportation." [29]

The objectives of the program were measured "by response and participation in seminars/workshops, increased voter interest in the community, [and] increased voter registration, according to city records." The league also produced "leaflets handed out at seminars/workshops, films on voter education and the political process, posters throughout the community on voter education and citizenship." [30]

When B.A. Johnson filed the report for the Wadley-Bartow Citizens League, he was a candidate for mayor of the city of Wadley. One of the "leaflets" prepared and distributed depicted a voting machine with careful instruction to "Push Lever 1" for mayor; Johnson's name appeared next to lever 1. Willie R. Strowbridge's candidacy for councilman was aided by similar instructions. At the bottom of the leaflet was the statement "Vote yourself a Xmas present in B.A. Johnson and Willie R. Strowbridge." [31] In effect, taxpayers' money was being used to further Johnson's and Strowbridge's campaign. Both Johnson and Strowbridge were elected.

The Wadley-Bartow Citizens League received $2,500 from an LSC grant, and the interim report was filed in order to obtain the 15 percent of the grant that had not been funded earlier. When Johnson's report reached LSC headquarters in Washington, D.C., the political nature of the expenditures was so excessively out of line that J. Kenneth Smith, director of Regional Operations and Support Services in the Office of Program Support, wrote:

"We have reviewed the Phase II documentation you provided us on your LINCs . . . grant. It would be extremely helpful to us if you would rework your grantee reporting form and delete the references to voter-education, legislative and political process. Perhaps you could rephrase the language to say something to the effect that the project focused on citizenship and advocacy.

"I have enclosed the original form that you completed, along with a new form. If you have any questions or need any additional information, please contact . . . me.

"Thank you in advance for your cooperation in this matter. I wish you continued success on your project." [32]

Evidently, LSC officials did not want their files to contain evidence that the congressional strictures on political activity had been so wantonly violated.

This was by no means the only LINCs grant that had been used for such purposes. On June 8, 1981, Bea Moulton, director of the Office of Program Services at LSC, wrote a memorandum revealing concern about the program:

"These grants are in a very sensitive area. They will be subject at some point, I believe, to considerable scrutiny. We need to discuss the other grants you propose to make. They all call for worthwhile, very important, activity. But as described in your forms, it may be the very kind of activity Congress has specifically prohibited from funding. Maybe they can be turned into training proposals. . . . Funding even arguably illegal activity at this time could greatly jeopardize Federal funding for legal services this year and in succeeding years. We just can't risk it." [33]

LSC officials were fully aware of how LINCs grants were being used and that they were supporting illegal activities.

The LINCs program was directed to political advocacy at the local level of government, but LSC funding also influenced initiatives at the state level.

THE LSC-FUNDED TASK FORCE ON CALIFORNIA'S PROPOSITION 9

In 1980, the LSC attempted to defeat California's Proposition 9, which sought to reduce the state's personal income tax rate. LSC affiliates in California had long been politically active at the state level of government. A staff investigation for the Committee on Appropriations of the U.S. House of Representatives, for example, reported that the San Francisco-based California Rural Legal Assistance maintained a permanent office in Sacramento with five attorneys who were all registered lobbyists. Two were active in the legislature, two deal with administrative advocacy, and one worked exclusively on migrant worker issues. The Western Center on Law and Poverty, Inc., based in Los Angeles, shared office space with the lobbyists for California Rural Assistance and had four registered lobbyists engaged in legislative and administrative advocacy in Sacramento.[34]

Alan Rader, an attorney at the Western Center on Law and Poverty, and a coordinator for the Proposition 9 Task Force, requested and received $61,655 from LSC to finance the activities of the task force.[35] Thirty local legal service programs throughout California also participated by supplying staff to work with the media and to register voters in welfare offices. In these ways, federal taxpayers were forced to contribute to the cause, directly through a LSC grant and indirectly through the LSC-funded salaries of the attorneys who participated in the campaign. This grant and the activities of the participants were both illegal."

LSC'S SURVIVAL CAMPAIGN

President Reagan's election and the prospect of major changes in the Legal Services Corporation resulted in a near panic at the organization's headquarters. LSC President Dan J. Bradley appointed Alan Houseman, then director of the Research Institute on Legal Assistance of LSC, to head a "survival task force," to respond to this new threat. LSC's political nature and activities were revealed in a series of memoranda that Houseman wrote in an effort to develop a campaign that would nullify the effects of any changes in LSC operations that the Reagan administration might attempt to implement. Even though the voters had elected a president who had campaigned on a platform of a different direction for government, LSC was determined that its political directions were not going to change. Among the changes that Houseman and others at LSC feared the most were "controls on social activism of legal services staff who are engaged in aggressive advocacy including restrictions on case types and restrictions and limitations on the scope of representation." [36]

On December 1, 1980, Houseman wrote a memorandum entitled "Coalition Building and Strengthening Presence in Community," urging that

". . . It is essential to broaden the political base of local programs for short term and long term survival. In the short term, a strong local political base will be critical if we are to successfully obtain support from Congress for the continuation of an aggressive legal services program. Lobbying in Washington will only be successful if local programs have established credibility and a base in their communities and developed allies who can and will assist them in persuading their Congressman and Senators to support legal services.

"A critical means of strengthening the local political base is to develop coalitions and working relationships with local organizations and individuals who would see it in their interest to assure the continuation of an aggressive legal services program." [37]

In Houseman's view, an "aggressive" legal services program meant the "survival of committed, . . . political staff" and the "survival of aggressive advocacy, (i.e., advocacy which utilizes the full scope of representation including legislative and administrative representation, litigation and community education; advocacy which seeks all possible remedies; and advocacy which is not restricted in what defendants can be sued, e.g., government entities). . . ." [38]

Houseman conceived a survival strategy consisting of three elements: (1) an outside entity to lobby on behalf of LSC; (2) a grass roots lobbying campaign directed primarily at members of Congress; and (3) a "corporation in exile" to wage the ideological battle against the Reagan presidency.

THE COALITION FOR LEGAL SERVICES

Even though Congress had prohibited the LSC from forming associations and organizations, LSC officials actively participated in establishing the Coalition for Legal Services. As Houseman described in a memorandum:

". . . We are attempting to unite and join together in this struggle. We have formed a coalition with PAG [the Project Advisory Group], the National Clients Counsel [sic] (NCC), NLADA [National Legal Aid and Defenders Association], the National Organiza-

tion of Legal Services Workers (NOLSW) and the Minority Caucus. It will be expanding to include others from within the legal services community, such as National Association of Indian Legal Services (NAILS), migrant farm workers group, women's caucus, Organization Legal Services Backup Centers (OLSBUC), state support and others. It will also expand to include organizations who are allies and supporters of legal services.

"The coalition members will be forming an outside entity to lobby and coordinate survival activities on behalf of the legal services community. This entity will be established soon and will begin to function in early 1981." [39]

The coalition's first formal activity was to mail a fundraising letter on February 20, 1981, outlining its purpose: ". . . to provide accurate information about LSC, to develop a network of support for legal services, to advocate in Congress and the media for legal services to the poor, and generally to coordinate the activities designed to preserve the Corporation and legal services." [40]

Several individuals associated with the coalition had close financial ties to LSC. Melville D. Miller and Bernard A. Veney, for example, were both members of the Coalition's first board of directors. Miller was also the chair on the Project Advisory Group (PAG) which had received about $180,000 per year of taxpayers' funds via voluntary contributions from LSC's program affiliates. Veney was the secretary of the coalitian and was also the executive director of the National Clients Council, which had received almost three-quarters of a million dollars from LSC in 1981. NLADA was also receiving large amounts of tax dollars and in 1981 received $2.195 million from LSC.[41] Some of these funds were used to hire a "full-time experienced lobbyist to work on legal services. . . ." [42] Thus, this coalition, which was specifically designed to lobby Congress on behalf of LSC, was being supported by tax dollars. The Coalition for Legal Services was the brainchild of officials at LSC headquarters in Washington; apparently, affiliates believed that additional coalitions were needed to oppose the Reagan administration, especially if the effort could be funded with tax dollars.

THE COALITION FOR SENSIBLE AND HUMANE SOLUTIONS (CSHS)

On April 29, 1981, Joseph Lipofsky of Legal Services of Eastern Missouri wrote to Rhonda Roberson at LSC requesting a LINCs grant:

"On behalf of the Coalition for Sensible and Humane Solutions, I would like to make application for funding under the Law in Neighborhoods and Communities Study (LINC's) The enclosed packet gives you some information on this Coalition.

"It is our intention to use our LINC's funding for four activities:

"1. To publish a handbook for the Peoples Lobbyists.

"2. To conduct. . . a People College of Law to continue training of community activists in both substantive issue and the process of community education and action, legislative and administrative advocacy as well as their relations to litigation.

"3. To research and to publish a Peoples Alternative to budget cuts and tax issues on a state and local level.

"4. To develop an ongoing bimonthly communication on a Statewide basis to focus on budget and tax questions and ways to impact them." [43]

The materials Lipofsky enclosed left little doubt about the organization's aims. According to one enclosure, CSHS was ". . . formed in February 1981 in direct response to President Reagan's budget message to the country." [44] CSHS adopted two basic positions:

"(1) We will oppose all federal, state and local budget cuts in programs that meet human needs.

"(2) We will oppose the transfer of funds to the states; the so-called "block grants" which endanger the rights and resources of women, minorities, and the poor." [45]

CSHS had wasted no time. Lipofsky's material included a list of activities it had engaged in during its short life, including the attendance of 500 coalition members at Congressman Richard Gephardt's hearings on the budget held in St. Louis; the attendance of 150 low income people at a "People's Forum" to give testimony to representatives of Senator John Danforth and Senator Thomas Ealgleton; the sponsorship of "massive" letter-writing campaigns to congressmen and senators; and the attendance of a meeting with Senator Danforth on budget cuts.[46]

Despite the blatantly political nature of these activities and of CSHS's objectives, LSC approved Lipofsky's request for funding. On July 17, 1981, LSC paid Legal Services of Eastern Missouri $17,475 for "community based training" programs that it had "co-sponsored" with CSHS.[47] Two one-day programs were held: one on June 19 in Caruthersville, Missouri, and the other on July 2 in St. Louis. At these training progams, sessions were held on "basic community education," legislative lobbying, referendums and initiatives, "community action," and community/media "outreach." [48] The Narrative Summary that Lipofsky had submitted to support his grant request indicated that the training program in St. Louis would:

"Educate and inform community activists about current federal, state and local budget cutting activities.

"Share and develop strategies for fighting back.

"Plan for a follow-up statewide conference in August." [49]

Legal Services of Eastern Missouri would remain a favored recipient of federal funds, receiving more than $1.2 million in fiscal year 1983 (see Appendix Table XII-1).

GRASS ROOTS LOBBYING

The survival campaign's second stratagrem was a carefully orchestrated organizing effort at the grass roots. Each LSC regional offices designated an individual to coordinate survival activities within their regions; each local affiliate was to have its own survival coordinator; and state coordinators were set up.[50] The network had four objectives: (1) to generate a flood of letters to members of Congress urging reauthorization of LSC; (2) to generate newspaper editorials praising the legal services program; (3) to urge local bar associations to pass resolutions in support of the LSC; and (4) to arrange meetings with legislators to lobby for the reauthorizing legislation.[51]

The Chicago Region meeting was held in St. Louis on December 11-12, 1981. During the opening session, Dan Bradley, then president of LSC, gave the "Call to Battle" citing the Proposition 9 Task Force in California as an excellent example of what a concerted political effort could achieve. The long-term goal of the task force was to "insure the continuation of effective, locally controlled legal assistance effort which are [sic] free from political interference." Strategies were to be developed for the media and for the political community, covering local officials, congresspersons, state officials and other individuals who make or influence decisions.[52]

Representative James Sensenbrenner asked the General Accounting Office to investigate LSC's had

". . . Sent out a packet of materials addressed to: Persons Coordinating Congressional Relations that included instructions on effective lobbying of members of Congress at the local level for LSC legislation. The materials provided were as follows:

"1. A statement of 'what needs to be done' and 'what to send us.'

"2. a Legislative update on April 3, 1980. . . .

"3. Fact sheets and background information on the LSC reauthorization and appropriation, including membership lists of the appropriate House and Senate Committees.

"4. One page fact sheet/handouts on possible restrictive amendments.

"5. Examples of supportive Bar letters and resolutions.

"6. Examples of favorable editorials.

"7. Examples of supportive letters from public officials.

"8. A list of state coordinators for the legislative effort. (State coordinators will also receive materials excerpted from the Congressional Staff Directory, indicating the Washington and local office addresses and phone numbers and the key staff of each member of their state's Congressional delegation.) [53]

The brochure, entitled "What Needs to Be Done," gave instructions for visiting members of Congress; for securing support from local and state bar associations; for obtaining editorial support in newspapers; for alerting constitutents and other concerned groups, including local and state labor organizations, church groups, the League of Women Voters, Common Cause, civil rights organizations, social service organizations, and anti-hunger coaliations; and, finally, for informing LSC headquarters about "problems." [54] Lobbyists in the LSC cause were directed to report every contact they made with members of Congress and their staffs and to asses their attitude toward legal services and toward any provisions of the legislation or amendments.[55] Detailed information was provided on all aspects of the authorization of LSC funding, and lobbyists were urged to oppose any amendment that would restrict legislative representation, the ability of LSC affiliates to represent aliens, the right of a legal services program to receive court-awarded fees, the right of employees to join labor unions, and representation in abortion cases and that would require attorneys to negotiate prior to the initiation of litigation.[56]

The Comptroller General concluded: "There is little question that [these activities] . . . constitute 'lobbying', as the term is used in the applicable restrictive legislation. . . ." [57] In a report issued a year earlier, the GAO had changed LSC affiliates with lobbying and recommended that the corporation take steps to ". . . more specifically define the legislative restrictions on grantees' lobbying activities and the types of lobbying activities that are not permissible." [58] Although tax funds were being used illegally for political activity, the GAO did not believe that there was any way to recover those funds:

"Because LSC's regulations and current policies appear to authorize recipients to expend appropriated funds for prohibited lobbying activities in derogation of the . . .

restrictions, we do not think, as a practical matter, that the Government would be successful in attempting to recover the illegally expended sums from the recipients." [59]

The taxpayer, it seems, is out of luck.

Congress has often attempted to limit LSC's activities, but LSC officials are experts at dodging such restrictions. The Legal Services Act of 1974 placed restrictions lobbying activities and placed additional limitations on LSC political activities in 1976, 1979, and 1980 to restrict the use of appropriated funds for publicity or propaganda relating to legislation.[60] Congress also tried, without much success, to limit the types of cases that LSC can undertake, forbidding criminal representation, representation for juveniles (until 1977 when the limitation was dropped), school desegregation, selective service, nontherapeutic abortion, homosexual and gay rights cases, and representation of illegal aliens.[61]

In each instance, LSC officials publicly stated that the corporation and its affiliates would abide by these congressional limitations, and then they continued to flaunt the law. After the GAO issued its report in May 1981, Dan Bradley, president of LSC, sent a letter to the comptroller General:

"Your opinion indicates that the Legal Services Corporation and its [grant] recipients have engaged in prohibited grass roots and lobbying activities. You concluded that these activities were carried out pursuant to Corporation regulations and legal opinions that erroneously interpreted the Legal Services Corporation Act and its relationship to riders that have been attached to various appropriations bills. You have further requested that I take immediate action to halt such grass roots legislative activities.

". . . while we disagreed with GAO's view of the interpretation of the various related provisions of existing law, and thus draw different conclusions about possible violations, we are making certain changes in our present activities. Prior to recipient of your opinion, I directed all personnel of the Legal Services Corporation to stop any and all activities coming within the GAO definition of grass roots lobbying activities." [62]

The "changes" were being made, but they were not the sort that might have been expected. Rather than ceasing political activity, LSC officials decided that alternative organizational structures had to be developed to carry out both the activities that Congress had expressly prohibited and those that it was likely to prohibit.

MIRROR CORPORATIONS

Prior to President Reagan's election, LSC had been able to maneuver around various congressional mandates by using a variety of subterfuges. If a new board of directors was appointed that was hostile to LSC's political machinations, then the old stratagems would no longer work. LSC officials thus conceived the third element of the survival campaign; "mirror corporations."

The Boston Regional Office of LSC was actively involved in the search for alternative organizations through which they could direct political advocacy operations. This is evident in a memorandum from Friends of Advocacy, Inc., a non-profit corporation formed to provide legal assistance to the poor, written to the board of directors of Connecticut Legal Services.

"As early as January of 1981, persons within LSC began to discuss the notion of programs creating alternative entities calculated to circumvent the anticipated limitations. Within LSC's New England Region, project directors held meetings for the purpose of discussing potential responses to anticipated federal restrictions, including the creation of alternative corporations. In fact, these regional meetings have continued since then, the next one to take place October 22nd and 23rd.

"On June 18, 1981, our fears unfortunately became reality when the U.S. House of Representatives passed H.R. 3480, a reauthorization of the Legal Services Corporation which included numerous amendments severely restricting the activities of legal services programs and their employees. The CLS Board of Directors was informed of the House's action at a meeting held that very same evening." [63]

LSC headquarters, which was deeply involved in the search for "alternative mechanisms," contracted with the Institute for Non-Profit Management Training, Inc., to study various options. The proposal was written as a "management training curriculum, " so that funding could be provided under the "LINCs" program. The training program "will address two specific areas . . . (1) locating and obtaining funding for community based organizations; and (2) training programs for client/community advocates. The goal of the proposed management training program is to improve the capacity of clients (and thus their communities) to productively advocate for themselves and use sound management [sic] principles and practices to structure and solidify that advocacy and the informed involvement that it gives rise to."[64]

The core of the program was a session on "establishing feeder organizations" to examine "specific strategies for stabilizing the NPO's [Non-Profit Organization's] funding base through the development of a for-profit arm or 'feeder' organization." The NPO's objective was "to maintain compliance with federal regulations while engaging in certain types of advocacy activities such as lobbying."[65]

LSC also hired a consultant, Gregg Krech, to do a study entitled "Alternatives to Retrenchment." Among other things, Krech recommended the "establishment of an independent 'sister' corporation which provides services on a fee-for-service basis to ineligible clients [for tax-funded legal services] and donates all the profits back to the legal services program; or the establishment of public interest law firms and social welfare organizations which can provide a wider range of services to poor people with less restrictions."[66] In effect, the fees generated from providing legal services to clients who were not poor would not be subject to Congressional restrictions on federal funds and could be used for lobbying and for financing those cases and representing those clients that Congress had disallowed.

Krech proposed five alternative organizational structures all of which could "launder" funds so that congressional restrictions on political advocacy and representation could be subverted.[67] Section 1010(c) of the LSC Act had made alternative structures necessary, as Krech noted in his report.

"Interpreted strictly, this provision [1010(c)] attaches all LSC restrictions and prohibitions to any non-public monies of a legal services grantee. Given redirections in LSC funding and expected efforts of programs to develop private sources through fund raising and/or fee for service, it might not be unusual to find a legal services program receiving only 10 percent of their funding from LSC but having *all* funding subject to the LSC restrictions. . . . As stated earlier, private funds will almost certainly be subject to the same restrictions as LSC funds according to section 1010(c) of the Act. If you contemplate the potential use of new funds for activities which are not a permissible use of LSC funds, these new funds still have to be raised and used outside of the LSC corporate entity. Raising money through the LSC entity will provide additional money, but that money will become subject to the same restrictions as the LSC money. Raising money through a separate entity allows the money to be raised while discretion is maintained as to its use.

". . . There are inherent limitations on 501(c)(3) corporations with respect to the conduct of unrelated business activities and legislative influence. Other corporate forms provide greater flexibility to charge fees and lobby." [68]

There are indications that the "mirror corporation" strategy was implemented. In 1982, the New Haven Legal Assistance Association (LAA) transferred its annual grant of $543,000 to the South Central Connecticut Legal Services Corporation. New Haven LAA continues to operate as a separate structure, funded through "alternative funding sources" and free of any restrictions Congress might impose on recipients of federal funds. But South Central handles no cases; it simply acts as a screening and referral entity, primarily for New Haven LAA. South Central pays New Haven a set rate for every case it handles. Although the two programs are legally separate, they are "operationally integrated," sharing the same office, the same phones, the same attorneys, and are managed by the same executive director. The legal separation, however, has made it possible for the New Haven LAA to ignore Congressional restrictions on taxpayers' funds.[69]

Using similar tactics, on January 4, 1982, Texas Rural Legal Aid transferred $760,000 to a separate entity, Texas Rural Legal Foundation, Inc., to provide legal services to eligible clients.[70] Texas Rural Legal Aid was very active politically and had brought suit to prevent the special election in Texas won by conservative Congressman Phil Gramm.[71] It is anyone's guess how stopping a congressional election would have served the legal needs of the poor.

LSC affiliates were also concerned about the fund balances that had been accumulated. At a meeting on August 27, 1981, there was a panel discussion on "creative ways of using fund balances," including "hiding fund balances." [72] Evidently, there was some fear that Congress might use the balances to justify cutting the LSC's appropriation or that members of a new LSC board of directors would recall the balances to headquarters.

TRAINING AND ORGANIZING FOR POLITICAL ADVOCACY

LSC headquarters was also concerned about the allocation of the corporation's funds under the Reagan administration and in 1981 decided to spend considerable sums on "training manuals." LSC's Office of Program Support awarded contracts to produce "between 35 and 50" training manuals to be made available to grantees, regional training centers, and client groups "in connection with education and training programs." [73]

Given the mandate of the Legal Services Corporation, one would expect LSC training manuals to focus on helping attorneys represent the poor in the courts. But most of the manuals emphasize organizing for polit-

ical activism, and references to the judicial process are typically made only in the context of how the courts may be used to further such organization. For example, consider "The Law and Direct Citizen Action," a training manual developed by the Institute for Social Justice (see Chapter VIII) using taxpayer funds provided by the LSC's Advocacy Training and Development Unit. The preface to the manual states:

"This handbook is written for community organizations and the legal workers who advise them. It is a guide to the areas of the law that affect direct citizen action. The law both creates rights and restricts them. Some laws—for example, the First Amendment, the Freedom of Information Acts—can be very useful to organizations seeking to bring about social change. But often the law can stymie action—whether by permit requirements or by mass arrests. This handbook is a guide to how to use the law and not let the law be used against you." [74]

"Social change" is a recurring theme throughout these manuals and is a code word for the left-wing political activity that characterizes LSC, its affiliated groups, and the network of organizations that LSC helps to fund. According to this particular manual, social change can be achieved only by power, and power is obtained by organizing.

"It takes power to achieve significant social change. People get power by organizing. Social change organizations provide a power base from which people can take systematic collective action on their own behalf. The strategies and tactics of such organizations may vary, but whether they engage in electoral politics or direct action, community education or militant disruption, consumer boycotts or picket lines, their ultimate strength lies in their ability to mobilize and empower large numbers of people." [75]

Organizing is viewed as the only way that problems may be effectively addressed. In fact, the role of the individual attorney in helping an individual client is derogated: "A victory won through direct action by fifty members is more meaningful in the long run than a triumph achieved by a single leader (or lawyer) . . . ." [76] Moreover:

Organizers—good organizers—are trained to empower people to take collective action on their own behalf. Lawyers, on the other hand, are trained to be advocates who act on behalf of their clients. As a result, many lawyers are oriented toward solving specific problems by using the legal system to win individual cases—instead of helping people solve their own problems by direct action.

"But there are other lawyers who believe in the basic principles of organizing to achieve social change. They want to know what kinds of assistance they can provide and how best to provide it. This handbook is intended to help them and to help community organization leaders and members as well, by helping them understand the limitations the law imposes, the opportunities it provides, and the reasons behind the advice their lawyer is giving them." [77]

A lawyer's role then is to "protect the members of the organization" and to "fight back," not to represent individuals. An attorney can force opponents of the organization to "cave in" by "imposing liability and money costs on others." [78] Evidently, the ends justify the means, for the manual indicates that "exposure" is a useful tool and "the threat of scandal and ridicule is a powerful one . . . ." [79] If lawyers follow the appropriate prescriptions, they ". . . have a unique opportunity to help give real 'power to the people.'" [80]

In addition to a philosophical discourse about the importance of organizing for advocacy and an attorney's role in that process, the manual offers practical suggestions, such as how to file a series of small suits so that ". . . the opposition's costs may be significantly higher if it has to defend itself against a lot of small suits which are factually distinct that [*sic*] if it has one massive class action to defend, and this can enlarge the organization's bargaining power." [81] Of course, it is expensive for the plaintiff to file a large number of small suits, but as long as the costs are paid by the taxpayer, the organization seeking "social change" does not bear the burden.

Moreover, organizations and their attorneys should not let the law stand in the way of their objectives; the manual argues that it may be more effective to flaunt the legal system than to abide by it. In answering "Should a group apply for a permit [for a demonstration]?" the manual advises:

"This is a question that cannot be answered in the abstract. This is a decision that should be made by the group, not the attorney. The attorney should not get too involved in tactical discussions. One experienced organizer argues that the organization should select the best tactic for the situation, then look at the law. If the group starts its selection of tactics by looking at the law, the result can be narrow, unimaginative, or restrictive tactics. Lawyers often tell groups what they can't do instead of what they can. Choose the tactic, then decide how much to modify it (if at all) to comply with applicable regulations or ordinances. For example, a tenants' group may wish to picket a landlord at his house or confront a public official at her office. The group may feel that surprise or catching the target off-guard is a major part of its strategy, so it does not want to apply for the necessary permits." [82]

In essence, the LSC, chartered by Congress and charged with using the law to help the poor, has spent tax dollars to finance a study that advocates illegal activities. The sentiments expressed in "The Law and Direct Citizen Action" are characteristic of those found in other "training manuals" funded by LSC, including "Communication Skills, Community Advocacy and Leadership/Community Development," which was produced for the LSC's Office of Program Support. The familiar themes of advocacy and organizing for "social change" appear throughout this document:

"There is a tremendous amount of discussion in this country today about the difficulty in addressing many issues confronting poor people. There are probably just as many complaining about a lack of knowledge about where and how to get involved in social change. Although many people are very interested in social change, they do not understand where and how to begin work on issues that affect it.

". . . Many helping professionals are concerned with their clients and are interested in social change.

"For many years, . . . lawyers, . . . and other helping professionals have tried with limited success to bring about change. Their approach has been to work hard on individual cases and take on as many clients as possible. However, this effort to meet the needs of the community/client has not had the impact that is needed or desired to create real social change. As resources continue to diminish, it is encumbant [*sic*] upon all concerned to find new ways to complement the programs of present social/legal services." [83]

The manual also stresses the need for "organizing" for social change, since dealing with individual clients has not produced what the activists consider to be desirable results. The material in the manual illustrates the concept that legal services advocates should not respond to individual requests for legal assistance but that they should proselytize for change. Consider the cases suggested for "advocate role play situations." One case poses the problem of a "Black lawyer who is attempting to convince residents of a poor white apartment building to organize a rent strike." In another, "A white paralegal is attempting to convince [*sic*] a number of mainly Black and Hispanic prisoners to file a class action suite because [*sic*] of overcrowding in the county jail. In yet another, "A lawyer, living in a very economically depressed area of a city, is trying to get the poorest people to organize a food co-op." [84]

When congressional oversight hearings were held on LSC, there were numerous protests about the involvement of legal service activists in organizing activities, including union organizing.[85] Apparently, the training and education program had been effective, for LSC affiliates instigated or were involved in many cases that had little or no connection with the corporation's basic mission. Furthermore, this advocacy and organizing activity had been undertaken in spite of the federal law prohibiting organizing activity.

THE VERDICT ON THE LEGAL SERVICES CORPORATION

The Legal Services Corporation was clearly riddled with illegal political activity. Hundreds of millions of taxpayers' dollars were used to fund the political goals of a determined group that used the needs of the poor as an excuse to obtain vast sums of money from the government. Tax monies were diverted to elect candidates to office, to defeat or support legislation at all levels of government, to finance administrative and congressional lobbying, to organize at the grassroots for political purposes, and to fund a host of allied organizations. Many of the cases pursued by LSC and its affiliates were bizarre and had nothing to do with alleviating the legal problems of the poor. Attorneys associated with legal services sought to impose on the nation their version of political utopia, even though socialism has not produced economic prosperity in the nations throughout the world where it has been firmly established for years. There is an abundance of poverty in the socialist world, but the leaders of these nations prosper as others suffer. The LSC proselytizers may be convinced that their expertise would place them in leadershp positions if the political changes being advocated with tax funds were put in place.

For years, LSC has been criticized for its blatant and illegal political activity. While LSC officials were publicly denying any wrongdoing or any untoward political actions,[86] internal memoranda and other documents show that they were fully aware of and concerned about the propriety and legality of their activities. The corporation's president was seeking increased funding from Congress, but the organization was diverting, for its own uses, tens of millions of dollars originally intended to help the poor. When testifying about LSC's fiscal year 1982 budget, Dan Bradley stated that "the painful reality is, however, that legal serv-

ices programs already operate at the margin. There is little that can be done to meet rising costs, short of reducing available service." [87] LSC affiliates, however, had amassed tens of millions of tax dollars in unspent balances between fiscal years 1980 and 1982 and had purchased $15.5 million in real property and $17.8 million in equipment during the same period. LSC headquarters openly encouraged diverting of program resources away from services for the poor by hiring consultants to develop "alternative corporate forms" and to find "creative ways" to use fund balances. LSC even drafted sample documents to be used in acquiring real estate.[88] During the same period, $2.257 million were spent for dues to various organizations, including labor unions, and payments were made to the Committee on Political Education (C.O.P.E.), the AFL-CIO political action group, and similar organizations.[89] Bradley also failed to mention the interest income from unspent fund balances that had been invested or the millions of dollars in legal fee awards that LSC grantees were collecting from their lawsuits (see Appendix Table XII-2)—awards that taxpayers also paid when the suit was brought against local, state, or federal governmental agencies.

There might not have been much money to provide legal services, but this did not stop officials associated with LSC affiliates, such as Bernard Veney, executive director of the National Clients Council, from living well at taxpayer expense. During the first nine months of 1983, Veney's expense account tabs included: $177.90 for a stay with his wife at an inn a few blocks from his Washington office; $180-a-day suite at the Burbank Airport Hilton during a California training seminar; $171.60 for lodging at a Jackson, Wyoming, resort; a $419.47 tab at the posh Georgetown Hotel in Washington during another training seminar; $10,069.51 in car and limousine rentals when Veney commuted between Washington and his home in Columbia, Md. [a suburb of Washington]; a $6,456 salary advance which was still outstanding from August, 1982; and, a $738 plane ticket for his son who was not employed by the Clients Council.[90]

So much money was diverted to political activity, frivolous lawsuits, organizing campaigns and "training," slush funds, real estate, and other purposes that it is reasonable to question whether LSC and its affiliates were concerned at all about the legal problems of the poor. Apparently, their greatest concern was to use the poor to obtain resources that would support their own socialist agenda and spread their propaganda. At the same time that LSC was furthering its political causes in the courts and legislatures at taxpayer expense, the organization's "survival campaign" was undertaken to keep the corporation free from "political interference," as if such an assertion could justify the subterfuges and stratagems devised under that scheme. Their real problem was that a board of directors appointed by the Reagan administration might have a different view of LSC's purpose and might try to alter the corporation's policies toward legal services for the poor.

In 1982, the worst fears of LSC officials were realized when President Reagan appointed new board members and officers. The response was a campaign of smear and innuendo whose purpose was to divert attention from the LSC and its activities and focus on the new appointees. Many files from the period 1980-1982 in the LSC's Washington office were destroyed, and appointees had to scour regional offices to obtain copies of important correspondence and memoranda.[91] The denial of information to Reagan appointees was only a small skirmish in the major battle over the integrity of the appointees, which focused on the consulting fees and travel expenses the Reagan board members had charged to LSC. LSC bureaucrats and their allies orchestrated a major media campaign to discredit the board members and to preserve the corporation. The media rose to the bait and produced a barrage of articles questioning the propriety of the board members' behavior.[92] A GAO investigation concluded that there was no impropriety committed by the President's appointees:

"Payments to Board members complied with the law and LSC's regulations and policies,

"LSC's practices for compensating Board members were comparable to those followed by other Government corporations,

"The new LSC president's contract was properly negotiated and consistent with the contracts of past LSC presidents and presidents of other Government corporations, and

"LSC Board members, appointed by the President while the Senate was in recess, were entitled to compensation." [93]

Although the charges were without substance, the damage had been done. The smear campaign had produced a smoke screen behind which LSC's congressional allies could maneuver. LSC continued to receive funding under continuing resolutions that kept the corporation's activities from being closely examined.[94]

Some intimidation was also brought to bear on the Reagan appointees when death threats were made against the board chairman and the corporation's president.[95] Evidently, the pressure tactics worked, for LSC still exists, which is no small accomplishment after three attempts by Reagan to end its financing. The corporation is also prospering; in January 1984, the board of directors voted to request a budget of $325 million for fiscal year 1985, an increase of 18 percent over 1983 and the largest budget the LSC had ever sought.[96] The process was an interesting one: "Board members had planned to seek a 4.4 percent increase, but agreed to increase it after protests last month that the amount was not enough and after accusations that board members were trying to destroy legal aid programs." [97] One would think that the board's first objective should be to dismantle some of LSC's programs, particularly its illegal political, organizing, and training activities. No budget increase would be necessary if the resources devoted to illegal activities were used instead for their intended purpose: providing legal services to the poor.

Despite abundant evidence of blatant wrongdoing, virtually nothing has been done to correct LSC's abuses of its mandate. Congress has placed various restrictions on the corporation's operations from time to time, but it has never effectively brought the organization under control, and no attempts have ever been made to enforce the restrictions. Senator Orrin Hatch has offered an explanation:

"To question the activities of the Corporation and its 326 grantees is, of course, politically disadvantageous. One is led to believe that the nobility of the Corporation's purpose make any question as to the propriety of some of its activities nothing less than a vicious attack on the poor themselves. This misinformed, oversimplified presumption has scared away much needed review and has provided the Corporation with a congressional carte blanche to operate without oversight, without review, and without criticism." [98]

The "apostles of the poor" have carefully cultivated the nation that questioning a program that is intended to help the poor is an attack on the poor. This attitude serves their interests and the interests of those in Congress who benefit from the political activities and the organizing that LSC has so generously funded with taxpayers' money.

LSC and its affiliates do not deal only with political issues, but also with candidates. Those in Congress who support LSC appropriations and do not question how the funds are spend are supported at election time by the grass roots organizations nurtured by LSC. Thus, a cozy relationship has developed between those in Congress who appropriated funds and those who spend them. The taxpayers are the losers, for they finance the grass roots political activity that sends to Congress those individuals who benefit from the illegal use of tax money and who have every incentive to continue this practice. The poor also lose, for funds originally allocated to benefit them are shamelessly diverted for political purposes that primary benefit the "apostles of the poor."

LSC has built a powerful constituency in support of its program and appropriations. One of the most important groups in the coalition is the American Bar Association (ABA), the professional association and lobbying arm of the nation's lawyers. LSC and its affiliates provide direct employment for nearly 5,000 attorneys,[99] and thousands of other attorneys obtain income by participating in LSC lawsuits. If LSC funding were terminated, a depression would hit the legal profession, as thousands of lawyers would be out of work and in competition with other practicing attorneys. There is already a surfeit of lawyers in the U.S., and a steady stream of graduates from the nation's law schools continues to swell the ranks of the profession. Thus, there is a powerful economic rationale for the ABA's interest in LSC's funding; and, according to the Washington Post, the ABA "engaged in a massive lobbying campaign" to protect its stake in the program.[100] In addition to lobbying for LSC, the ABA also responded to the 1980 election of Ronald Reagan by establishing special trust accounts in more than thirty states called "interest on lawyers' trust accounts." [101] In six states the bar associations have made this program mandatory for all lawyers. How it works is that participating lawyers deposit their clients' cash for such things as filing fees and real estate escrows in a statewide account. The interest accrued goes not to the clients but to the Legal Services Corporation. The total contribution was $16 million in 1984 and is expected to be as much as $50 million in 1985.

In thirty of the states this program was set up by the bar associations without legislative approval and in no state does a client have a legal right to say whether he wants the interest to go to the LSC or not. This has enfuriated some clients such as Evelyn Glaeser, an elderly widow who filed suit in Florida federal court claiming her due-process rights were violated when the interest proceeds of a small trust account her husband left her went to the LSC.[102] Mrs. Glaeser's suit was the first in federal courts as of early 1984, although four state courts

had, by then ruled the system unconstitutional.

The ABA may also hold this positive view of federal funding for attorneys because the ABA itself has been highly successful in getting tax funds for its own use. Millions of dollars in grants and contracts from numerous federal sources have been given to the ABA for a variety of "studies" (see Appendix Table XII-3). Once a group has its hand in the taxpayers' pocket, it is difficult to be objective about the way in which other organizations dispose of their tax dollars.

Every group that receives funding from government is implicitly threatened whenever efforts are made to eliminate or reduce the funding of even one recipient. For this reason, enormous pressures are brought to bear on politicians whenever spending cuts are contemplated. These pressures are all but irresistible, for individual taxpayers rarely mount a determined resistance to the special interest groups that surround every legislative body. At the very least, however, politicians have an obligation to ensure that public funds are spent only for the purpose for which they were appropriated and to determine if alternative methods of delivering public services exist or can be developed to avoid the abuses that are so common when bureaucracies pursue their own interest at public expense.

FOOTNOTES TO CHAPTER XII

[1] For an extensive discussion of the theory and practice behind civil legal services for the poor, see Marshall Breger, "Legal Aid for the Poor: A Conceptual Analysis," North Carolina Law Review 60 (9182): 282-363.

[2] U.S. General Accounting Office, "Report to the President of the Legal Services Corporation: Review of Legal Services Corporation's Activities Concerning Program Evaluation and Expansion" (Washington, DC: GAO, 1980), p. 12.

[3] U.S., Congress, Senate, Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983 Hearing before the Committee on Labor and Human Resources," 98th Cong., 1st sess., 1983, p. 506.

[4] U.S., Congress, Senate, Committee on Labor and Human Resources, "Legal Services Corporation Act Amendments of 1983 Hearing before the Committee on Labor and Human Resources," 98th Cong., 1st sess., 1983, p. 3.

[5] Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," p. 140.

[6] "City Asked to Pay Bill for Man's Sex Change," The Washington Post, January 15, 1981, p. B-3.

[7] "Two Complaints," The New Republic, February 3, 1979, p. 5.

[8] See Reginald Stewart, "Court to Decide if Black English Is a Learning Barrier," New York Times, June 12, 1979, p. A-12.

[9] "Indians on the Warpath," The New Republic, April 30, 1977, pp. 16-21.

[10] Shirley Scheibla, "Bar Sinister: The Legal Services Corporation Stretches its Mandate," Barron's, January 24, 1977, pp. 5, 12.

[11] Clearinghouse Review, March 1980, p. 878.

[12] The discussion of *Simer* v. *Olivarez* is based on Heather Stuart Richardson, "A Sweetheart of a Lawsuit?" The Wall Street Journal, August 20, 1980, p. 18.

[13] Ibid.

[14] "Memorandum Opinion," *Elsie Simer, et al.* v. *Graceila Olivarez, et al.*, in the United States District Court for the Northern District of Illinois, Eastern Division, by Judge John F. Grady, Civil Action No. 79 C 3960, October 29, 1980.

[15] Richardson, "A Sweetheart of A Lawsuit?"

[16] Ibid.

[17] Heather Stuart Richardson, "How to Beat Congress by Losing a Lawsuit," The Washington Post, August 31, 1980, pp. D-1, D-2. Reprint from The Wall Street Journal, August 20, 1980.

[18] H. Peter Metzger and Richard A. Westfall, "Government Activists: How They Rip Off the Poor" (Denver, CO: Public Service Company of Colorado, 1981), p. 15. Fortunately for the taxpayer, the judge in the *Simer* case saw through the ploy being used by CSA and LSC and refused to accept the settlement arranged out of court. The funds were returned to the Treasury.

[19] Marshall J. Breger, "Legal Aid for the Poor: A Conceptual Analysis," North Carolina Law Review 60 (1982), p. 302.

[20] Rael Jean Issac and Erich Issac, "The Coercive Utopians: Social Deception by America's Power Players" (Chicago, IL: Regnery Gateway, 1983), p. 238. Even the New York Times has described legal aid attorneys as "liberal" and "activist." See Stuart Taylor, "Conservatives Press Fight to Curb Legal Aid," The New York Times, July 31, 1983, p. E-5.

[21] Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation", pp. 87-88.

[22] Ibid., p. 90.

[23] Ibid., p. 93.

[24] Ibid., p. 109.

[25] Ibid., p. 112.

[26] Ibid., p. 115.

[27] Ibid., p. 118.

[28] Ibid., p. 120.

[29] Ibid., p. 101.

[30] Ibid., p. 102.

[31] Ibid., p. 103.

[32] Ibid., p. 100.

[33] Ibid., pp. 105-106.

[34] U.S., Congress, House, Committee on Appropriations, "Departments of State, Justice, and Commerce, The Judiciary, and Related Agencies Appropriations for 1980, Hearings before a Subcommittee on the Departments of State, Justice, and Commerce, The Judiciary, and Related Agencies (Part 6)", 96th Cong., 1st sess., 1979, pp. 477-8.

[35] Mary Thornton, "Former Employes of Legal Services Faulted," The Washington Post, September 21, 1983, p. A-6. For further information on LSC involvement in Proposition 9, see Tom Diaz, "Probe Sought of Legal Services Campaign Activity in California," The Washington Times, October 21, 1983, p. 5-A; idem, "Jarvis Plans to Sue California Legal Services," The Washington Times, December 20, 1983, p. 3-A; and "Illegal Services," Wall Street Journal, September 29, 1983, p. 30.

[36] Alan Houseman, ISC Memorandum, December 9, 1980, reprinted in Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," p. 50. For further detail on the LSC Survival Campaign, see Tom Diaz, "Video Reveals Legal Services Corp. Drew "Survival Plans," The Washington Times, August 29, 1983, p. 5-A; George Lardner, "Legal Services Agency Lobbied Hard to Save It," The Washington Post, July 13, 1983, p. A-17; "Survivalists at Legal Services," The Washington Times, July 21, 1983, p. 11-A; and Tom Diaz, "Misuse of Legal Aid Fund Revealed," The Washington Times, July 12, 1983, pp. 1-A, 12-^.

[37] Alan Houseman, LSC Memorandum, December 1, 1980, reprinted in Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," p. 39.

[38] Alan Houseman, LSC Memorandum dated December 29, 1980, reprinted in U.S., Congress, Senate, Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," p. 67.

[39] Ibid., p. 73.

[40] Letter from Coalition for Legal Services, February 20, 1981, reprinted in Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," p. 84.

[41] Ibid., p. 551. Also, see Tom Diaz, "Legal Aid Unit Said Barring U.S. from Monitoring Grant," The Washington Times, April 12, 1984, p. 5-A. NLADA officials refused to permit Reagan appointees to audit its expenditures of fund, claiming that the LSC has "no right" to information from its grantees.

[42] Alan Houseman, LSC memorandum, December 29, 1980, reprinted in Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," p. 75.

[43] Letter from Joseph Lipofsky of Legal Services of Eastern Missouri to Rhonda Roberson of Legal Services Corporation, April 29, 1981, reprinted in Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," p. 121. Also, see "Legal Services Corporation: Limits Sought on Lobbying Funds," The Washington Post, July 16, 1983, p. A-4.

[44] Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," p. 123.

[45] Ibid.

[46] Ibid.

[47] LSC, Payment Approval Form, Account No. 14-1160-000004, July 17, 1981, reprinted in Committee on Labor and Human Resources, ""Oversight of the Legal Services Corporation, 1983," p. 633.

[48] Coalition for Sensible and Humane Solutions, "Community Based Training Agenda, July 2, 1981, St. Louis, Missouri," reprinted in Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," p. 631.

[49] Attachment to letter from Joseph Lipofsky to Lillian Johnson, LSC, July 8, 1981, reprinted in Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," p. 630.

[50] For information on activities in Arizona, Colorado, New Mexico, and Texas, see U.S. General Accounting Office, Statement of Franklin A. Curtis, Associate Director of the Human Services Division, before the Senate Committee on Labor and Human Resources, April 11, 1984, mimeographed.

[51] Alan Houseman, LSC memoranda, December 8, 1980, reprinted in Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," pp. 46-47.

[52] Hulett H. Askew, LSC memorandum, December 4, 1980, reprinted in Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," pp. 60-61.

[53] Letter B-202116 from Milton J. Socolar, Acting Comptroller General of the United States, to Representative F. James Sensenbrenner, Jr., May 1, 1981, reprinted in Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," pp. 24-25.

[54] Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," pp. 25-26.

[55] Ibid., p. 27.

[56] Ibid.

[57] Ibid., p. 28.

[58] U.S. General Accounting Office, Review of Legal Service Corporation's Activities Concerning Program Evaluation and Expansion (Washington, DC: GAO, 1980), p. 17.

[59] Letter B-202116 from Milton J. Socolar, Acting Comptroller General of the United States, to Representative F. James Sensenbrenner, Jr., May 1, 1981, reprinted in Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," p. 33.

[60] Breger, "Legal Aid for the Poor," pp. 308-310.

[61] Ibid., pp. 304-307.

[62] Dan J. Bradley, Legal Services Corporation letter to Milton J. Socolar, May 11, 1981, reprinted in Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," pp. 18, 21.

[63] Memorandum from Friends of Advocacy, Inc., to the Executive Committee of the Board of Directors of Connecticut Legal Services in the files of the U.S. Senate Committee on Labor and Human Resources.

[64] Calvin C. McCants, Jr., "A Proposal for a Management Training Curriculum and Manual" (Washington, DC: The Institute for Non-Profit Management Training, 1981), p. 1, reprinted in U.S., Congress, Senate, Committee on Labor and Human Resources," "Oversight of the Legal Services Corporation, 1983," p. 385.

[65] Ibid., pp. 390-391.

[66] Gregg Krech, "Alternatives to Retrenchment" (Washington, DC: LSC, 1982), p. 2.

[67] These are described in Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," pp. 400-410.

[68] Krech, "Alternatives to Retrenchment," pp. 4, 23.

[69] Paul Newman, "LSC Program Report for South Central Connecticut Legal Services Corporation, October 13, 1982" (Washington, DC: LSC, 1982), p. 8.

[70] Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," p. 413.

[71] Ibid., p. 436. Texas Rural Legal Aid aggressively pursued its advocacy projects. The organization placed the following classified advertisement in the Austin American-Statesman on November 5, 1980: "Wanted: Project coordinator for Legislative Advocacy Project for farm workers, job includes proposal writing, reports, staff supervision; coordination with advocacy groups. Must have experience with governmental agencies and knowledge of problems of farm workers; bilingual preferred. Salary $18,000-$28,000; commensurate with experience and skills. Submit resume to Texas Rural Legal Aid. . . ."

[72] Ibid., p. 301.

[73] Ibid., p. 401.

[74] Iris Rothman, ed., "The Law and Direct Citizen Action" (Washington, DC: LSC, 1981), p. i. Also, see Tom Diaz, "Legal Services Manuals Press Political Advocacy," The Washington Times, July 26, 1983, p. 3-A.

[75] Rothman, "The Law and Direct Citizen Action," p. 1.

[76] Ibid.

[77] Ibid., p. 2.

[78] Ibid., pp. 2-3.

[79] Ibid., p. 3.

[80] Ibid., p. 4.

[81] Ibid., p. 11.

[82] Ibid., p. 95.

[83] Emma Jones, "Communication Skills, Community Advocacy and Leadership/Community Development, Vol. I, Trainer Guide" (Washington, DC: LSC, 1981), p. 73.

[84] Ibid., p. 87.

[85] Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," pp. 582-619 passim, and Committee on Labor and Human Resources, "Legal Services Corporation Act Amendments of 1983," pp. 282-542 passim.

[86] See William Rusher, "A Legal Fiefdom Fighting the Law," The Washington Times, August 31, 1983, p. 2-C; Tom Diaz, "Funds Held Misused for Lobbying," The Washington Times, July 15, 1983, p. 3-A; idem, "Conservatives Press Fight on Legal Services Abuses," The Washington Times, July 14, 1983, p. 3-A; and idem, "Official Denies Legal Aid Fund Used for 'Survival'," The Washington Times, July 13, 1983, pp. 1-A, 12-A.

[87] Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983," p. 169.

[88] Committee on Labor and Human Resources, "Legal Services Corporation Act Amendments of 1983," pp. 392-397.

[89] Ibid., pp. 256-258.

[90] Jack Anderson, "Legal Services Mismanagement Is Uncovered," The Wasington Post, April 11, 1984, p. F-16.

[91] William Kucewicz, "A Little Larceny in Legal Services?" The Wall Street Journal, August 19, 1983, p. 18.; also, see Tom Diaz, "Shredding of Files in LSC Probe Disclosed," The Washington Times, September 23, 1983, p. 2-A.

[92] For example, The Washington Post published a number of articles on the board members' travel and consulting fees: "Legal Services Appointees Get Fat Fees," December 15, 1982, pp. A-1, A-11; "Legal Services Head's Contract Sweet," December 16, 1982, pp. A-1, A-8; "Sabotaging Legal Services," December 16, 1982, p. A-22; "Reagan Outlines Inquiry on Legal Services," December 17, 1982, p. A-2; "Recovery of Legal Fees Paid Legal Officials Demanded," December 18, 1982, A-1, A-5; "Legal Disservice," December 19, 1982, p. C-6; "Hill Group Asks GAO Inquiry Into Legal Services Board Fees," December 21, 1982, p. A-3; "Legal Board Members Avoid Joining 'Em by Representing 'Em," December 21, 1982, p. A-2; "Reagan Aid Meese Defends Members of Legal Services Panel on Fee Charge," December 24, 1982, p. A-2; "July Memo Warned Legal Services Officials on Fees," December 31, 1982, p. A-5; and "The Dubious Deals of Reagan's Crowd," January 2, 1982, p. A-1.

[93] U.S. General Accounting Office, Letter Number B-210338 from the Comptroller General to Representative Robert Kastenmeier, dated August 31, 1982, p. 1. It is interesting to note that after the flood of articles that the Washington Post published on the payment "scandal" it took eight days for this newspaper to report on the GAO investigative report: Howard Kurtz, "No Violations Found in Legal Services Fees," The Washington Post, September 8, 1983, p. A-6; also, see Tom Diaz, "LSC to Stop Funds for Clients Council," The Washington Times, January 4, 1984, p. 4-A.

[94] See Tom Diaz, "Press Held 'Used' in Legal Services Ploy," The Washington Times, August 4, 1983, p. 2-A, and Tom Diaz, "Story Behind the Story on 'Smokescreen' Attack in Legal Service Hassle," The Washington Times, September 12, 1983, p. 4-A.

[95] Tom Diaz, "Legal Services Flap Produces Charges of Death Threats," The Washington Times, July 20, 1983, p. A-2.

[96] Pete Early, "Legal Aid Board Votes to Request Budget Increase," The Washington Post, January 7, 1984, p. A-5.

[97] Ibid.

[98] Senator Orrin Hatch, "Opening Statement," Committee on Labor and Human Resources, "Legal Services Corporation Act Amendment of 1983," p. 1.

[99] Michael S. Serrill, "An Organization at War with Itself," Time, October 3, 1983, p. 83.

[100] "Gifts Support Bar's Social Budget," The Washington Post, November 16, 1981, Washington Business Section, p. 15; also, see "Washington Talk: A.B.A. Grants Rejected," The New York Times, September 27, 1982, p. A-12.

[101] "Whom Can you Trust?" Wall Street Journal, January 29, 1985, p. 32.

[102] Ibid.

APPENDIX TABLE XII-1.—LEGAL SERVICES CORPORATION FISCAL YEAR 1983 PROGRAM FUNDING LEVELS

Program name and location	Funding level
Connecticut Legal Services, Inc., Cromwell, CT	$1,333,624
Community Renewal Team of Greater Hartford, Hartford, CT	313,604
South Central Connecticut Legal Services, New Haven, CT	543,892
Pine Tree Legal Assistance Association, Portland, ME	1,099,574
Boston Bar Association-Volunteer Lawyers Project, Boston, MA	127,141
Greater Boston Legal Services, Inc., Boston, MA	1,842,952
Voluntary Defenders Committee, Inc., Boston, MA	370,091
National Consumer Law Center, Boston, MA	539,961
Cambridge and Somerville Legal Services, Cambridge, MA	342,371
Center for Law and Education, Cambridge, MA	480,693
South Middlesex Legal Services, Inc., Framingham, MA	161,625
Legal Services for Cape Code and Islands, Hyannis, MA	209,005
Merrimack Valley Legal Services, Inc., Lowell, MA	332,951
Neighborhood Legal Services, Inc., Lynn, MA	241,266
Southeastern Massachusetts Legal Assistance Corp., New Bedford, MA	395,763
Western Massachusetts Legal Services, Northampton, MA	499,839
Legal Assistance Corp. of Central Massachusetts, Worcester, MA	404,040
New Hampshire Legal Assistance, Inc., Manchester, NH	543,496
New Hampshire Pro Bono Referral System, Concord, NH	70,367
Rhode Island Legal Services, Inc., Providence, RI	723,420
Vermont Legal Aid, Inc., Burlington, VT	594,465
Legal Aid Society of Northeastern New York, Albany, NY	704,251
Oak Orchard Legal Services, Inc., Albion, NY	127,903
Broome Legal Assistance Corp., Birmingham, NY	153,518
Neighborhood Legal Services, Inc., Buffalo, NY	624,440
Chautauqua County Legal Services, Inc., Dunkirk, NY	105,100
Mid Mohawk Legal Services, Inc., Amsterdam, NY	92,610
Chemung County Neighborhood Legal Services, Inc., Elmira, NY	193,788
Nassau/Sufflok County Law Services, Hempstead, NY	852,844
Legal Aid Society of Rockland County, New City, NY	122,811
Center on Social Welfare Policy & Law, New York, NY	522,449
Community Action for Legal Services, New York, NY	8,652,988
National Employment Law Project, New York, NY	416,189
Niagara County Legal Aid Society, Inc., Niagara Falls, NY	119,896
National Center on Women & Family Law, New York, NY	202,174
Mid-Hudson Legal Services, Inc., Poughkeepsie, NY	472,004
Farmworker Legal Services of New York Inc., Riverhead, NY	223,951
Monroe County Legal Assistance Corp., Rochester, NY	798,054
Legal Services of Central New York, Inc., Syracuse, NY	583,450
Legal Aid Society of Oneida County, Inc., Utica, NY	375,289
Westchester Legal Services, Inc., White Plains, NY	568,458
North Country Legal Services, Plattsburg, NY	244,835
Legal Aid Society Volunteer Division, New York, NY	39,957
Southern Tier Legal Services, Bath, NY	256,502
Puerto Rico Legal Services, Inc., Santurce, PR	10,908,786
Inter-American University of Puerto Rico-San Juan CLO, Santurce, PR	256,921
Legal Services of the Virgin Islands, Christiansted, VI	401,903
Delaware Legal Services Corp., Wilimington, DE	382,007
Antioch School of Law/Urban Law Institute, Washington, DC	353,025
National Social Science Law Center, Washington, DC	253,416
Migrant Legal Action Program, Inc., Washington, DC	452,206
National Clients Council, Washington, DC	524,700
Neighborhood Legal Service Program, Washington, DC	1,399,254
Mental Health Law Project, Washington, DC	75,396
NRTA/AARP Legal Counsel for Elderly, Washington, DC	85,517
Food Research and Action Center, Washington, DC	50,000
National Veteran's Legal Services Project, Washington, DC	75,396
Legal Aid Bureau, Inc., Baltimore, MD	2,559,961
Cape-Atlantic Legal Services, Inc., Atlantic City, NJ	191,878
Warren County Legal Services Corp., Belvidere, NJ	37,773
Camden Regional Legal Services, Inc., Camden, NJ	856,960
Union County Legal Services Corp., Elizabeth, NJ	227,569
Hunterdon County Legal Service Corp., Flemington, NJ	34,967
Bergen County Legal Services Association, Hackensack, NJ	225,683
Hudson County Legal Services Corp., Jersey City, NJ	466,330
Essex-Newark Legal Services Project, Inc., Newark, NJ	919,224
Middlesex County Legal Services Corp., New Brunswick, NJ	251,196
Legal Services of New Jersey, Inc., New Brunswick, NJ	161,439
Passaic County Legal Aid Society, Paterson, NJ	306,191
Somerset-Sussez Legal Services, Somerset, NJ	144,200
Ocean-Monmouth Legal Services, Toms River, NJ	335,127
Legal Aid Society of Mercer County, Trenton NJ	277,880
Legal Aid Society of Morris County, Morristown, NJ	88,936
Legal Services, Inc., Carlisle, PA	169,646
Delaware County Legal Assist Association, Chester, PA	409,356
Bucks County Legal Aid Society, Bristol, PA	160,450
Laurel Legal Services, Inc., Greensburg, PA	402,529
Southern Alleghenys Legal Aid, Inc., Johnstown, PA	239,182
Central Pennsylvania Legal Services, Lancaster, PA	739,752
Community Legal Services, Inc., Philadelphia, PA	1,831,864
Neighborhood Legal Services Association, Pittsburgh, PA	1,210,700
Northern Pennsylvania Legal Services, Scranton, PA	277,600
Keystone Legal Services, Inc., State College, PA	263,765
Soutwestern PA Legal Aid Society, Washington, PA	395,703
Legal Aid of Chester County, Inc., West Chester, PA	117,006
Legal Services of Northeastern Pennsylvania, Inc, Wilkes-Barre, PA	310,449
Susquehanna Legal Services, Williamsport, PA	312,947

APPENDIX TABLE XII-1.—LEGAL SERVICES CORPORATION FISCAL YEAR 1983 PROGRAM FUNDING LEVELS—Continued

Program name and location	Funding level
Northwestern Legal Services, Eire, PA	448,798
Blair County Legal Services, Altoona, PA	99,142
Lehigh Valley Legal Services, Bethlehem, PA	216,535
Montgomery County Legal Aid Services, Norristown, PA	182,970
Schuykill County Legal Services, Pottsville, PA	137,878
Legal Services of Southeastern Michigan, Ann Arbor, MI	335,086
Legal Services Organization of South Central Michigan, Battle Creek, MI	164,685
Michigan Migrant Legal Assistance Program, Berrien Springs, MI	353,820
Michigan Legal Services, Detroit MI	337,422
Wayne County Neighborhood Legal Services, Detroit MI	1,732,293
Legal Services of Eastern Michigan, Flint, MI	590,586
Legal Services of Central Michigan, Lansing, MI	248,902
Lakeshore Legal Services, Mt Clemens, MI	337,945
Oakland Livingston Legal Aid, Pontiac, MI	311,658
Berrien County Legal Services Bureau, St Joseph, MI	120,203
Upper Peninsula Legal Services Inc., Sault Ste. Marie, MI	680,660
Legal Aid of Western Michigan, Grand Rapids, MI	644,280
Legal Aid Bureau of Southwestern Michigan, Kalamazoo, MI	212,916
Summit County Legal Aid Society, Akron, OH	389,778
Stark County Legal Aid Society, Canton, OH	180,812
Legal Aid Society of Cincinnati, Cincinnati, OH	705,141
Council for Economic Opportunities, Cleveland, OH	1,364,955
The Legal Aid Society of Columbus, Columbus, OH	632,347
Ohio State Legal Services Association of Southeast Ohio, Columbus, OH	1,210,090
Legal Aid Society of Dayton, Dayton OH	301,961
Legal Aid Society of Lorain County, Inc. Elyria, OH	115,673
Butler Warren Legal Assistance, Hamilton, OH	161,766
Allen County Legal Services Association, Lima, OH	211,004
Central Ohio Legal Aid Society, Newark, OH	199,022
Advocates for Basic Legal Equality Inc.,Toledo, OH	659,764
Toledo Legal Aid Society, Toledo, OH	168,604
Wooster-Wayne Legal Aid Society, Wooster, OH	45,036
Northeast Ohio Legal Services, Youngstown, OH	396,651
Rural Legal Aid Society of West Central Ohio, Springfield, OH	335,857
Legal Services of Northern Virginia, Arlington, VA	310,361
Charlottesville-Albemarle Legal Aid Society, Charlottesville, VA	147,540
Rappahannock Legal Services, Inc., Fredericksburg, VA	274,104
Southwest Virginia Legal Aid Society, Marion, VA	203,050
Peninsula Legal Aid Center, Inc., Hampton, VA	420,050
Neighborhood Legal Aid Society, Inc., Richmond, VA	412,596
Legal Aid Society of New River Valley, Christiansburg, VA	101,134
Legal Aid Society of Roanoke Valley, Roanoke, VA	294,498
Tidewater Legal Aid Society, Norfolk, VA	637,064
Virginia Legal Aid Society, Lynchburg, VA	824,374
Virginia Poverty Law Center, Inc., Richmond, VA	181,243
Petersburg Legal Aid Society, Inc., Petersburg, VA	131,940
Blue Ridge Legal Services, Inc., Harrisonburg, VA	218,755
Client Centred Legal Services of Southwest Virginia, Castlewood, VA	379,580
Appalachnian Research & Defense Fund, Inc., Charleston, WV	722,424
Legal Aid Society of Charleston, Charleston, WV	347,116
West Virginia Legal Services Plan, Charleston, WV	1,170,127
North Central West Virginia Legal Aid Society, Morgantown, WV	255,963
Cook County Legal Assistance Foundation, Chicago, IL	556,931
Legal Assistance Foundation of Chicago, Chicago, IL	3,255,061
Land of Lincoln Legal Assistance Foundation, Alton, IL	2,118,773
Prairie State Legal Services, Inc., Rockford, IL	1,349,286
West Central Illinois Legal Assistance, Galesburg, IL	128,210
Legal Services of Maumee Valley, Inc., Fort Wayne, IN	226,402
Legal Aid Society of Gary, Inc., Gary, IN	341,194
Legal Services Organization of Indiana, Indianapolis, IN	2,211,546
Legal Services Program of Northern Indiana, South Bend, IN	645,513
Legal Services Corporation of Iowa, Des Moines, IA	1,992,448
Legal Aid Society of Polk County, Des Moines, IA	345,220
Kansas Legal Services, Topeka, KS	1,809,957
Legal Aid Services of Northeast Minnesota, Duluth, MN	325,419
Judicare of Anoka County, Anoka, MN	37,803
Central Minnesota Legal Services, Minneapolis, MN	927,896
Northwest Minnesota Legal Services, Inc., Moorhead, MN	386,036
Southern Minnesota Regional Legal Services, St. Paul, MN	1,285,003
Southeast Missouri Legal Services, Caruthersville, MO	507,628
Meramec Area Legal Aid Corporation, Farmington, MO	234,817
Legal Aid of Western Missouri, Kansas City, MO	1,387,756
Legal Services of Northeast Missouri, Inc., Hannibal, MO	193,790
Legal Services of Eastern Missouri, St. Louis, MO	1,234,893
Mid-Missouri Legal Services Corp., Columbia, MO	270,603
Legal Aid Association of Southwest Missouri, Springfield, MO	530,912
Legal Services of Southeast Nebraska, Lincoln, NE	315,638
Legal Aid Society of Omaha, Omaha, NE	541,712
Western Nebraska Legal Services, Inc., Scottsbluff, NE	487,934
Legal Assistance of North Dakota, Bismarck, ND	735,629
Black Hills Legal Services, Inc., Rapid City, SD	160,613
East River Legal Services Corp., Sioux Falls, SD	422,238
Legal Action of Wisconsin, Inc., Milwaukee, WI	1,472,940
Wisconsin Judicare, Inc., Wausau, WI	834,524
Legal Services of Northeast Wisconsin, Green Bay, WI	444,353
Western Wisconsin Legal Services, Inc., La Crosse, WI	314,552
Legal Services Corporation of Alabama, Montgomery, AL	4,290,521
Legal Services of North Central Alabama, Huntsville, AL	449,492
Birmingham Area Legal Services Corp., Birmingham, AL	794,460
Central Arkansas Legal Services, Inc., Little Rock, AR	752,757
Ozark Legal Services, Fayetteville, AR	393,096
Legal Services of Northeast Arkansas, Newport, AR	396,867
Western Arkansas Legal Services, Fort Smith, AR	275,069
East Arkansas Legal Services, West Memphis, AR	605,274
Legal Services of Arkansas, Little Rock, AR	824,654
Central Florida Legal Services, Daytona Beach, FL	561,579
Legal Aid Service of Broward Co., Inc., Ft. Lauderdale, FL	453,686
Florida Rural Legal Services, Inc., Lakeland, FL	1,739,411
Jacksonville Area Legal Aid, Jacksonville, FL	790,122
Legal Services of Greater Miami, Miami, FL	1,232,028

APPENDIX TABLE XII–1.—LEGAL SERVICES CORPORATION FISCAL YEAR 1983 PROGRAM FUNDING LEVELS—Continued

Program name and location	Funding level
Legal Services of North Florida Inc., Tallahassee, FL	642,076
Greater Orlando Area Legal Services, Orlando, FL	421,851
Bay Area Legal Services, Inc., Tampa, FL	585,528
Withlacoochee Area Legal Services, Brookville, FL	185,729
Three Rivers Legal Services, Gainesville, FL	377,348
Northwest Florida Legal Services, Pensacola, FL	270,023
Gulfcoast Legal Services, Inc., St. Petersburg, FL	626,346
Atlanta Legal Aid Society, Atlanta, GA	1,142,407
Georgia Legal Services Program, Atlanta, GA	5,263,733
Northern Kentucky Legal Services, Covington, KY	241,506
Legal Aid Society of Louisville, Louisville, KY	848,303
Central Kentucky Legal Services, Inc., Lexington, KY	411,760
Northeast Kentucky Legal Services, Inc., Morehead, KY	382,360
Appalachian Research & Defense Fund, Kentucky, Prestonsburg, KY	1,796,005
Cumberland Trace Legal Services, Bowling Green, KY	340,388
Western Kentucky Legal Services, Madisonville, KY	691,526
Capital Area Legal Services Corp., Baton Rouge, LA	846,341
Southwest Louisiana Legal Services Society, Lake Charles, LA	323,958
North Louisiana Legal Assistance Corp., Monore, LA	709,417
New Orleans Legal Assistance Corp., New Orleans, LA	1,276,206
Northwest Louisiana Legal Services Inc., Shreveport, LA	564,156
Acadiana Legal Services, Lafayette, LA	977,815
Kisatchie Legal Services Corp., Natchitoches, LA	290,756
Central Louisiana Legal Services, Inc., Alexandria, LA	327,585
Southeast Louisiana Legal Services, Hammond LA	518,810
Judicare of Mississippi, Columbus, MS	105,219
Central Mississippi Legal Services, Jackson, MS	789,347
North Mississippi Rural Legal Services, Oxford, MS	2,323,417
South Mississippi Legal Services Corp., Biloxi, MS	495,056
East Mississippi Legal Services, Forest, MS	494,605
Southeast Mississippi Legal Services, Hattiesburg, MS	428,945
Southwest Mississippi Legal Services, McComb, MS	439,013
Legal Services of North Carolina, Inc., Raleigh, NC	5,028,037
Legal Services of Southern Piedmont, Charlotte, NC	540,254
North Central Legal Assistance Program, Durham, NC	456,254
Legal Aid Society of Northwest North Carolina, Winston Salem, NC	418,146
Neighborhood Legal Assistance Program, Charleston, SC	1,164,699
Palmetto Legal Services, Columbia, SC	1,065,457
Carolina Regional Legal Services Corp., Florence, SC	226,695
Legal Services of Western Carolina, Greenville, SC	535,112
Piedmont Legal Services, Inc., Spartanburg, SC	542,838
Legal Services of the Fourth Judicial Circuit, Hartsville, SC	388,901
Southeast Tennessee Legal Services Inc., Chattanooga, TN	517,747
Legal Services of Upper East Tennessee, Johnson City, TN	626,053
University of Tennessee Legal Aid Clinic/Knoxville, Knoxville, TN	467,526
Memphis Area Legal Services, Memphis, TN	1,089,649
Legal Services of Nashville & Middle Tennessee, Nashville, TN	1,062,958
Rural Legal Services of Tennessee, Oak Ridge, TN	626,547
West Tennessee Legal Services, Jackson, TN	677,936
Legal Services of South Central Tennessee, Columbia, TN	447,288
Pinal & Gila County Legal Aid Society, Coolidge, AZ	181,219
Coconino County Legal Aid, Flagstaff, AZ	85,341
Community Legal Services, Phoenix, AZ	1,083,049
Papago Legal Services, Sells, AZ	139,398
Southern Arizona Legal Aid, Inc., Tucson, AZ	808,966
DNA-People's Legal Services, Inc, Window Rock, AZ	1,767,407
California Indian Legal Services, Oakland, CA	569,888
Native Rights Fund Indian Law Center, Boulder, CO	205,694
Pikes Peak Legal Services, Colorado Springs, CO	208,857
Colorado Rural Legal Services, Inc., Denver, CO	1,135,741
Legal Aid Society of Metropolitan Denver, Denver, CO	821,292
Pueblo County Legal Services, Inc., Pueblo, CO	146,201
Native Hawaiian Legal Corporation, Honolulu, HI	80,547
Anishinabe Legal Services, Cass Lake, MN	150,657
Legal Aid Society of Albuquerque, Inc., Albuquerque, NM	413,381
Southern New Mexico Legal Services, Inc., Las Cruces, NM	623,923
Northern New Mexico Legal Services, Taos, NM	607,616
Indian Pueblo Legal Services, Laguna, NM	274,294
North Dakota Legal Services, New Town, ND	98,036
Oklahoma Indian Legal Services, Inc., Oklahoma City, OK	228,744
Western Oklahoma Legal Services, Oklahoma City, OK	1,670,888
Legal Services of Eastern Oklahoma, Tulsa, OK	1,319,715
Dakota Plains Legal Services, Mission, SD	729,775
Legal Aid Society of Central Texas, Austin, TX	1,129,407
Coastal Bend Legal Services, Corpus Christi, TX	706,309
North Central Texas Legal Service Foundation, Dallas, TX	1,094,422
El Paso Legal Assistance Society, El Paso, TX	477,251
West Texas Legal Services, Fort Worth, TX	2,353,272
Gulf Coast Legal Foundation, Houston, TX	2,045,957
Laredo Legal Aid Society, Inc., Laredo, TX	198,750
Bexar County Legal Aid Association, San Antonio, TX	981,770
Heart of Texas Legal Services Corp., Waco, TX	344,455
Texas Rural Legal Aid, Inc., Weslaco, TX	3,348,209
East Texas Legal Services, Inc., Nacogdoches, TX	1,877,648
Utah Legal Services, Inc., Salt Lake City, UT	841,866
Wind River Legal Services, Forth Washakie, WY	133,856
Greater Bakersfield Legal Assistance, Inc., Bakersfield, CA	321,805
National Economic Development Law Project, Berkeley, CA	338,594
National Housing & Law Project, Berkeley, CA	591,591
Southeast Legal Aid Center, Compton, CA	487,606
Fresno-Merced Counties Legal Services, Inc., Fresno, CA	604,993
Legal Aid Foundation of Long Beach, Long Beach, CA	549,799
Legal Aid Foundation of Los Angeles, Los Angeles, CA	2,425,824
National Center for Immigrants Rights, Los Angeles, CA	135,757
National Health Law Program, Santa Monica, CA	503,542
National Senior Citizens Center, Los Angeles, CA	486,773
Western Center on Law & Poverty, Inc., Los Angeles, CA	860,026
Napa County Legal Assistance Agency, Napa, CA	99,496
Legal Aid Society of Alameda County, Oakland, CA	1,287,515
Charles Houston Bar Association, Oakland, CA	113,578
Channel Counties Legal Services Association, Oxnard, CA	320,148
San Fernando Valley Neighborhood Legal Society, Pacoima, CA	737,105
Legal Aid Society of Pasadena, Pasadena, CA	650,031
Legal Aid Society of San Mateo County, Redwood City, CA	428,874
Contra Costa Legal Services Foundation, Richmond, CA	376,518
Inland Counties Legal Services, Riverside, CA	878,957
Legal Services of Northern California, Sacramento, CA	938,048
Legal Aid Society of San Diego, Inc., San Diego, CA	844,672
California Rural Legal Assistance, San Francisco, CA	3,978,641
San Francisco Neighborhood Legal Assistance, San Francisco, CA	1,294,429
Legal Aid Society of Santa Clara County, San Jose, CA	506,928
Legal Aid Society of Marin County, San Rafael, CA	82,459
Legal Aid Society of Orange County, Santa Ana, CA	586,642
Legal Aid Society of Monterey County, Monterey, CA	171,769
Tulare County Legal Service Association, Visalia, CA	321,597
Solano County Legal Assistance Agency, Vallejo, CA	163,558
Legal Aid Society of Santa Cruz County, Watsonville, CA	135,511
Redwood Legal Services, Eureka, CA	302,609
Bet Tzedek Legal Services, Los Angeles, CA	79,472
Bar Association of San Francisco Volunteer Legal Services Program, San Francisco, CA	15,744
National Center for Youth Law, San Francisco, CA	499,622
Washoe Legal Services, Reno, NV	111,027
Nevada Legal Services, Carson City, NV	359,663
Alaska Legal Services Corp., Anchorage, AK	1,325,118
Legal Aid Society of Hawaii, Honolulu, Oahu, HI	580,863
Idaho Legal Aid Services, Inc., Boise, ID	868,778
Montana Legal Services Association, Helena, MT	852,932
Oregon Legal Services Corporation, Portland, OR	1,497,311
Lake County Legal Aid Service, Inc., Eugene, OR	163,360
Legal Aid Service Multnomah Bar Association, Portland, OR	408,278
Marion-Polk Legal Aid Service, Inc., Salem, OR	144,751
Evergreen Legal Services, Seattle, WA	2,690,643
Spokane Legal Services Center, Spokane, WA	265,456
Puget Sound Legal Assistance Foundation, Tacoma, WA	302,680
Legal Aid Services, Casper, WY	201,783
Legal Services for Southeastern Wyoming, Cheyenne, WY	159,602
Micronesian Legal Services Corp., Saipan Marina Island, GU	712,300
Guam Legal Services Corporation, Agana, GU	150,220

Source: Freedom of information request to the Legal Services Corporation.

APPENDIX TABLE XII–2.—LEGAL FEE AWARDS AND FUND BALANCES FOR LEGAL SERVICES CORPORATION GRANTEES

	Legal fee awards for Legal Services Corporation grantees			Fund balances for Legal Services Corporation grantees		
	1980	1981	1982	1980	1981	1982
State:						
Alabama	$13,294	$73,562	$53,865	$2,833,947	$3,537,815	$1,160,769
Alaska	38,638	22,254	439,704	0	138,435	0
Arizona	41,315	61,905	30,201	524,660	829,091	163,633
Arkansas	1,544	4,218	12,085	1,941,443	2,321,158	1,305,530
California	242,846	566,355	580,981	3,641,155	3,574,156	2,314,621
Colorado	96,393	101,657	119,769	358,258	556,586	687,157
Connecticut	4,850	1,115	336	111,829	131,373	36,645
Delaware	0	0	0	43,014	51,137	84,638
Florida	18,278	68,119	53,612	1,271,494	2,148,885	1,067,842
Georgia	19,031	56,820	169,129	1,119,102	1,423,315	629,245
Hawaii	0	0	0	8,861	72,571	61,375
Idaho	0	0	0	30,103	86,841	59,411
Illinois	298,064	425,065	440,779	1,114,088	1,737,483	770,298
Indiana	26,980	14,575	40,652	253,411	538,911	550,127
Iowa	0	0	1,500	296,459	558,637	149,054
Kansas	0	0	0	351,236	265,989	193,015
Kentucky	30,593	125,660	108,984	586,321	1,008,825	772,712
Louisiana	4,713	6,040	22,266	2,061,168	2,427,605	1,508,548
Maine	0	0	0	53,647	67,643	91,281
Maryland	0	0	0	309,108	40,354	8,435
Massachusetts	566,175	196,964	398,291	730,943	770,056	536,406
Michigan	71,223	52,907	96,751	799,886	1,099,068	506,542
Minnesota	1,477	2,232	64,850	531,323	417,646	304,815
Mississippi	12,829	14,384	13,665	886,299	1,303,910	676,915
Missouri	40,018	62,017	73,188	829,299	1,688,263	1,120,057
Montana	200	239	100	51,835	125,849	122,729
Nebraska	28,391	18,560	16,800	298,114	346,615	136,674
Nevada	0	9,544	78,564	117,804	298,948	44,986
New Hampshire	7,562	35,186	10,818	73,580	83,473	13,156
New Jersey	7,610	13,118	9,309	388,402	742,777	595,149
New Mexico	354	4,352	5,861	176,756	319,986	276,954
New York	76,149	327,967	599,752	2,880,041	3,763,096	1,575,543
North Carolina	11,746	0	0	1,853,473	2,802,223	1,589,851
North Dakota	1,337	115	5,838	280,785	357,280	360,809
Ohio	30,969	39,711	93,128	1,697,749	2,186,697	745,353
Oklahoma	6,614	5,501	3,055	960,099	1,506,237	1,008,579
Oregon	19,351	26,276	32,501	155,978	0	13,924
Pennsylvania	15,068	5,325	149,373	1,521,834	1,467,948	1,802,585
Rhode Island	1,857	5,362	5,205	8,620	39,676	91,038
South Carolina	7,058	6,413	1,979	1,706,386	2,204,876	1,161,036
South Dakota	283	6,784	2,205	171,946	338,718	280,657
Tennessee	12,848	27,501	103,108	1,970,360	1,582,865	1,261,291
Texas	70,995	128,957	95,382	3,046,341	4,092,387	1,996,207
Utah	21,350	21,672	60,996	63,377	68,756	16,249

APPENDIX TABLE XII–2.—LEGAL FEE AWARDS AND FUND BALANCES FOR LEGAL SERVICES CORPORATION GRANTEES—Continued

	Legal fee awards for Legal Services Corporation grantees			Fund balances for Legal Services Corporation grantees		
	1980	1981	1982	1980	1981	1982
Vermont	0	200	333	23,714	24,401	39,258
Virginia	12,814	12,857	19,046	1,845,631	1,907,826	767,538
Washington	28,458	94,543	41,433	425,265	455,968	146,167
West Virginia	12,481	7,017	152,837	120,046	184,156	336,306
Wisconsin	38,160	168,998	62,196	253,338	550,344	448,633
Wyoming	0	0	350	107,098	193,113	80,429
District of Columbia	0	22,564	19,399	1,072,706	1,215,676	1,949,105
Guam	0	0	0	0	33,039	7,449
Micronesia	0	0	0	2,205	91,754	38,575
Puerto Rico	11,385	12,542	12,542	3,830,951	6,150,643	2,272,699
Virgin Islands	0	0	0	106,607	129,291	85,343
Total	1,951,301	2,857,153	4,302,718	44,898,095	60,060,371	34,023.323

Source: U.S. Congress, Senate, Committee on Labor and Human Resources, "Oversight of the Legal Services Corporation, 1983 Hearing before the Committee on Labor and Human Resouces," 98th Cong., 1st sess., 1983, pp. 476–505.

APPENDIX TABLE XII–3.—SELECTED FEDERAL GRANTS AND CONTRACTS TO THE AMERICAN BAR ASSOCIATION

Contract No. and awarding agency	Grant	Stated purpose	Date of grant
EMWG0872—Federal Emergency Management Agency.	$4,655	Arson Task Force Assistance Program.	5/82–5/83.
EMWK0577—Federal Emergency Management Agency.	10,000	Arson for Profit: The Insurer's Defense.	4/81–9/81.
EMWK0605—Federal Emergency Management Agency.	143,917	Alternatives for Effective Code Enforcement and Compliance Programs.	6/81–9/81.
EMWG0033—Federal Emergency Management Agency.	14,643	ABA Young Lawyers Division Arson Project.	7/81–7/82.
90CW631—Department of Health and Human Services.	100,000	Public education to encourage enactment of uniform Child Custody Jurisdiction Act.	9/81–9/82.
21–11–79–13—Department of Labor.	99,930	Study of Offender Programs under CETA.	FY1981.
13.637—Department of HHS.	85,003	Special Program For Aging—Training.	FY1981.
90C1690—Department of HHS.	150,600	National Legal Resource Center for Child Advocacy and Protection.	9/81–9/82.
N/A—National Endowment for the Humanities.	28,477	To support the planning of a program aimed at increasing the public understanding of fundamental principles of our legal and judicial system.	FY1981.
T901291010—Environmental Protection Agency.	3,000	Fund for public education.	2/81–9/81.
G008100688—Department of Education.	1,000,000	Law school fellowships for the disadvantaged.	6/81.
FG01–81EV10524—Department of Energy.	9,998	Joint conference between Canadian B.A. and A.B.A. on common boundary, common problems: energy production and environmental consequences.	5/81–10/81.
N/A (renewal)—National Endowment for the Humanities.	76,000	To support continuing preparation of volume 2 of a 3-volume study of the war powers of the President and the Congress in a debate about and use of these powers in American history.	FY1981.
81IJCX0011—Department of Justice.	79,978	To implement and study the effects of telephone conferencing to conduct court business in criminal cases.	2/81–1/83.

APPENDIX TABLE XII–3.—SELECTED FEDERAL GRANTS AND CONTRACTS TO THE AMERICAN BAR ASSOCIATION—Continued

Contract No. and awarding agency	Grant	Stated purpose	Date of grant
80C1AX0099—Department of Justice.	44,971	Continuation of a fiscal year 1979 discretionary grant concerning victim/witness problems from the perspective of their organization.	10/80–10/81.
80DFAX0029—Department of Justice.	75,000	Continuing education for appellate judiciary, and staff. This project supports eight seminars.	10/80–9/81.
N/A—National Endowment for the Humanities.	70,000	For program in undergraduate education in law and humanity.	FY1980.
N/A—National Endowment for the Humanities.	119,701	For law and the humanities, a design for elementary education.	FY1980.
N/A—National Endowment for the Humanities.	24,986	To support research, papers, and a symposium in which lawyers, scientists, and ethical analysts will explore the dilemmas and options involved in maintaining the traditional values of individual privacy and autonomy in a society of rapidly expanding information technology.	FY1980.
90–06–1690—Administration for Children, Youth and Families (HHS).	259,806	A national legal resource center for child advocacy and protection.	4/80–9/81.
90–CW–631—Administration for Children, Youth and Families (HHS).	75,067	The first year of a two-year grant for a public education project to encourage the enactment of the Uniform Child Custody Jurisdiction Act.	9/80–9/81
13.608—Department of HHS.	75,067	Child Welfare Research and Demonstration Grants.	FY1980
13.634—Department of HHS.	80,083	Special Program for Aging—Title IV C.	FY1980.
13.628—Department of HHS.	259,806	Child Abuse and Neglect-Prevention and Treatment.	FY1980.
13.631—Department of HHS.	123,806	Developmental Disabilities—Special Projects.	FY1980.

APPENDIX TABLE XII–3.—SELECTED FEDERAL GRANTS AND CONTRACTS TO THE AMERICAN BAR ASSOCIATION—Continued

Contract No. and awarding agency	Grant	Stated purpose	Date of grant
79DFAX0198—Department of Justice.	51,125	Drafting of the Bar Leadership Manual on victim/witness assistance, which will provide specific information on start-up, operations, network coordination, and activities sponsored by and operating both within and without the criminal justice system.	10/79–10/80.
79DFAX0224—Department of Justice.	100,000	To keep the appellate judiciary abreast of new developments in the law and to make them better decision makers. The project consists of a series of six seminars.	10/79–10/80.
21–11–79–13—Department of Labor.	80,000		5/79–11/81.
21–11–79–13—Department of Labor.	24,308		5/79–11/81.
21–11–79–13—Department of Labor.	190,928		10/79–11/81.
79DFAX0032—Department of Justice.	297,977	To find solutions, through research and exemplary projects, to the problems of court delay and excessive costs in litigation.	2/79–11/80.
N/A—Department of State.	46,260	To enable the association to arrange and conduct a seminar in the U.S. entitled "A Study of Citizen Access to Justice in U.S. and Selected Countries of Latin America and the Caribbean" for members of the legal profession from other countries.	FY1979.
N/A—Department of State.	6,547	To assist the association in sending American lawyers to the U.S.S.R. to participate in a series of seminars sponsored by the Association of Soviet Lawyers.	FY1979.

APPENDIX TABLE XII–3.—SELECTED FEDERAL GRANTS AND CONTRACTS TO THE AMERICAN BAR ASSOCIATION—Continued

Contract No. and awarding agency	Grant	Stated purpose	Date of grant
78TAAX0049—Department of Justice.	92,516	To provide seminars for a large percentage of the nation's appellate judges held in regional locations including lectures and workshops concerning topics in judicial philosophy, court decision having state and Federal impact, etc..	9/78–9/79.
G008200550—Department of Education.	960,000	Council on Legal Education Opportunity.	2/82.
78NIAX0023—Department of Justice.	35.055	To analyze the process by which the State and local pilot jurisdictions consider the model procurement code.	3/78–2/79.
79NAX0006—Department of Justice.	1,038,364	One of six projects which constitutes a current program on law-related education, objective: to prepare a long range blueprint for law and juvenile education and to ensure coordinated activities among programs.	11/78–11/81.
78DFAX0054—Department of Justice.	174,938	To provide funding for a second and final 12-month phase of a project to update the American Bar Association standards relating to the Administration of Criminal Justice.	3/78–6/79.
78DFAX0077—Department of Justice.	210,000	For the National Judicial College, project of the American Bar Association summary: the grant is for core support, which combined with project income will allow NJC to conduct 38 resident sessions, which represents 55 weeks of judicial training for 1,325 participants.	2/78–12/78.
78JNAX0002—Department of Justice.	124,897	To develop legal and administrative standards to improve the effectiveness, efficiency, and fairness of the juvenile justice system.	11/77–3/79.
99–7–581–42–12—Department of Labor.	199,961	.....	12/76–2/79.

Source: Freedom of Information requests to various agencies.

Mr. GRAMM. Mr. President, it is time to make a choice. It is a choice between the lawyers and the farmers. It is a choice between litigation and agriculture. It is a choice of whether we are going to set priorities or whether we are going to say we are going to fund every good cause.

I think I have outlined a long list of abuses by Legal Services.

Listening to my colleague and friend from Massachusetts, you would think that he had never heard of the long and honorable history of pro bono legal work by the bar associations around this country.

I wonder why Thomas Jefferson forgot legal services in defining the basic rights of our people.

My point, Mr. President, is that budgets are about choices. Sometimes those choices are hard choices. This is a hard choice. But we are going to vote here in terms of priorities.

I ask those who believe that in this difficult time in agriculture, with a hard transition upon us, money that could fund crop insurance and soil and water conservation is more or less important than funds that have been used and are being used today to stop elections, to fund suits for sex changes, to use universities to stop agricultural research because it might increase productivity, it might be capital intensive, it might put somebody out of a job.

Those are the choices we face. I think that choice is clear. I am going to vote for this amendment as I hope will those who share my concerns about agriculture and those who do not believe the future of America is going to be determined in the courtroom, but think like Jefferson did that it is going to be determined on the farms and ranches of this Nation.

Mr. HELMS. Will the Senator yield?

Mr. GRAMM. I am happy to yield.

Mr. HELMS. I thank the able Senator from Texas.

Mr. President what the Senator from Texas is doing is smoking the fox out of the hen house. He is saying, in his typically gentle way, put up or shut up.

It has been no more than 3 or 4 weeks since this Chamber rang with declarations that "we must do something for the farmers;" "we all love the farmers;" "we must protect the farmers."

All right, this is their chance, is it not, I ask the Senator?

Mr. GRAMM. It certainly is.

Mr. HELMS. I commend the Senator from Texas and am privileged to be a cosponsor of his amendment.

Mr. GRAMM. I yield to the Senator from Colorado.

Mr. ARMSTRONG. I thank the Senator for yielding.

Mr. President, in the last few years the abuses and disclosures regarding the Legal Services Corporation have shocked the Congress and the people. I am advised, however, that in the recent past, in the last 3 or 4 years, there has been a real attempt by those committees of the Congress which had jurisdiction over the operation of the Legal Services Corporation, to sort of clean up the act, to sort of alleviate some of the wrongdoing, and at least the worst abuses have been curtailed.

Mr. President, in view of that, it might seem more or less reasonable to continue the Legal Services Corporation. But when you get right down to it, when you look beyond the representations to the facts, it remains obvious to me that the abuses are still very, very substantial. There are very reasonable nonbudgetary reasons to think that we ought to do away with the Legal Services Corporation. I want to address some of those briefly because I think my friend from Texas has made the case that just purely on budgetary grounds as a matter of priority that, in fact, we could do without this and apply the funds to reducing the deficit or programs of agriculture, or indeed to some other kind of programs.

I do not want the record to be incomplete, win, lose or draw. I do not want the Senate to fail to recognize that there remain significant abuses of the Legal Services Corporation.

In the first place, this notion that what the Legal Services Corporation is doing is funding programs that help people with their day-to-day legal problems—somebody is getting sued on a promissory note or on an obligation or their rights are in question if they are arrested in a criminal action or something—that the Legal Services Corporation rises to the rescue.

I think we all support that kind of help for people who are in trouble. However, according to a report written by the Legal Services Corporation, the Corporation has been involved in redistricting of State legislatures in the following way: In Texas, New Mexico, and Mississippi, Legal Services programs clearly changed the face of Congress and State legislatures through successful lawsuits which overturned their reapportionment plan according to the representation of the Legal Services Corporation.

In other States, such as Colorado and California, redistricting activities have been reported as lobbying the reapportionment committees—lobbying. Now, that is an activity which most of us have presumed to be forbidden under the Legal Services Corporation statute. Yet the report of the Legal Services Corporation represents that that is what they have been doing, at least in part. Thirty-four programs reported handling 94 legislative redistricting cases and expending 2,182 hours and $609,112 in the process.

Mr. President, in addition, many Legal Services Corporation programs either do not maintain or failed to provide detailed information for the report on their activities in redistricting. The following groups used Legal Services funds in nonspecified legislative redistricting activities. The time and money involved in these activities was not reported:

Legal Services Corp. of Alabama; East Arkansas Legal Services; Arkansas Legal Services Support Center; Legal Aid Society of Metropolitan Denver; Legal Services of North Florida; Florida Legal Services; Gulf-

coast Legal Services; Land of Lincoln Legal Assistance Foundation; Legal Services Corp. of Northern Indiana; Southwest Louisiana Legal Services Corp.; East Carolina Legal Services; Dakota Plains Legal Services; Virginia Legal Aid Society and Wisconsin Judicare. 13 other programs failed to respond to the survey for this report on their activities.

These recent activities, which I believe are not within the proper scope or charter of a federally funded legal program, are simply the latest in a long history of such activities—not to say that those activities are per se wrong, but that they are improper for a legal foundation or corporation funded by Federal taxpayers.

This goes back a long, long way. Mr. President, the record of that is, I think, on its face, a good reason to be concerned about the existence of the Legal Services Corporation even if we had no budget problem. I am not going to address the budget issues, but I do want to close with this point: The choice is not between giving poor people legal representation and having this Corporation or abolishing the Corporation and letting them do without. There are in this country today over 600,000 private attorneys, approximately twice the number who were in practice at the time the Legal Services Corporation came into existence. They have a long and honorable tradition of pro bono activity, which, in my opinion, could be encouraged and enhanced. At the present time, only 8 percent of the Nation's practicing attorneys are actively engaged in that kind of activity. Even a modest increase in this percentage would more than fulfill any work which would be left undone by abolishing the Legal Services Corporation.

Moreover, Mr. President, I think it is obvious to all of us that when attorneys come forward to do this kind of work because of their professional ethics, because of their commitment to their profession and because of their concern for their fellow human beings, you get a higher standard of performance than when you are just paying them to do it out of somebody's Legal Services Corporation fund.

I do not know about others, but I have learned from my observation of feeding programs, for example, that the Federal programs drive out other programs. When you pay people to do it, you dry up the wellsprings, the sources of private pro bono activity. That is what is happening in legal services as well, apparently.

Mr. President, I rise to endorse the amendment, to congratulate my friend from Texas on taking the lead in this matter. I think it is improbable he will succeed. I think I am skeptical that his amendment is going to pass. Someday it ought to pass; this is the kind of amendment that ought to be raised over and over again and brought to a vote repeatedly until the message sinks in that this program is extravagant, even after the reforms of recent years, and which we can do without. So I thank the Senator for offering it today and I think it ought to be offered again.

Mr. GRAMM. I thank the Senator from Colorado and I yield to the Senator from South Carolina.

(Mr. COHEN assumed the chair.)

Mr. THURMOND. Mr. President, I believe the matter of legal services is a State and local responsibility. I do not know of anything under the Constitution that would put that responsibility at the Federal level.

I would say next that the lawyers in the different States and communities will do this work if the Federal Government does not do it.

Mr. President, I spent a large portion of my time when I practiced law helping indigent and poor people. I believe that lawyers today are patriotic enough to help their fellow man if they are in need of services and unable to pay for it. To me, it is as it has just been expressed: if the Federal Government is going to do it, then the lawyers stand aside and will not feel compelled to do it. But I am convinced that they will do it. They have done it in the past; they will do it again if the Federal Government gets out of this field.

The next point I wish to make is this: The question here is a choice between helping the farmers and shifting this money to the farmers or allowing to continue Legal Services. Of the two, should there be any question? There is no segment of our population in this Nation today that is more in need of help than the farmers. In my State today, many have been sold out, gone bankrupt. In other States, the same situation exists. Anything we can do to help them I think we ought to do.

The choice here is very clear: Are you for the farmers when they need help or not? That is the question. I hope the Senate votes in favor of this amendment.

Mr. EXON and Mr. SPECTER addressed the Chair.

Mr. SPECTER. Mr. President, I ask the distinguished Senator controlling the time to yield 5 minutes to me.

Mr. CHILES. Mr. President, how much time do we have?

The PRESIDING OFFICER. There are 6 minutes left.

Mr. CHILES. I yield 3 minutes to the distinguished Senator from Pennsylvania and 3 minutes to the distinguished Senator from Nebraska [Mr. EXON].

Mr. SPECTER. I thank the Senator.

Mr. President, I urge my colleagues to support legal services as a program of vital need in this country. When the distinguished Senator from South Carolina says that there is no constitutional requirement for legal services, that may or may not be true, but it is unwise for this body to await a declaration by the Supreme Court of the United States that legal services are constitutionally required. It was not until the decision in Gideon against Wainwright in 1963 that the Supreme Court of the United States said it was mandatory that a lawyer be provided for someone who was hailed into court.

The Congress of the United States could have taken that important step long before it was left to the Supreme Court of the United States to make that ruling as a matter of constitutional mandate. We should not neglect our duty to provide for the public welfare until compelled to do so by the courts. Across this country, Legal Services has performed a very vital function.

I am very much concerned about the problems of the farmer. My State, Pennsylvania, has more people living in the rural part of Pennsylvania, some 2.5 million, than live in the rural part of any other State in this country. I believe that a nation with the wealth of the United States can provide appropriate help for farmers without turning our backs on those who are in need of legal services. Many times, the farmers themselves are in need of legal assistance. When foreclosures have gripped the farming community in this country, it has been necessary on many occasions that they turn to community legal services.

This program has worked very well. It has been substantially reformed. The funding has already been materially reduced. I urge that this body put its stamp of approval on the program of community legal services as it exists today.

I thank the distinguished Senator from Florida. I yield the floor.

Mr. BAUCUS. Mr. President, I will vote against this amendment because it is an insult to our Nation's farmers.

This amendment is, plain and simple, an effort to destroy the Legal Services Program, which provides vitally needed legal advice to many of our most disadvantaged citizens. Access to legal advice and representation affords these Americans the opportunity to protect their legal rights in the American justice system.

This amendment proposes to transfer money saved by eliminating legal services to agriculture programs. This is a classic smoke-and-mirrors proposal; $300 million does nothing to solve the problems facing our Nation's farmers; $300 million will do nothing to alleviate the desperate plight of Montana ranchers who face foreclosure on the land their grandfathers homesteaded.

This amendment tries to woo support by pretending to benefit agriculture. But I am not fooled, and I oppose the amendment.

Mr. LEVIN. Mr. President, I will vote against the Graham amendment to transfer funding for the Legal Services Corporation to the Crop Insurance Program and the Soil Conservation Program. While I support increased funding for these two farming programs, I cannot support this effort to abolish the Legal Services Corporation. There are other ways we can and should provide additional funding for farming programs, and I will be voting for amendments to the budget resolution which do just that.

Mr. President, during the past 4 years the Congress has repeatedly rejected the administration's attempts to abolish the Legal Services Corporation and has reaffirmed its commitment to providing the Nation's poor with legal assistance. Senator GRAHAM, like many others who have advocated abolishing the Corporation, has cited isolated abuses in the legal services program. The Congress has already taken significant steps to curtail the Corporation's activities. If further restrictions are necessary, the Congress should consider responsible legislation which addresses these problems—rather than supporting this effort to do away with the program altogether.

Employees of the Corporation spend most of their time providing legal advice to poor people about such things as housing, divorce, health and domestic violence. As my colleague from Iowa, Senator HARKIN, has so aptly stated, if we vote to abolish the Legal Services Corporation we will be denying the Nation's poor access to the American judicial system and a peaceful way to resolve their disputes.

Mr. GRASSLEY. Mr. President, I rise in support of this amendment that would rearrange some of our spending priorities. There is little question that America's farmers, particularly those in Iowa, are facing some of the toughest economic times in decades. These troubles spread throughout the fabric of rural communities and affect nonfarm families as well.

As I understand this amendment, the aim is to shift moneys from the budget function that includes legal services to the function that covers agriculture programs. It is important that we remember that the committees of jurisdiction will have the opportunity to shift funds around. Consequently, it is possible that the committees may still be able to retain legal service if they find other sources of savings.

It is my hope that if this is done, that some of the problems with legal services is corrected. In the past, Legal Services Corporation funds have been diverted away from its proper mandate of serving the poor, and instead have been misused for political training, media advocacy, political campaigns and shell corporations.

There are alternative ways of providing legal assistance for the poor. With over 600,000 attorneys in the United States, double the number when Legal Services Corporation was founded, certainly the talent and resources exist that have been untapped to help our Nation's poor.

This amendment boils down to the question of whether more money is needed to cover the needs of America's struggling farmers, or should the other committees with jurisdiction over other programs be required to squeeze more savings out of their programs. I suggest that America's farmers have been squeezed enough and its time that other committees and program administrators be required to be a little more frugal to help out.

Mr. DECONCINI. Mr. President, this amendment is a not so thinly veiled attempt to abolish the Legal Services Administration. Because it is cloaked in terms of increased funding for needed agriculture programs, proponents of abolishing legal services for the poor argue that this is an either/or proposition. It is not.

The Reagan administration has attempted to abolish the Legal Services Administration every year it has been in office. Now they are trying to tell the Congress that we have to choose between these two important programs.

Mr. President, this budget process does involve making choices and setting priorities, but not between two specific programs. It involves setting priorities for all Federal spending across the board. My vote for restoring the full Social Security and other cost-of-living adjustments was not a vote against farmers and neither will be my vote to continue funding for Legal Services.

Those who would abolish Legal Services buttress their position by reading us lists of so-called abuses of the program. I have been disturbed by some activities of local legal services offices and have eagerly participated in efforts in Congress to control these excessive activities. I find it interesting, however, that the very people who are hammering away at these isolated abuses of legal services are the ones who are telling us that it is unfair to use examples of waste and abuse in the Pentagon to argue for modifications in the defense budget. I do not think that the isolated abuses in the Pentagon should lead us to abolish the military, nor do I think that isolated abuses in the Legal Services Administration should result in us abandoning our commitment to the provision of legal services for the poor and indigent.

I want it clear that my vote against this amendment bears no relationship to my strong support for both crop insurance and soil and water conservation.

It is not necessary for me to repeat the praises of soil and water conservation. Suffice it to say that our agricultural lands are a limited resource; if we allow them to erode in fiscal year 1986 there will be no land to conserve in fiscal year 1988 or fiscal year 1989. The lesson of Ethiopia is not that far from America. The land is fragile and must be conserved.

However, this is not the place to argue about the importance of these agricultural programs. That is not the real issue being raised by the Senator from Texas.

These are good and necessary programs, and I expect that before this budget process is completed that there will be another opportunity to increase funding for them. And I trust at that time that the cosponsors of this amendment will vote for this augmentation.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I am going to support the amendment offered by the Senator from Texas, but not for the reasons that have been stated. I am not convinced that if we eliminate Legal Services, which I have some concerns about, the lawyers are automatically going to take up the slack. Had they taken up the slack, there would not have been any need for Legal Services in the first instance, so I do not think one should be asked to support or vote against the amendment on that ground.

Also, I have noticed, Mr. President, that many people who are defending agriculture today and providing $300 million, which is a pittance, to help the disastrous farm situation in America today, are the same people, by and large, who bought onto the GOP-White House compromise; that after the Budget Committee finished its work, they went right down to the White House and the numbers are almost identical. The people who are now speaking for agriculture do not speak for it, do not vote for it when it really counts. The $18 billion which that compromise took out of the agricultural budget that came out of the Budget Committee shifted to defense. So let us not be fooled, let us not be voting pro or con on this issue on the basis that the lawyers are going to pick up the slack or that it is going to amend the onslaught on agricultural programs by the GOP-White House compromise.

I reserve the remainder of the time and yield it back to the manager of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, we yield back any time that we have remaining.

Mr. GRAMM. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment of the Senator from Texas. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST] is absent due to illness.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. LONG] is necessarily absent.

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

The result was announced—yeas 27, nays 71, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—27

Abdnor	Gramm	Nickles
Armstrong	Grassley	Pressler
Bentsen	Helms	Proxmire
Boren	Humphrey	Quayle
Denton	Kasten	Simpson
Dole	Mattingly	Symms
Exon	McClure	Thurmond
Garn	McConnell	Wallop
Goldwater	Murkowski	Zorinsky

NAYS—71

Andrews	Glenn	Melcher
Baucus	Gore	Metzenbaum
Biden	Gorton	Mitchell
Bingaman	Harkin	Moynihan
Boschwitz	Hart	Nunn
Bradley	Hatch	Packwood
Bumpers	Hatfield	Pell
Burdick	Hawkins	Pryor
Byrd	Hecht	Riegle
Chafee	Heflin	Rockefeller
Chiles	Heinz	Roth
Cochran	Hollings	Rudman
Cohen	Inouye	Sarbanes
Cranston	Johnston	Sasser
D'Amato	Kassebaum	Simon
Danforth	Kennedy	Specter
DeConcini	Kerry	Stafford
Dixon	Lautenberg	Stennis
Dodd	Laxalt	Stevens
Domenici	Leahy	Trible
Durenberger	Levin	Warner
Eagleton	Lugar	Weicker
Evans	Mathias	Wilson
Ford	Matsunaga	

NOT VOTING—2

East	Long

So Mr. GRAMM's amendment (No. 51) was rejected.

Mr. DOLE. Mr. President, let me indicate to my colleagues that, as I understand, there is one additional amendment. There are a number of additional amendments, but I have indicated, if there is another amendment that can be offered now, we will have a vote on this and that will be the last vote of the day.

But I hope that we could do that very quickly. I think it is fairly clear-cut, if it is the one I am thinking of. We will all be happy about it.

Mr. CHILES. Mr. President, I say to the distinguished majority leader I think we will not use much time on our side. We wish to have the vote between 1 p.m. to 1:10 p.m. just to accommodate some Members.

Mr. DOLE. Or even earlier.

Mr. CHILES. Or even earlier.

AMENDMENT NO. 52

Mr. HELMS. Mr. President, I have an amendment at the desk which I call up and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself, Mr. GRASSLEY, and Mr. THURMOND, proposes an amendment numbered 52.

At the end of the pending question add the following:

Notwithstanding any other provision of this resolution, the functional totals for the General Government function are reduced by an amount sufficient to allow the reduction of the salaries of Members of Congress by ten per centum.

Mr. PRYOR. Mr. President, have the yeas and nays been ordered on this amendment?

The PRESIDING OFFICER. No, they have not.

Mr. PRYOR. Mr. President, 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 Senator from North Carolina.

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

Let me at the outset ask unanimous consent that in addition to Senator GRASSLEY the names of the distinguished Senator from Kansas [Mrs. KASSEBAUM] and the distinguished Senator from Oklahoma [Mr. NICKLES] be added as cosponsors.

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

Mr. HELMS. Mr. President, if ever an amendment needed no lengthy discussion, this is it.

I hear constantly in this Chamber and across the country that the burden of reducing the Federal deficit must be shared by all. This amendment simply provides that the Members of Congress share in that burden to the extent of voting for this amendment, which proposes a 10-percent reduction in the compensation of the Members of Congress.

There is a Latin expression, res ipsa loquitur, meaning the thing speaks for itself, and this amendment speaks for itself.

I feel, Mr. President, that I need say nothing further.

Mr. President, I ask unanimous consent that the distinguished Senator from Arizona [Mr. GOLDWATER] be listed as a cosponsor.

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

Mr. HELMS. I yield the floor.

Mr. GRASSLEY. Mr. President, I am pleased to join my friend and colleague from North Carolina, Senator HELMS, in offering an amendment to reduce the salaries of Members of Congress by 10 percent.

When I first came to Washington as a Member of the House of Representative, I introduced a bill to accomplish this same objective. No action was taken. Again, this year, I introduced a measure to reduce congressional salaries by 10 percent.

The Members of Congress have been very eloquent in the past months urging the reduction of the Federal deficit. One place to begin this reduction process is right here in the Congress itself.

Federal budget deficits have soared in the last 10 years, adding more than $1.5 trillion to the national debt. Since 1974, Congressmen and Senators have received a total of nine pay increases, totaling an additional $30,000 for each legislator in 1984. If our amendment is passed today, a strong message wil be passed to the people of this Nation. We are serious about reducing the Federal deficit, and we are willing to begin here in Washington.

Mr. LEVIN. Mr. President, I agree with the sponsors of this amendment that Members of Congress should share in the burden of deficit reduction. However, this amendment is unnecessary in order to achieve that goal because Members of Congress as Federal employees will have their salaries frozen for the coming year. The goal of shared sacrifice is to be fair, not punitive, and should not be exploited for political or partisan gain.

Mr. PRYOR. Mr. President, as far as I know there is no time requested on this side of the aisle on the Helms amendment.

Mr. HELMS. Mr. President, I yield back the remainder of my time.

Mr. PRYOR. We yield back the remainder of our time, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

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. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST] is absent due to illness.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] is necessarily absent.

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

The result was announced—yeas 49, nays 49, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—49

Abdnor	D'Amato	Garn
Andrews	Danforth	Goldwater
Armstrong	DeConcini	Gramm
Bentsen	Denton	Grassley
Bumpers	Dodd	Harkin
Burdick	Dole	Hatch
Chiles	Domenici	Hawkins
Cohen	Exon	Hecht
Cranston	Ford	Heflin

Heinz	Nickles	Thurmond
Helms	Pressler	Trible
Humphrey	Proxmire	Wallop
Kassebaum	Quayle	Warner
Kasten	Simpson	Wilson
Leahy	Specter	Zorinsky
Mattingly	Stennis	
Mitchell	Symms	

NAYS—49

Baucus	Hollings	Murkowski
Biden	Inouye	Nunn
Bingaman	Johnston	Packwood
Boschwitz	Kennedy	Pell
Bradley	Kerry	Pryor
Byrd	Lautenberg	Riegle
Chafee	Laxalt	Rockefeller
Cochran	Levin	Roth
Dixon	Long	Rudman
Durenberger	Lugar	Sarbanes
Eagleton	Mathias	Sasser
Evans	Matsunaga	Simon
Glenn	McClure	Stafford
Gore	McConnell	Stevens
Gorton	Melcher	Weicker
Hart	Metzenbaum	
Hatfield	Moynihan	

NOT VOTING—2

Boren	East

So Mr. HELMS' amendment (No. 52) was rejected.

Mr. DOLE. I move to reconsider the vote.

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

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I understand the Senator from North Carolina reserved the right to object.

The PRESIDING OFFICER. The question occurs on the motion to table.

Mr. HELMS. Mr. President, maybe it is not in order, but I ask unanimous consent that I may proceed for no more than 2 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. Mr. President, I thank the Chair and I thank the Senator.

I think the Senate ought to think about this vote over the weekend—a 49–49 tie. Here we are, asking everybody to accept cuts. At least this Senator is voting for everything in the package. And we come to the question of our own compensation and end up with a 49–49 tie. I wonder if I might ask the majority leader if it would be possible to have a vote Monday afternoon on the motion to reconsider; if not, a vote Monday afternoon on the vote to table the motion to reconsider. Just carry that over until Monday afternoon. Let Senators think about the implication of what they have done. I may lose by 2 to 1.

Mr. DOLE. Mr. President, I do not see the distinguished minority leader. I have no objection to that.

Mr. DIXON. Reserving the right to object, Mr. President, the minority leader is off the floor at a caucus on our side, and I reserve the right for him to object.

Mr. HELMS. Mr. President, let me say I am going to ask for the yeas and nays on the motion to table if we do not delay the consideration of this.

Mr. DIXON. The motion to lay on the table was made by the distinguished majority leader.

Mr. DOLE. 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. HELMS. 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. HELMS. Mr. President, I ask for the yeas and nays on the motion to table.

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

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BYRD. I made a point of order that the motion to reconsider was made by a Senator who does not qualify.

The PRESIDING OFFICER. The point of order is sustained and the motion falls.

Mr. DOLE. Mr. President, let me indicate to my colleagues there will be no more votes today.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now go into executive session to consider the following calendar items: Calendar Nos. 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133 under the Air Force, 134, 135, and 136 under the Army, 137 under the Marine Corps, 138 through 143 under the Navy, and all nominations placed on the Secretary's desk.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I have listened carefully to the calendar numbers that have been read by the distinguished majority leader. We on our side of the aisle have cleared all nominations beginning on page 2 of the calendar beginning with Calendar No. 122 and extending through page 2, through page 3, with the exception of Calendar Order No. 129, through page 4, through page 5, through page 6, through page 7, and through page 8. I am not sure the distinguished majority leader could follow me.

Mr. DOLE. As I understand it, it has been cleared with the exception of Calendar Order 118, 119, 120, 121, and 129.

Mr. BYRD. Yes. We cannot clear at this point any of the nominees on page 1, and we could not clear at this point Calendar Order No. 129 on page 3.

Mr. DOLE. So I would exclude Calendar No. 118, 119, 120, 121, and 129 from my unanimous consent request.

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

Mr. DOLE. I ask unanimous consent that the nominations with those exceptions identified earlier be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations confirmed en bloc as follows:

MISSISSIPPI RIVER COMMISSION

Brig. Gen. Thomas Allen Sands, [redacted], U.S. Army, to be a member and president of the Mississippi River Commission, and Brig. Gen. Robert Joseph Dacey, [redacted], U.S. Army, to be a member of the Mississippi River Commission.

ENVIRONMENTAL PROTECTION AGENCY

A. James Barnes, of the District of Columbia, to be Deputy Administrator of the Environmental Protection Agency.

[New Reports]

THE JUDICIARY

Kenneth F. Ripple, of Indiana, be U.S. circuit judge for the seventh circuit.

John P. Moore, of Colorado, to be U.S. circuit judge for the tenth circuit.

Joseph H. Rodriguez, of New Jersey, to be U.S. district judge for the District of New Jersey.

George F. Gunn, Jr., of Missouri, to be U.S. district judge for the eastern district of Missouri.

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Richard K. Saxer, [redacted] FR, U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Herman O. Thomson, [redacted] FR, U.S. Air Force.

The following-name 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

Lt. Gen. Jack I. Gregory, [redacted] FR, U.S. Air Force.

The following-named officer under the provision 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

Lt. Gen. John L. Pickitt, [redacted] FR, U.S. Air Force.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. Bernard W. Rogers, [redacted], (Age 63), United States Amry.

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

Lt. Gen. William E. Odom, [redacted], U.S. Army.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned 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. Dale A. Vesser, [redacted], U.S. Army.

IN THE MARINE CORPS

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. D'Wayne Gray, [redacted] U.S. Marine Corps.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 5064 to be Director of Budget and Reports in the Department of the Navy.

To be director of budget and reports

Rear Adm. William D. Smith, [redacted]/1120, U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. Crawford A. Easterling [redacted]/1310, U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. William J. Cowhill, [redacted]/1120, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Powell F. Carter, Jr., [redacted]/1120, U.S. Navy.

The following-named commodores of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral in the line and staff corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

UNRESTRICTED LINE OFFICERS

Richard Edward Young, Tammy Haggard Etheridge, LeRoy Collins, Jr., and Frederick Peter Bierschenk, Jr.

UNRESTRICTED LINE OFFICER (TAR)

Tommie Fred Rinard.

MEDICAL CORPS OFFICER

James Albert Austin.

DENTAL CORPS OFFICER

Haruto Wilfred Yamanouchi.

SUPPLY CORPS OFFICER

Donald Gene St Angelo.

CIVIL ENGINEER CORPS OFFICER

Charles Richard Smith.

The following-named officer, under the provisions of title 10, United States Code, section 5142, to be Chief of Chaplains, U.S. Navy:

To be Chief of Chaplains, U.S. Navy

Commodore John R. McNamara, Chaplain Corps, [redacted]/4100, U.S. Navy.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Maj. Richard G. Broberg, and ending Maj. John T. Aumiller, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 4, 1985.

Air Force nominations beginning James S. Majors, and ending John E. Troyer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

Air Force nominations beginning David M. Abbate, and ending Edward W. Zwanziger, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

Air Force nominations beginning David M. Abbate, and ending Roger D. Wetherington, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

Air Force nominations beginning Alan A. Abangan, and ending Thomas M. Zuccaro, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

Army nominations beginning Floyd Z. Light, Jr., and ending William M. Wight, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

Army nominations beginning Derric L. Abrecht, and ending David L. Zylka, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

Marine Corps nominations beginning Granville R. Amos, and ending Anthony C. Zinni, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

Marine Corps nominations beginning James R. Abelee, and ending Richard H. Zegar, which nominations were received by the Senate on April 19, 1985, and appeared in the CONGRESSIONAL RECORD of April 22, 1985.

Marine Corps nominations beginning Michael J. Piirto, and ending Christopher D. Heid, 9086, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 22, 1985.

Navy nominations beginning Mark S. Ammons, and ending Harry P. Clause, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

Navy nominations beginning Christopher A. Aiello, and ending Donald E. Burbach, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

Navy nominations beginning William M. Bartleman II, and ending Craig B. Dever, which nominations were received by the Senate on April 19, 1985, and appeared in the CONGRESSIONAL RECORD of April 22, 1985.

Navy nomination of Cmdr. Donald E. Williams, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of April 22, 1985.

NOMINATION OF JOSEPH H. RODRIGUEZ

Mr. BRADLEY. Mr. President, I am pleased that we have finally reached the day when the Senate will confirm a highly respected memeber of the New Jersey bar, Joseph Rodriguez, as a member of the Federal judiciary.

Joseph Rodriguez has earned a reputation as an independent, fair, and relentless defender of the law. He has served three separate Governors of New Jersey. In the Republican administration of William Cahill, Mr. Rodriguez was tapped to chair the State Commission of Investigation. And in the current Republican administration of Thomas Kean, he serves as the State's public advocate. The fact that his talents have been so broadly recognized is a tribute to his professionalism.

I have had a deep concern about the quality of our Federal judiciary. These are lifetime appointments. The people we choose will, in large part, determine whether the people have faith in the most basic part of our democracy—the sanctity of our Constitution, the freedoms it grants and the laws that give it strength.

Joseph Rodriguez is highly qualified to fullfill that obligation. As chairman of our State Commission of Investigation he was charged with the responsibility of ensuring the highest ethical standards from our State's public servants. He performed that job with great conviction. Currently Mr. Rodriguez is the people's defender—the person who ensures that the public's rights are not trampled upon. And he has performed that role with equal conviction. These two assignments have called for strict standards and compassion. Both qualities are also essential for a member of the Federal judiciary. In fact the American Bar Association recognized that excellence when, in a very rare action, the unanimously found him "exceptionally well qualified" to be a Federal court judge.

Finally, I would be remiss if I did not note that the appointment of Mr. Rodriguez also broadens the ability of our Federal judiciary to be truly representative of the entire community. I do not know how many other members of the Federal judiciary are of Hispanic descent. In the district which in-

cludes New Jersey, the latest census records nearly 7 percent of the population to be of Hispanic origin, and there are no members of the Federal judiciary who are of Hispanic descent. Mr. Rodriguez' appointment will certainly be welcomed by all who would like to see the judiciary more inclusive of the entire community.

I am certain that Joseph Rodriguez will be an outstanding member of the Federal district court in New Jersey and I am very pleased that he will be confirmed today.

NOMINATION OF JOSEPH RODRIGUEZ

Mr. LAUTENBERG. Mr. President, I rise to support the confirmation of Joseph Rodriguez to be a judge on the Federal District Court of the District of New Jersey.

Mr. Rodriguez is a skilled lawyer, an experienced law teacher, and a dedicated public servant. He was deemed exceptionally well qualified by the ABA. He has served as president of the New Jersey State Bar Assciation, chairman of the New Jersey Board of Higher Education, and chairman of the State Commission of Investigation. He teaches trial practice at Rutgers University law school at Camden.

Mr. President, Mr. Rodriguez is more than a skilled lawyer. He is more than an experienced public official. He is a very decent human being. Decency. That should be an essential qualification for a judge. But it is something that is difficult to measure.

One can measure a man by what he does and what people say about him. I had met Joe Rodriguez but I did not know him well until he was proposed by Governor Kean and nominated by President Reagan.

I inquired of many people and groups around the State about Mr. Rodriguez. I heard people tell me he was a decent person. He is universally respected by people who know him across the whole spectrum of New Jersey life. He has been honored by groups as diverse as the ACLU and the American Legion. Just last month, Joe Rodriguez received an award in Sussex County, NJ. It is called the Friend of Hospice Award. It is an award given by a local group to individuals who advance the quality of care and concern for the terminally ill.

Mr. President, people respect Joe Rodriguez' sense of duty. They respect the job he did as chairman of the State Commission on Investigation—charged with rooting out organized crime in our State. And they respect the job he does as public defender—charged with defending indigents accused of crime. And they respect the job he does as public advocate—fulfilling a very broad legislated mandate to pursue the public interest.

Mr. Rodriguez would be the first Hispanic member of the Federal judiciary in New Jersey. I think we must do more, Mr. President, to increase the diversity of the Federal judiciary. By increasing the diversity of the bench with such eminently qualified persons as Mr. Rodriguez, we enhance the respect that the bench commands of the diverse public it must judge.

It should also be noted, Mr. President, that this nomination was sent up last Congress. It failed to reach the floor because of opposition from members of President Reagan's own party. With broad, bipartisan support in New Jersey for Mr. Rodriguez' renomination, the President sent up his name again. Then Mr. Rodriguez was singled out for unusual and, I think, inappropriate scrutiny. He was asked to answer a detailed questionnaire, inquiring of his personal views about abortion, capital punishment, the equal rights amendments and other social issues. Justified questions were raised as to whether the questionnaire reflected an effort to impose an ideological litmus test on judicial nominees.

I think Mr. Rodriguez responded quite appropriately to that questionnaire, and to questions posed to him at a second hearing held by the Judiciary Committee. Mr. Rodriguez attested to his intent to apply the law, the Constitution, and the precedents before him. His personal views, in general, should have no bearing on his fitness to serve. Few judicial candidates are as qualified to sit on the Federal district court as this nominee.

Last, Mr. President, I express my appreciation to the chairman of the Judiciary Committee for moving this nomination forward. While some Senators had delayed action on the nomination, the courts in New Jersey have remained overburdened, hampering the effective administration of justice in my State.

Joseph Rodriguez will bring to the Federal judiciary the same sense of duty, fairness, and decency that he has brought to his previous endeavors. He would be an asset to the bench. I commend him and urge his confirmation by the Senate.

NOMINATION OF SAM B. HALL, JR.

Mr. BENTSEN. Mr. President, I am pleased to speak today on behalf of my long time friend, SAM HALL. I am pleased to support Congressman SAM HALL's nomination to the Federal bench. I have known SAM for many years and throughout that time I have had the opportunity to observe his sound thinking, balanced judgment, and wise decisionmaking. Congressman SAM HALL is no stranger to many of the Members of this Chamber. He has served as a member of the House Judiciary Committee, since his first term 9 years ago. As such, many of you have also come to know and respect both the intellectual and academic influence exercised by SAM HALL on the House side.

SAM, like his dad and uncle, will carry on the proud Hall legacy of serving on the bench. Sam Hall, Sr. served as one of Texas's finest judges for more than 20 years. State district judge Hall was respected throughout the State of Texas as an even-handed judge. If SAM's dad were here today, he would be proud of his son's nomination by the President of the United States to the Federal bench.

SAM's dad did get to see many of his son's accomplishments, including SAM's graduation from Baylor Law School. For 27 years, before SAM was elected to his first term in the United States House of Representatives, he practiced law in Marshall, TX. During his tenure in the House of Representatives, he has served on the House Judiciary Committee and has been the chairman of the House Judiciary Committee and has been the chairman of the House Judiciary Subcommittee on Administrative Law and Governmental Relations for the last 2 years.

Congressman SAM HALL, will make the transition to Federal Judge Sam Hall smoothly and I am sure that he will continue to address issues before the bench with the same clarity, ethics, and temperament that has made him my respected friend and colleague. Mr. President, I join with Senate colleagues today in sounding a firm voice of confirmation for SAM HALL, the judicial nominee for the Eastern district of Texas. I would also like to extend my congratulations to SAM's wife, Madeleine, and their three daughters.

NOMINATION OF JOSEPH RODRIGUEZ

Mr. BIDEN. Mr. President, the Senate is today doing the people of my neighboring State of New Jersey a great service by approving the nomination of Joseph Rodriguez to be a Federal district judge.

My distinguished colleagues, Senators BRADLEY and LAUTENBERG, have worked steadily for months to move this nomination along, and I have joined them in that effort.

Mr. Rodriguez is, without question, among the most highly qualified judicial nominees the Senate Judiciary Committee has considered, as indicated by his American Bar Association rating of "unanimously exceptionally well qualified," the highest rating given by the ABA, and given only rarely.

Mr. Rodriguez has held an extraordinary array of positions in the service of the public under Democratic and Republican Governors alike. In the Republican administration of William Cahill he was chairman of the State Board of Higher Education; under Democrat Brendon Byrne he was chairman of the State Commission of Investigation; and in the current Republican administration of Thomas

Kean, Mr. Rodriguez is the States public advocate and public defender.

Mr. Rodriguez also spent over 20 years in private law practice, which, along with his service as public defender, gives him an unusually comprehensive record of experience in both criminal and civil law.

An additional reason that this nomination is important to the State of New Jersey is that nearly 7 percent of that State is of Hispanic origin. Mr. Rodriguez will be the first Hispanic on the Federal bench in New Jersey. His confirmation is an important step toward making the Federal judiciary more representative of the community.

Mr. Rodriguez demonstrated his good judgment by the manner in which he answered questions proffered to him by some members of the Judiciary Committee concerning his views on various Supreme Court decisions. Mr. Rodriguez declined to pass judgment upon those Supreme Court decisions, stating that to do so would mean that he "would be unable to impartially determine a similar issue that might be presented at a future time," and noting that to answer such questions would also create an "appearance of impropriety."

In conclusion, I believe that Joseph Rodriguez possesses the legal experience, competence, integrity, and judicial temperament to serve with distinction on the Federal bench. I commend Mr. Rodriguez to my colleagues.

TRIBUTE TO GENERAL ROGERS

Mr. NUNN. Mr. President, as the Senate acts today on General Rogers' nomination, I want to pay special tribute to the exemplary service he has rendered as the Supreme Allied Commander in Europe [SACEUR]. To enumerate General Rogers' many accomplishments as SACEUR would take quite some time, so I will just mention a few:

He provided firm leadership in helping to steer the alliance through the difficult challenges of implementing the dual-track INF decision;

He has time and time again drawn public and governmental attention to the relationship between the height of the nuclear threshold and the state of NATO's conventional defenses;

He took the initiative in defining and formalizing the "Follow-On Forces Attack" doctrine;

He gained the respect and confidence of our allies in dealing with a number of sensitive policy issues, including facilitating Spain's entry into the alliance and trying to resolve the disagreements between our allies on the southern flank;

He has worked tirelessly for a number of years to try to improve NATO's conventional defense capabilities and, in recent months, has helped ensure that my concerns in this area are being met by a much more receptive audience in Europe.

Mr. President, I would also mention that in marked contrast to other military and civilian defense officials who have testified before the Senate Armed Services Committee over the years, General Rogers has always been forthright and candid in his assessments. He has never hesitated to call things as he sees them, pointing out what is wrong and what needs to be fixed.

General Rogers' reappointment as SACEUR, together with the impressive skills which Ambassador Abshire and Lord Carrington have brought to Brussels, will ensure that a leadership team will remain in place in NATO that can continue to advance the alliance toward our common goals. I commend President Reagan for his decision to reappoint General Rogers to this critical position.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immedately notified that the Senate has given its consent to these nominations.

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

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 2 p.m., with statements therein limited to 5 minutes each.

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

MESSAGES FROM THE HOUSE

At 12:09 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 resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 125. Joint resolution designating October 1985 as "National Community College Month"; and

H.J. Res. 258. Joint resolution to designate May 6, 1985, as "Dr. Jonas E. Salk Day."

MEASURE REFERRED

The following joint resolution was read the first and second times by unanimous consent and referred as indicated:

H.J. Res. 125. Joint resolution designating October 1985, as "National Community College Month"; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

Richard M. Hughes, of Oklahoma, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 1987.

(The above nomination was reported from the Committee on Banking, Housing, and Urban Affairs with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. EAGLETON:

S. 1067. A bill to amend title 10, United States Code, to establish an improved system for providing military advice to the President, the National Security Council, and the Secretary of Defense, to establish a National Military Advisory Council, and for other purposes; to the Committee on Armed Services.

By Mr. JOHNSTON (for himself and Mr. MCCLURE):

S. 1068. A bill to eliminate unnecessary paperwork and reporting requirements contained in section 15(l) of the Outer Continental Shelf Lands Act, and sections 601 and 606 of the Outer Continental Shelf Lands Act Amendment of 1978; to the Committee on Energy and Natural Resources.

By Mr. LEAHY:

S. 1069. A bill to amend the Agricultural Act of 1949 to modify the dairy price support program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRYOR (for himself and Mr. BUMPERS):

S. 1070. A bill to provide a Congressional Medal of Honor to John Yancey; to the Committee on Armed Services.

By Mr. MATHIAS:

S. 1071. A bill to amend the Foreign Sovereign Immunities Act; to the Committee on the Judiciary.

By Mr. QUAYLE:

S.J. Res. 130. Joint resolution designating the week beginning on November 10, 1985, as "National Blood Pressure Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LAUTENBERG (for himself, Mr. ABDNOR, Mr. ARMSTRONG, Mr. BAUCUS, Mr. BIDEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. BYRD, Mr. CHAFEE, Mr. CHILES, Mr. COCHRAN, Mr. CRANSTON, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. EVANS, Mr. EXON, Mr. FORD, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GORTON, Mr. GRASSLEY, Mr. HARKIN, Mr. HART, Mr. HATFIELD, Mrs. HAWKINS, Mr. HECHT, Mr. HEFLIN, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mr. INOUYE, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. KERRY, Mr. LEAHY, Mr. LEVIN, Mr. LONG, Mr. LUGAR, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MATTINGLY, Mr. MCCLURE, Mr. MCCONNELL, Mr. MELCHER, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. QUAYLE, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SARBANES, Mr. SASSER, Mr. SIMON, Mr. SIMPSON, Mr. SPECTER, Mr. STAFFORD, Mr. STENNIS, Mr. SYMMS, Mr. THURMOND, Mr. TRIBLE, Mr. WARNER, Mr. WILSON, and Mr. ZORINSKY):

S. Res. 154. Resolution to pay tribute to the American veterans of World War II on the 40th anniversary of V-E Day; placed on the calendar.

By Mr. CHILES (for himself, Mr. JOHNSTON, Mr. BUMPERS, Mr. BIDEN, Mr. PELL, and Mr. SASSER):

S. Res. 155. Resolution to condemn the actions of the Ethiopian Government; ordered held at the desk until close of business on May 6, 1985.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EAGLETON:

S. 1067. A bill to amend title 10, United States Code, to establish an improved system for providing military advice to the President, the National Security Council, and the Secretary of Defense, to establish a National Military Advisory Council, and for other purposes; to the Committee on Armed Services.

REFORMING THE JOINT CHIEFS OF STAFF

Mr. EAGLETON. Mr. President, today I am introducing legislation to address and remedy one of the most serious problems plaguing our national defense: the performance of the Joint Chiefs of Staff [JCS]. The bill is identical to the amendment I offered last June to the Defense Authorization Act.

Following the productive debate on my amendment last summer, I agreed to withdraw it with the understanding that a staff report on reform would be soon completed and that the issue would receive expeditious treatment in the Armed Services Committee during the remaining months of the 98th Congress.

I was disappointed that at the end of the 98th Congress no report had been issued and no action had been taken by the committee. By introducing my legislation again today I hope to refocus the attention of the Senate on the issue.

JCS reform is far too important to our Nation's security to be ignored during the time remaining in this session of Congress. Dissatisfaction with Defense Department management and the widespread concern about the budget deficit make the issue ripe for action. Congress must act with forethought but also with a sense of urgency to redress this serious flaw in the U.S. defense structure.

I do not pretend to have discovered this problem, nor do I claim to be alone today in calling for reorganization; quite the contrary. As R. James Woolsey, former Under Secretary of the Navy has written, "The weakness and lack of influence of the Joint Chiefs is one of the Pentagon's less well-kept secrets."

Problems and criticisms date back to the original compromise creating the Joint Chiefs of Staff in 1947. The organization has been the subject of an almost endless series of critical studies conducted by blue-ribbon panels inside and outside DOD—21 in the last 36 years. The latest study, which was released 2 months ago by the Defense Organization Project at Georgetown University's Center for Strategic and International Studies [CSIS], has given JCS reform efforts tremendous momentum.

The CSIS study, entitled "Toward a More Effective Defense," was developed by 70 individuals with experience at the highest levels of the Defense Establishment, including retired senior military and civilian officials, industry executives, and Members of Congress—Senators COHEN, EXON, KASSEBAUM, and NUNN and a number of House Members from both parties. The study was endorsed by six former Secretaries of Defense—Brown, Clifford, Laird, McNamara, Richardson, and Schlesinger—who wrote:

> There are serious deficiencies in the organization and managerial procedures of the defense establishment * * * we are able to testify about the degree to which they weaken efforts to ensure U.S. security.

In its "Joint Military Structures" chapter, the CSIS study quickly put its finger on the most fundamental, inescapable flaw in the current JCS structure:

> Each member of the JCS, except the chairman, faces an inherent conflict between his joint role on the one hand and his responsibility to represent the interests of his service on the other. As the senior military planning and advisory body, the JCS are charged with providing military advice that transcends individual service concerns. At the same time, each chief is the military leader of his service and its primary spokesman to the civilian leadership. Although the 1947 National Security Act mandates that a service chief's joint role should take precedence over his duties as leader of a service, this does not occur in practice—and for good reason. If a chief did not defend service positions in the joint forum, he would lose the support and loyalty of his service, thus destroying his effectiveness.

The CSIS study agrees with its predecessors: The Chiefs' understandable and admirable commitment to the respective services which they lead make it impossible for the Chiefs to set aside their service perspectives to effectively discharge their joint responsibilities. In other words, the present system creates an unavoidable conflict of interest for each service Chief.

The tradition that JCS advice be unanimous—with each service able to exercise veto power—reduces that advice to negotiated pabulum, rather than the crisp, well-reasoned assessment of the problems and options which the Secretary of Defense and the President are entitled to expect from their principal military advisers.

John Kester, Secretary Brown's Special Assistant and Deputy Assistant Secretary of the Army during the Nixon administration, made this firsthand observation on the subject:

> When I worked in the Secretary of Defense's Office, I was suprised that memoranda from the JCS were not the crisp assessments of situations and options one might expect. They more closely resembled the contract for sale of your house, with numbered lines and carefully drafted circumlocutions designed to protect bureaucratic interests and conceal compromises.

Gen. David Jones, former Chairman of the JCS and a participant in the CSIS study, whose willingness to criticize the Joint Chiefs sparked new interest in the issue, had the same experience:

> When the Chairman or the other members of the Joint Chiefs gave their own personal advice, it was given high marks. But when it became corporate advice, of five people together, it was of very little use, not very influential, and given very poor marks by the customers, the civilian leadership, as well as the senior military officials.

The organizational failing of the JCS leave our defense effort with a profound vacuum at the top where joint strategy, contingency planning, and budgeting and allocation of resources are involved. In this regard, the distinguished retired Gen. Andrew J. Goodpaster has testified:

> Although the JCS bear only part of the responsibility (for the lack of) a coherent, effective defense policy, military strategy and military posture * * * they bear an important part * * *
>
> The contributions to increased military efficiency and effectiveness that could be made through improved top-level military planning and advice are not being realized. In particular, the mechanisms for developing and advancing individual service interests and promoting individuals weapons sys-

tems are stronger by far than those for providing coherent overall strategic plans and responding to overall national security interests and needs * * *

Perhaps one of the most visible adverse consequences of the current organization is with respect to the bloated defense budget. We know all too well that the military is not making the hard choices between weapons which effective joint leadership could help to produce. Former Defense Secretary James Schlesinger commented on this subject during a recent call to reorganize the JCS:

The general rule is that no service ox may be gored * * * The unavoidable outcome is a structure in which logrolling, backscratching, marriage agreements and the like flourish * * *

What comes up from the Joint Chiefs is a mutual endorsement of the individual desire of the several services. There is no crosscutting—nor, given the nature of the structure, can there be any crosscutting. As I generally have been a supporter of the top dollar for the military services, I believe I can say that the dollar requests are invariably so high that they cannot conceivably be sustained by the national consensus.

The ineffectiveness of the present JCS system has also left its dirty fingerprints on U.S. military operations. According to Dr. Schlesinger, "The existing structure does impede planning, for each of the services quite naturally wishes a piece of the action in any crisis—and the existing structure assures that all somehow will be fitted in, even if a service provides less than optimal forces for dealing with that particular crisis."

Robert Komer, Ambassador and former Under Secretary of Defense, has provided a specific example:

I was unable to get a corporate view from the JCS on the optimum strategy for deterrence and defense in the Persian Gulf.

That doesn't mean that each of the Chiefs didn't have some clear ideas on what to do. Some of them emphasized a maritime strategy. Some of them emphasized victory through air power. Others emphasized sending a lot of divisions. But there was no way which would permit them to give meaningful military advice to the Secretary of Defense institutionally as to how best to defend Persian Gulf Oil.

Experience teaches what logic would suggest: The weaknesses resulting form the lack of an effective joint mechanism—and the dangers inherent in the "something for every service" approach—do not disappear when actual combat situations occur. Instead, they are exacerbated. Consider the following:

The Vietnam War: According to former JCS Chairman Jones, "The organizational arrangements were a nightmare; for example, each service fought its own air war."

The Iranian hostage rescue attempt: Air Force helicopter pilots, who had flown in Vietnam and were specially trained for hazardous overland missions, were passed over in favor of Marine pilots who were clearly less qualified. The overriding consideration was, apparently, ensuring that the marines would have some role to play in the important mission.

The tragedy at the Marine compound in Beirut. Marines found themselves at the bottom of an unwieldy chain of command headed by an Army general, then an Air Force general, and then four levels of Navy officers. The Defense Department's own Long Commission reported apparent and understandable confusion about who actually was the senior commander of the U.S. multinational force in Lebanon. The Navy commander of the amphibious task force was the "Commander, U.S. Forces Lebanon." The Marine commander of the Amphibous task force was the "Commander, U.S. Forces Ashore Lebanon." The Commission sharply criticized the entire chain of command for not "initiating actions to effectively insure the security" of the Marine compound.

Even beyond the fundamental problem of conflict of interest which arises from "dual hatting," the time demands placed on the Chiefs are unreasonable. Leading one of the armed services is a more than full-time responsibility by itself, without the distraction of joint responsibilities. Inevitably, the need to play two roles can undermine the performance of one or the other—or both. General Jones has observed:

Omar Bradley once said he didn't have time to do both jobs well * * * Things are much more complex now than they were in his time * * * It is very difficult to have enough time to immerse oneself deeply into joint issues and to do the job as the Chief of a service.

The recent CSIS report concludes that many of the problems I have outlined could be alleviated by designating "the Chairman as the principal military adviser to the President, the Secretary of Defense, and the National Security Council, replacing the corporate JCS in that role." My legislation incorporates this recommendation by designating a Chief of Military Staff to take the place of the corporate JCS and to serve as the principal adviser to the civilian leadership.

The legislation I will offer would incorporate another CSIS recommendation by creating a Deputy Chief of Military Staff to assist the Chief with day-to-day activities and the management of crisis situations. At present, the Chairman of the Joint Chiefs is the only senior executive—civilian or military—in the Defense Department without a deputy.

The conflict of interest problem that afflicts the JCS is reflected in the workings of the Joint Staff, which provides support for the Joint Chiefs. The CSIS study notes:

The officers who serve on the Joint Staff have strong incentives to protect the interests of their services in the joint arena. Joint Staff officers usually serve only a single tour there, and must look to their parent service for promotions and future assignments. Their performance is judged in large part by how effectively they have represented service interests.

Because the interests of each service take precedent over the joint interests generally, and because duty with the JCS is not a respected assignment, the quality of the Joint Staff suffers. Indeed, many experts have observed that the services are unwilling to assign their best officers to joint service, and as John Kester has noted, "talented officers approach service on the Joint Staff with the same enthusiasm of sailors ordered to chip paint."

CSIS recommends a number of changes in the Joint Staff system "so that officers are attracted to, trained for, and rewarded for service in joint positions." Again, I believe that my legislation offers a solution that incorporates the CSIS recommendation.

There is no single "magic bullet" that will solve all our defense problems overnight, but I am convinced that fundamental change of the JCS is as important as any single step we could take. I am hopeful that the results of the CSIS report and the increased awareness in Congress and in the public of the need for military reform will prod Congress to make necessary reforms in the near future.

The legislation I will introduce would do the following:

It would abolish the JCS, replacing the corporate entity with a single Chief of Military Staff who would serve as the principal military adviser to the President, Congress, the Secretary of Defense, and the National Security Council.

It would create a Deputy Chief of Military Staff, also to be appointed by the President and confirmed by the Senate. If the Chief came from the Army or the Air Force, the Deputy would come from the Navy or the Marines, or vice versa.

It would establish a National Military Advisory Council [NMAC], comprised of four officers drawn from the respective services, to advise the Chief of Military Staff. Unlike the present situation, however, the members of the NMAC would be the last tour of duty for particularly distinguished, senior military officers who would not be returning to their services (except in cases of necessity during a declared war). In this way, hopefully, the Chief of Military Staff could get the advice of senior officers of unquestioned stature who would be in a position to consider our overall defense picture, rather than the interests of a particular service.

Service on the Joint Staff would be upgraded in several ways. The legislation specifies that the Secretaries of the services should recommend only outstanding officers for joint service. To underscore the importance of the assignment, the legislation would give the the Chief of Military Staff the authority to select up to 100 others who were not recommended by the services. Special provisions are made to ensure that service of the joint military staff will be accorded substantial weight in considering promotions. If the Chief of Military Staff requested, a selection board to consider promotions for officers of the Joint Staff, at the same

time that the selection boards were considering promotions for those officers in individual services, and a percentage of the vacancies would be set aside for officers being considered by the special board.

Those who favor serious reform of the JCS have fallen into one of two camps. My amendment represents one school of thought which argues that because the conflict of interest arising from "dual hatting" is the essence of the problem, we should remove the service Chiefs from their joint responsibilities. Many noted defense experts—civilian and military—have endorsed this view, including Harold Brown, Gen. "Shy" Meyer, Gen. Maxwell Taylor, and David Packer. Others, seeing the same problem, argue that reform would be more realistic—and encounter less resistance—if the Chiefs retained their position on the JCS, while the Chairman's role was significantly strengthened.

Although the two groups favoring reform diverge on the proper role for the service Chiefs, a clear consensus exists about major elements of a reform package: making one officer the principal military adviser to the President, the Secretary of Defense, and the NSC; allowing that office to direct the activities of a strengthened Joint Staff, with incentives to make joint service more attractive; and creating a 4-star Deputy Chief to assist the chief military officer.

HOUSE LEGISLATION

During the 98th Congress, the House approved legislation making certain changes in the JCS structure and last summer added the bill's language to the fiscal year 1985 Defense Authorization Act. The controversial House language was dropped in conference.

The House may well act on similar JCS reform legislation during the current Congress and I am hopeful that the Senate will offer a different version. This expected activity presents the Congress with an opportunity, but also a danger. Not since 1958 has Congress focussed seriously on the issue of JCS.

Realistically, once we legislate, any changes made are likely to stay in effect for years. For that reason, reform must be accomplished soon, but it must be done right, through legislation which will stand the test of time. Accordingly, I would like to take a few moments to critique last year's House-passed reform bill.

While I admire the leadership of the House committee on this issue, I believe that the House legislation did too little and too much at the same time.

It did too little in just those areas where a consensus on the need for reform seems to have emerged: The legislation did not create a Deputy Chairman; it did not give the Chairman the sole authority for directing the activities of the Joint Staff; it did not explicitly make the Chairman the principal military adviser to the President, the Secretary of Defense, and the NSC.

At the same time, the House legislation went too far by straying into two sensitive and dangerous areas. The House would have made the Chairman of the JCS a member of the NSC. It also would have placed the Chairman, by statute, in the chain of command, specifying that orders to combat commands shall be issued by the President or the Secretary through the Chairman.

These are far-reaching changes. Under current law, the Joint Chiefs have staff, not command, duties. "Their function," President Eisenhower reminded Congress, "is to advise and assist the Secretary of Defense."

By placing the Chairman on the NSC, the House bill made him a coequal with the Secretary of Defense—not his foremost military adviser. John Kester, who has given these issues as much thought as anyone, has predicted these regulations.

> It gives the Chairman another hat, as they say in the military. It gives him a statutory office which is not derivative from the Secretary of Defense. It takes little foresight to predict that some day, if only because of the relentless pressure of his subordinates (who are not malevolent, but simply behave like any other official's subordinates), the Chairman will have a staff to assist him in preparing for his participation in the National Security Council, and for developing his NSC position.
>
> * * * such a separate role would encourage barriers (there are already enough of them at the staff level) between the Chairman and the Secretary of Defense. When queried by the Secretary of Defense, or more likely by one of the Secretary of Defense's staff such as the Undersecretary for Policy, the Chairman's staff will politely reply what the Chairman does in his role as an NSC member is independent, and is none of the Secretary's business. It is already difficult enough to get the rest of the government to understand that the JCS is part of the Defense Department and that the Chairman by law does work for the Secretary of Defense. No legislation is needed to enhance the problem.
>
> This totally unnecessary addition of role (unnecessary because the Chairman is in attendance and available at all NSC meetings anyway), can do nothing but work mischief. No coherent argument in support of such a change has been advanced; the best thing that proponents say for it is that it may be harmless. That is no basis on which to alter one of the most important and delicate organizational balances in our government.

Placing the Chairman in the chain of command represents an even more fundamental change. The House would have amended the long-standing law that prohibits the Chairman from commanding the Armed Forces. The legislation inserts the Chairman into the chain of command between the Secretary of Defense and the nine worldwide commanders. Every order from the President and the Secretary of Defense would have to go through the Chairman. The Defense Department's counsel to the Congress stated that the legislation would "vest him with supreme military command in his own right" as a single military leader of all American combat units.

Harold Brown has testified to the Senate Armed Services Committee about his misgivings about putting the Chairman in the chain of command: that it is unnecessary and simply invites others to circumvent the Secretary of Defense.

In my view, the House legislation was the wrong way to go. The dangerous departures outweigh the worthwhile reforms by a considerable margin. But the flaws in the House legislation do not change the fact that JCS reform is desperately needed. Both my bill and the reform proposals of the highly respected CSIS study demonstrate that meaningful reform can be accomplished—and should be accomplished—without shifting the country's chief military officer from an advisory position to a command position.

That the House is likely to act on similar legislation this year should be ample incentive for the Senate to push ahead with a more reasonable approach to JCS reorganization.

OPPOSITION TO REFORM

One last point. There is a stubborn group of individuals who oppose any JCS reform. Their fear of change too often seems to result from parochial "turf" interests rather than national defense interests. Nonetheless, opponents have raised legitimate questions about reform proposals such as that which was passed in the House last year.

One of the leading opponents has been the Secretary of the Navy, John Lehman, who has aptly criticized the House JCS legislation but has inaccurately equated JCS reorganization with the specter of a German-style general staff, which would threaten the very foundations of civilian control of the military.

This is an old argument and in my judgment a red herring. Obviously, in any reform we undertake we must be vigilant about maintaining the tradition of civilian control of the military, which is essential to the way our democracy—and any democracy—functions. I opposed the House legislation because I believe it tampers excessively with the civilian-military balance.

But I think that the issue—like so many that we face in Congress—is one of trying to strike a realistic balance—and not being afraid to make needed changes because of a worst-case, doomsday scenario. We have a serious problem, amply documented over the decades; the service interests have prevailed over the joint interests and prevented coherent budgeting, planning, and operations for the overall defense

needs of this country. The quality of military advice to the Secretary of Defense, the NSC, and the President is not what it should be. That is the reality with which we must deal.

General Jones has pointed out that the British, after whom we modeled our JCS, have recently moved to strengthen their Chief of Defense Staff to enhance effective integration of their defense capabilities—"secure in the knowledge that their democratic traditions will not be threatened." Other experts have noted that since 1947, many power centers in our Government have developed to hold any military staff in check: The Assistant Secretaries of Defense, the State Department, the Arms Control Agency, the staff of the National Security Adviser, and the CIA. With these realities in mind, Harold Brown has described the fear that JCS reorganization would produce "something analogous to a German general staff * * * as completely baseless." Or as James Woolsey, former Undersecretary of the Navy, has written more graphically:

> We can afford to move several light years toward military staff centralization before we come within any distance of Prussianism. The United States is about as close to having a Prussian style general staff today as it is to having a dictatorship of the proletariat.

Secretary Lehman is entitled to his view that JCS reform "is usually pushed by a coalition of civilian arm chair strategists, who don't really understand the Pentagon bureaucracy, and by uniformed military staff officers, who understand it too well." Into the first category, Secretary Lehman would apparently put: Harold Brown, James Schlesinger, David Packard, Elliot Richardson, Mel Laird, Robert Komer, Clark Clifford, Robert McNamara, Stuart Symington, Roswell Gilpatric, James Woolsey, John Kester, and Brent Scowcroft. Into Secretary Lehman's second category would fall the following generals: David Jones, "Shy" Meyer, Andrew Goodpaster, Maxwell Taylor, James Gavin, Omar Bradley, and Dwight D. Eisenhower. All these men have identified themselves with the cause of JCS reform. I have been persuaded by their collective wisdom and thoroughly unconvinced by the weak arguments of those opposed to reform.

I urge detractors of reform to focus their arguments on the weak points of bills such as the one passed by the House of Representatives last year and not on the concept of reorganization itself.

As our recently retired colleague Senator Tower said during the JCS debate last summer, "There are a number of us who have recognized for some time the need for reform. The great difficulty is trying to agree on what form reform should take." The challenge before us is enormous, but it is not insurmountable.

Mr. President, the bill I introduce today may not be the perfect solution. But it is long past time that we commit ourselves to a serious debate about the weaknesses that are almost universally diagnosed and perceived to be extremely detrimental to the defense of this Nation. This legislation is a start—hopefully a catalyst—for forceful efforts to find the right answer.

I ask that the bill be printed at this point in the RECORD.

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

S. 1067

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

CONGRESSIONAL FINDINGS

SECTION 1. The Congress finds that—

(1) under the current law, the Joint Chiefs of Staff are the principal military advisers to the President, the National Security Council, and the Secretary of Defense;

(2) since the creation of the Joint Chiefs of Staff a number of studies by so-called blue-ribbon commissions have found serious defects in the organizational structure of the Joint Chiefs of Staff; and

(3) in order to ensure that the President, the National Security Council, and the Secretary of Defense receive the best possible military advice, it is imperative that major organizational changes be made in the present system of providing such advice.

"CHIEF OF MILITARY STAFF; JOINT MILITARY STAFF

SEC. 2. (a) Chapter 5 of title 10, United States Code, is amended to read as follows:

"CHAPTER 5—CHIEF OF MILITARY STAFF

"Sec.
"141. Chief of Military Staff.
"142. Deputy Chief of Military Staff.
"143. Joint Military Staff.

"§ 141. Chief of Military Staff

"(a) There is a Chief of Military Staff who shall be appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. The Chief of Military Staff serves at the pleasure of the President for a term of two years and may be reappointed in the same manner as originally appointed for not more than three additional terms, except that in time of war declared by the Congress there is no limit on the number of reappointments.

"(b) (1) The Chief of Military Staff is the principal uniformed military advisor to the President, the National Security Council, and the Secretary of Defense. While holding office, the Chief of Military Staff outranks all other officers in the armed forces. However, he may not exercise command over any of the armed forces or any component thereof.

"(2) Subject to the authority and direction of the President and the Secretary of Defense, the Chief of Military Staff shall—

"(A) prepare strategic plans and provide for the strategic direction of the armed forces;

"(B) prepare joint logistic plans and assign logistic responsibilities to the armed forces in accordance with those plans;

"(C) establish unified commands in strategic areas;

"(D) review the major material and personnel requirements of the armed forces in accordance with strategic and logistic plans;

"(E) formulate policies for the joint training of the armed forces;

"(F) formulate policies for coordinating the military education of members of the armed forces;

"(G) provide for representation of the United States of the Military Staff Committee of the United Nations in accordance with the Charter of the United Nations; and

"(H) perform such other duties as the President or the Secretary of Defense may prescribe.

"(3) The Chief of Military Staff shall also direct the operations of the Joint Military Staff.

"§ 142. Deputy Chief of Military Staff

"(a)(1) There is a Deputy Chief of Military Staff. The Deputy Chief shall be appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. The Deputy Chief serves at the pleasure of the President for a term of two years and may be reappointed in the same manner as originally appointed for not more than three additional terms, except that in time of war declared by the Congress there is no limit on the number of reappointments.

"(2) If the Chief of Military Staff is a member of the Army or Air Force, the Deputy Chief shall be a member of the Navy or Marine Corps. If the Chief of Military Staff is as member of the Navy or Marine Corps, the Deputy Chief shall be a member of the Army or Air Force.

"(b) The Deputy Chief acts as Chief of Military Staff in the absence or disability of the Chief of Military Staff and exercises such duties as may be delegated by the Chief of Military Staff with the approval of the Secretary of Defense. When there is a vacancy in the office of Chief of Military Staff, the Deputy Chief, unless otherwise directed by the President or the Secretary of Defense, shall perform the duties of the Chief of Military Staff until a successor is appointed.

"§ 143. Joint Military Staff

"(a)(1) There is under the Chief of Military Staff a Joint Military Staff consisting of not more than 400 officers.

"(2) Members of the Joint Military Staff shall be selected by the Chief of Military Staff from among officers recommended by the Secretaries of the military departments. The Chief of Military Staff shall select officers for service on the Joint Military Staff in approximately equal numbers from (A) the Army, (B) the Navy and Marine Corps, and (C) the Air Force. The Secretary of a military department shall recommend for selection for service on the Joint Military Staff only those officers under this jurisdiction who are most qualified by training, experience, and knowledge to serve on such staff.

"(3) The Chief of Military Staff may specify the number of names on any list of officers recommended by the Secretaries of the military departments for selection to serve on the Joint Military Staff, but may select for service on the Joint Military Staff not more than one hundred officers who are not recommended for selection by the Secretaries of the military departments.

"(4) Members of the Joint Military Staff serve at the pleasure of the Chief of Mili-

tary Staff for a period of three years. The Chief of Military Staff may select an officer for service on the Joint Military Staff for a second consecutive three-year period after consultation with the Secretary of the military department of which such officer is a member.

"(b)(1) The Chief of Military Staff in consultation with the Secretary of Defense shall select the Director of the Joint Military Staff. Except in time of war, the tour of duty of the Director may not exceed three years. Upon the completion of a tour of duty as Director of the Joint Military Staff, the Director, except in time of war, may not be reassigned to the Joint Military Staff. The Director must be an officer junior in grade to each member of the National Military Advisory Council established under section 178 of this title.

"(2) The Joint Military Staff shall perform such duties as the Chief of Military Staff prescribes. The Chief of Military Staff manages the Joint Military Staff and its Director.

"(C)(1) Under regulations approved by the Secretary of Defense, the Secretaries of the military departments shall take such actions as may be necessary to ensure that the services of officers on the Joint Military Staff is accorded substantial weight in determining the qualifications of officers for recommendation for promotion to grades specified by such Secretaries.

"(2)(A) At the same time that selection boards are convened by the Secretary of the military department concerned under chapter 36 of this title to consider officers in a particular competitive category for promotion to the grade of lieutenant colonel, colonel, brigadier general, or major general in the Army, Air Force, or Marine Corps or to commander, captain, commodore admiral, or rear admiral in the Navy, the Secretary of such military department shall also convene a special selection board under this paragraph if the Chief of Military Staff so requests.

"(B) When a special selection board is convened under this paragraph, the board shall consider for promotion to the next higher grade only officers serving on the Joint Military Staff in the same grade and in the same competitive category as officers being considered for promotion to such grade and in such competitive category by a board convened under chapter 36 of this title and who are otherwise eligible for consideration for promotion to the next higher grade.

"(C)(i) Of the total number of officers in each particular competitive category in the grade of lieutenant colonel and colonel in the Army, Air Force, and Marine Corps and in the grade of commander and captain in the Navy to be promoted to the next higher grade, as determined by the Secretary of the military department convened under section 615 of this title, a number of officers considered for promotion to such grade in such competitive category equal to 3 percent shall be promoted to such next higher grade from among officers in such competitive category recommended for promotion to such grade by a special board convened under this paragraph.

"(ii) Of the total number of officers in each particular competitive category in the grade of brigadier general in the Army, Air Force, or Marine Corps and commodore admiral in the Navy to be promoted to the next higher grade, as determined by the Secretary of the military department concerned under section 615 of this title, a number of officers considered for promotion to such grade in such competitive category equal to 10 percent shall be promoted to such next higher grade from among officers in such competitive category recommended for promotion to such grade by a special selection board convened under this paragraph.

"(iii) The number of officers that may be selected for promotion to any grade in any competitive category by a selection board convened under chapter 36 shall be reduced by a number of officers equal to the number that is to be selected for promotion to such grade in such competitive category by a special selection board convened under this paragraph.

"(D) Special selection board convened under this section shall be subject to the provisions of chapter 36 of this title to the extent practicable, as determined by the Secretary of Defense. The provisions of this paragraph shall be carried out in accordance with regulations prescribed by the Secretary of Defense.".

(b) The table of chapters at the beginning of title 10, United States Code, and at the beginning of subtitle A of such title are each amended by striking out the item relating to chapter 5 and inserting in lieu thereof the following:

"5. Chief of Military Staff ..... 141".

NATIONAL MILITARY ADVISORY COUNCIL

SEC. 3. Chapter 7 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 178. National Military Advisory Council

"(a) There is established in the Department of Defense a National Military Advisory Council. The Council shall consult with and advise the Chief of Military Staff on all matters with respect to which the Chief of Military Staff is responsibile.

"(b)(1) The Council shall consist of four senior military officers, one each from the Army, Navy, Marine Corps, and Air Force, to be appointed by the President, by and with the advance and consent of the Senate. Before making an appointment under this subsection, the President shall consult with the Secretary of Defense and the Chief of Military Staff regarding the appointment. Only officers having outstanding qualifications, including substantial joint or unified command experience, shall be eligible for appointment to the Council.

"(2) Officers shall be appointed to the Council for a term of two years and may be reappointed in the same manner as originally appointed for not more than three additional terms, except that in time of war declared by the Congress there is no limit on the number of reappointments.

"(3) Officers appointed to the Council may not be assigned any duties other than those referred to in subsection (a) and may not exercise any command authority in any armed force.

"(c) Only the most experienced and outstanding members of the armed forces may be appointed to the National Military Advisory Council. Notwithstanding any other provision of law, a member of the armed forces may not serve on active duty after completion of his term or terms on the council, except that such restriction may be waived by the Secretary of Defense in the case of any member in time of war declared by the Congress.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 4. (a)(1) Section 171(a) of title 10, United States Code, is amended by striking out clause (7) and inserting in lieu thereof the following:

"(7) the Chief of Military Staff;".

(2) Section 264(b) of such title is amended by striking out "Joint Chiefs of Staff" and inserting in lieu thereof "National Advisory Council".

(3) Section 268(c)(2) of such title is amended by striking out "Joint Chiefs of Staff" and inserting in lieu thereof "National Advisory Council".

(4) Section 525(b)(3) of such title is amended by striking out "Chairman of the Joint Chiefs of Staff" and inserting in lieu thereof "Chief of Military Staff".

(5) Section 743 of such title is amended by striking out "Chairman of the Joint Chiefs of Staff" and inserting in lieu thereof "Chief of Military Staff".

(6) Section 5081(b) of such title is amended by striking out "Chairman of the Joint Chiefs of Staff" and inserting in lieu thereof "Chief of Military Staff".

(b)(1) Section 413 of title 37, United States Code, is amended by striking out "Chairman of the Joint Chiefs of Staff" and inserting in lieu thereof "Chief of Military Staff".

(2) The heading for section 413 of such title is amended to read as follows:

"§ 413. Chief of Military Staff".

(3) The table of sections at the beginning of chapter 7 of such title is amended by striking out the item relating to section 413 and inserting in lieu thereof the following:

"413. Chief of Military Staff.".

(c) Section 411(a) of title 38, United States Code, is amended by inserting "or Chief of Military Staff" after "Chairman of the Joint Chiefs of Staff" in footnote 2 of the table contained in such section.

By Mr. JOHNSTON (for himself and Mr. MCCLURE):

S. 1068. A bill to eliminate unnecessary paperwork and reporting requirements contained in section 15(1) of the Outer Continental Shelf Lands Act, and sections 601 and 606 of the Outer Continental Shelf Lands Act Amendment of 1978; to the Committee on Energy and Natural Resources.

REPEAL OF CERTAIN OCS REPORTING REQUIREMENTS

● Mr. JOHNSTON. Mr. President, much has been said in recent years about curbing waste in the Federal Government. While lots of examples have been put forth, frequently what is waste to one Member is a vital program for another. It is unusual to find an undisputed case of waste that can be easily curbed. Therefore, I am pleased to introduce today, with Senator MCCLURE, a bill today that repeals an anachronistic reporting requirement that is wasting valuable resources of the Department of the Interior, the General Accounting Office, and the oil industry. The savings here are not earthshaking, but on the other hand they are real savings.

This bill accomplishes two objectives. First, it repeals provisions in the OCS Lands Act and in the OCS Lands Act Amendments of 1978 that require reports by the Secretary of the Interior and the Comptroller General on OCS oil and gas wells that are shut in; that is, not being produced and natural gas wells that are being flared; that

is, the gas is being vented to the atmosphere insead of being collected for pipelines.

Second, this bill repeals a provision that requires the Secretary of Interior to maintain a "continuing investigation" on the availability of oil and gas on the OCS, a matter that the Department of Interior will study and investigate in any event. The reason for deleting this requirement stems, as I will explain, from the manner in which this study is required to be carried out.

As to the first objective, the bill repeals section 15(1)(D) of the OCS Lands Act that requires the Department of Interior to include in its annual report on leasing and production on the OCS "a list of all shut-in and flaring wells." In addition the bill repeals section 601 and section 606 of the OCS Lands Act Amendments of 1978. Section 601 requires the Secretary of the Interior to provide an annual report to the Comptroller General on shut-in and flaring of oil and gas wells on the OCS. It also requires the Secretary to indicate in his report why each such well is shut in or flared and whether with respect to each such well the Secretary will order its production or the cessation of flaring, as the case may be. Finally, section 601 requires the Comptroller General to review and evaluate the methodology which the Secretary used in deciding whether or not to require production of the well or the cessation of flaring.

These particular reporting requirements on shut-in wells and flaring of wells on the OCS are unnecessary for two reasons. First, the General Accounting Office, who has studied this matter for 6 consecutive years, believes that they are unnecessary. Their sixth and latest report—October 30, 1984—stated:

> Our last four reports questioned the usefulness of Interior's annual report on shut-in and flaring wells. In each of the reports, we recommended that the Congress repeal section 15(1)(D) of the Outer Continental Shelf (OCS) Lands Act, as amended, and sections 601(a) and (b) of the OCS Lands Act Amendments of 1978 . . . We continue to support this recommendation. Staff of oversight committees in both the Senate and the House told us that congressional interest in Interior's annual report does not warrant further reporting. Eliminating Interior's reporting requirement would not diminish Interior's responsibility to oversee OCS lease activities to assure efficient development of oil and gas resources and compliance with applicable laws, regulations, and lease agreements. We believe that Interior is effectively monitoring OCS shut-in and flaring well activity and Interior has stated that it will continue to do so even if the annual reporting requirement is repealed.

Second, these reporting requirements are unnecessary because the rationale for shutting in OCS wells or flaring valuable gas from such wells has disappeared, if a rationale ever existed at all. We have neither an oil or gas shortage, nor price and allocation controls on oil. Gas controls are limited. Who would incur the enormous capital cost to develop a productive, economically viable well on the OCS and then deliberately shut it in?

The second overall objective of this legislation is to repeal the provision—section 606—that required the Department of Interior to conduct a continuing investigation of the availability of oil and gas on the OCS. This investigation must include a determination of the maximum rate of production [MAR] of significant oil and gas fields on the OCS and whether actual production has been less than the MAR and why.

In a report to the Congress dated September 10, 1982, the General Accounting Office noted that the Department of Interior monitors and collects three types of OCS production rates, including the MAR. The GAO said, "The third rate, the MAR, is not providing any useful data." In addition they found that no one is using the MAR report and moreover that the shortcomings of the MAR data are such that "* * * the MAR's are not a valid basis for the Congress to use in determining OCS production available to meet supply emergencies." The GAO report to Congress concluded, "We recommend that the Congress repeal section 606 of the OCS Land Act Amendments of 1978 (43 U.S.C. 1865) to eliminate the data gathering and reporting requirements related to the MAR rates."

Section 606 also requires that this "continuing investigation" include an estimate of discovered and undiscovered crude oil and gas reserves on the OCS, the "relationship" of all this information collected under section 606 to requirements of conservation, industry, commerce, and national defense, and an independent evaluation of trade association procedures for estimating OCS reserves. Certainly, the Department of Interior will continue to assemble estimates of OCS oil and gas reserves to any event. The relationship of such information to requirements of "conservation, industry, commerce, and national defense" is well established by now. Finally, the requirement that the Comptroller General continue making an independent evaluation of trade association procedures for estimating OCS reserves is at this point simply unnecessary.

The costs to the Department of the Interior, the General Accounting Office, and the industry which would be eliminated by this bill are in fact small, relative to the numbers we are accustomed to using here on the Senate floor. But the fact is that these costs need not be incurred. The GAO asked seven oil companies what their costs of compliance are with respect to reporting on OCS production rates. In their report to Congress of September 10, 1982, GAO indicated that these seven firms alone spent $426,500 yearly in assembling data for the necessary reports, although the figures are too precise and they combine the costs of all three OCS production rates collected by Interior, not just the costs associated with the MAR.

The GAO has most recently estimated that preparation of the shut-in and flaring well report costs the Department of the Interior and the GAO a total of about $45,000 per year with the GAO spending $29,000 of that figure. Moreover, the GAO reported in 1982, that the Department of Interior spent $84,400 per year in collecting and reporting just the MAR data for the report required by section 606 of the Outer Continental Shelf Lands Act Amendments.

So the annual savings from this bill, if enacted, are measured in the hundreds of thousands, not millions, of dollars. But given the absence of any rationale for continuing these mandated reports, these savings would appear to be reason enough to enact this legislation.

On April 4, 1985, Representative JONES and 10 cosponsors introduced a House companion bill, H.R. 1983.●

By Mr. LEAHY:

S. 1069. A bill to amend the Agricultural Act of 1949 to modify the Dairy Price Support Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY PROGRAM IMPROVEMENT ACT

Mr. LEAHY. Mr. President, today I am introducing dairy legislation which will provide a long-term, enduring program which will not invite or require year to year adjustments by Congress.

The dairy farmers of this country deserve a program which will allow realistic planning.

I believe that my legislation protects the family farmers of this country by ensuring that they do not have to operate under unpredictable and unrealistic programs.

From my meetings at home with Vermont dairy farmers, I know that they are sensitive to large Government purchases and rising Government costs. They are aware of the dangers of an overly generous price support program which encourages Government purchases.

At the same time, they want stability in the dairy industry and recognize the contribution of the purchase program to that stability over the years. They will not support a price cut which will drive many of the family farmers of this Nation out of business. They will accept a program which will provide an orderly transition to a market clearing system.

The legislation I am introducing today maintains dairy price supports

at a reasonable level. For that period, October 1, 1985, through September 30, 1987, dairy price supports would be maintained at the level set by the Secretary on July 1, 1985. On October 1, 1987, dairy price supports would be set according to a supply-demand adjuster and a cost of production index. The supply-demand adjuster would provide specific discretionary authority to the Secretary to raise or lower price supports based on the level of Government purchases. The cost of production index would replace the present parity index which is recognized as an outdated standard.

I realize that my legislation will not satisfy the many diverse interests in this country. However, it does treat those many interests equitably. It is a program which will allow the dairy industry in this country to move forward with some certainty.

Mr. President, I urge my colleagues to take a close look at the bill 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. 1069

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 "Dairy Program Improvement Act of 1985".

MILK PRICE SUPPORT

SEC. 2. Subsection (d) of section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) is amended to read as follows:

"(d) Notwithstanding any other provision of law—

"(1) Effective for the fiscal years beginning October 1, 1985, and October 1, 1986, the price of milk shall be supported at the same level that was in effect on July 1, 1985.

"(2) Effective for the fiscal years beginning October 1, 1987, and October 1, 1988, the price of milk shall be supported at a level determined in accordance with this paragraph.

"(A) The Secretary shall compute annually an index of items for each fiscal year as provided in this paragraph that affected the cost of producing milk or the products of milk during the period from calendar year 1976 through calendar year 1978. The Secretary shall compute the index taking into account the following schedule of items and the proportional contribution of each item:

Item	*Contribution to the Index*
Consumer Price Index	10 per centum
Prices received by farmers for meat animals	10 per centum
Feed costs	33 per centum
Interest paid by farmers	8 per centum
Taxes	2.5 per centum
Fuel and energy expenses	4 per centum
Milk hauling costs	3 per centum
Machinery and building repair expenses	4 per centum
Hired labor expenses	7 per centum
Farm services and general overhead costs	8.5 per centum

The Secretary shall use the value of the index so computed to measure changes in the cost of producing milk or the products of milk during the most recent six-month period.

"(B) The index computed under this paragraph shall be further adjusted to reflect increases in productivity, taking into account such factors as changes in milk produced per cow, and other related factors the Secretary determines to be relevant.

"(C) The adjusted value of the index shall be multiplied by $8.33 to determine the support price per hundredweight for milk containing 3.67 per centum of milkfat on October 1, 1987.

"(D) The Secretary shall estimate Government price support purchases (not of sales for unrestricted use) for each such fiscal year using the amount of such purchases made during the most recent six-month period adjusted to an annual level. If the Secretary estimates that the Government price support purchases of milk or the products of milk will be less than 5 billion pounds or in excess of 5.990 billion pounds milk equivalent, the Secretary shall adjust the price support as determined in this paragraph according to the following table:

"If the estimated amount (in billions of pounds) of net Government price support purchases of milk during the relevant period is (in milk equivalent):	The percentage of price support level per hundredweight for milk shall be:
Less than 3	104
3.0 to 3.99	103
4.0 to 4.99	102
5.0 to 5.99	100
6.0 to 6.99	98
7.0 to 7.99	96

"(3) The price of milk shall be supported through the purchase of milk and the products of milk."

FEDERAL MILK MARKETING ORDERS

SEC. 3. Section 101(b) of the Agriculture and Food Act of 1981 (7 U.S.C. 608c) is amended by striking out "1985" and inserting in lieu thereof "1989".

TRANSFER OF DAIRY PRODUCTS TO VETERANS HOSPITALS AND THE MILITARY

SEC. 4. Section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a) is amended by striking out "1985" in subsections (a) and (b) and inserting in lieu thereof "1989".

DAIRY INDEMNITY PROGRAM

SEC. 5. Section 3 of the Act of August 13, 1968 (7 U.S.C. 4501), is amended by striking out "1985" and inserting in lieu thereof "1989".

By Mr. PRYOR (for himself and Mr. BUMPERS):

S. 1070. A bill to provide a Congressional Medal of Honor to John Yancey; to the Committee on Armed Services.

CONGRESSIONAL MEDAL OF HONOR TO JOHN YANCEY

Mr. PRYOR. Mr. President, I am pleased today to join my fellow Arkansans and others in the country who have long recognized the heroic efforts of John Yancey, familiarly known as "Cap'n John" and a citizen of Little Rock. His name, and his story, are both worth the attention of my colleagues in the Senate.

John Yancey has been described as "the iron marine" because of repeated acts of heroism in both World War II and the Korean conflict. As a first lieutenant in the Marines he earned a Navy Cross when he and a handful of his men took a strategic jungle on Guadalcanal in November 1942. He had enlisted in the Marines on December 8, 1941, the day after the attack on Pearl Harbor.

In November 1950 John Yancey displayed again the heroism that distinguishes his character while commanding a platoon of Company E, 2d Battalion, 7th Marines, 1st Marine Division. With all his superior officers killed, he led the remnants of several platoons against an enemy onslaught. At the time he was 32 years old and had suffered three serious head wounds in previous fighting.

This incident occurred, Mr. President, during the battle of the Chosin Reservoir in North Korea, a siege that has become known as one of the bloodiest and costliest in the entire war. It pitted some 15,000 allied troops against an estimated 120,000 Chinese Communist troops in subzero weather.

Nearly 7,000 allied troops were killed during the battle of Chosin, and an estimated 30,000 Chinese died. At the end of the fighting, John Yancey was the only officer left on Hill 1282. And he had taken three serious wounds within the space of 2 days.

Since that time, Mr. President, numerous marines have come forward to attest to the heroism and courage of John Yancey. All of them are only right and proper in their claims, since he is in every way a hero in the tradition of America's fighting men.

Had John Yancey's superior officers survived the battle at the Chosin Reservoir, there is no doubt they would have testified to his unquestioned deserving of the Congressional Medal of Honor. There are numerous men throughout the country who are now willing and anxious to step forward and make that testimony in their absence.

And in that spirit my colleague Senator BUMPERS and I are today introducing legislation to ask the President—in the name of the Congress—to award the Medal of Honor to John Yancey. And I wish to quote from this proposed bill in closing, Mr. President: "In recognition of acts of gallantry and intrepidity at the risk of life above and beyond the call of duty."

Mr. BUMPERS. Mr. President, I rise today to introduce with my distinguished colleague, Senator PRYOR, a bill to award a man of valor, dignity, and unlimited selflessness the Congressional Medal of Honor; that man, Mr. President, is Capt. John Yancey.

Capt. John Yancey, affectionately known as "Cap'n John," displayed on a subzero day in December 1950 extraordinary bravery and courage in the face of immense odds and inhuman circumstances. On that day he led the 2d platoon of Easy Company, 7th Regiment, 1st Marine Division

FMF on a heroic assault of Hill 1282, which lies north of Yudam-Ni near the mammoth Chosin Reservoir just south of the Yalu River on the Sino-Korean frontier. Against a tide of 120,000 Chinese Communist troops, the 15,000 allied soldiers waged a battle against virtually unprecedented odds. Capt. John Yancey's leadership and sacrifice during this fight prevented Hill 1282 from being lost and in turn prevented the remainder of the Fifth and Seventh Marine regiments from being overrun by the seemingly endless waves of enemy troops.

It was not simply the leadership and encouragement of Captain Yancey throughout that battle that won him the undying respect and admiration of those he led through this trial, but his perseverance during that night was in spite of three wounds he had suffered to the head. It was this fierce determination that gave his men the tenacity to continue the fight and retain control of the strategically vital Hill 1282 till reinforcements arrived.

The firefight on Hill 1282 earned Captain Yancey the Navy Cross, but this was not his first decoration for outstanding performance of his duties. His story began the day following the tragic bombing of Pearl Harbor in 1941, when he left the sanctity of a small farm in southern Arkansas to be a marine—"one of the first to fight." His first Navy Cross was awarded following an ambush on him and a handful of his men in the grueling jungle of Guadalcanal. From that day forward his loyalty to his country and the men under his command is a story of extraordinary patriotism.

The men he fought with and risked his life for have documented his bravery, and I conclude with a quotation from an affidavit of Charles Griffin, a soldier under "Cap'n John's" command: "John Yancey's personal courage, disregard for painful wounds, and leadership were in the highest tradition of the Naval service and above and beyond the call of duty.

By Mr. MATHIAS:

S. 1071. A bill to amend the Foreign Sovereign Immunities Act; to the Committee on the Judiciary.

FOREIGN SOVEREIGN IMMUNITIES ACT AMENDMENTS

Mr. MATHIAS. Mr. President, the Foreign Sovereign Immunities Act [FSIA], in force now for 9 years, restricts the immunity given to foreign governments by our courts. Today, I introduce a bill that will clarify and strengthen it.

We live in a world that daily grows more interdependent. In 1970, international trade accounted for only 6 percent of our GNP. Today, it is over 12 percent. One of the best ways to facilitate trade is to provide a legitimate way to adjudicate disputes. This is especially true when one of the parties is a government or a government agency, and we run into the hoary doctrine of sovereign immunity.

Like most legal concepts, the doctrine of sovereign immunity is an ancient one, reaching all the way back to the 14th century B.C., when Egyptian Pharaohs acknowledged the mutual sovereignty and equality of neighboring kings. Briefly stated, this principle assets that one sovereign should not submit to the will of another sovereign. If rulers were subjected to the jurisdiction of other states, their interests would be compromised. A sovereign's immunity from the jurisdiction of foreign courts was a natural corollary of the recognition of the equal status of rulers.

The doctrine of sovereign immunity was early recognized by our courts. Chief Justice John Marshall in Schooner Exchange versus M'Faddon noted that the "perfect equality and absolute independence of sovereigns" was recognized by the law and practice of other nations. Beyond international comity, sovereign immunity rests on the separation of powers in our Constitution. In the past, to avoid embarrassment to those responsible for the conduct of the Nation's foreign relations, the courts generally deferred to the executive branch in cases involving foreign states. They did so even when the executive branch might have found it more political for the courts to resolve a dispute and spare it that prickly duty.

As foreign governments engaged more and more in normal commerical enterprises, they became increasingly involved in routine legal and business disputes. Due to the absolute immunity from jurisdiction accorded foreign governments, private litigants had difficulty getting these disputes resolved. This led to an absurd situation, where government-controlled foreign enterprises or businesses received preferential treatment in U.S. courts over their privately run competitors.

These government-owned firms could ignore their obligations under contracts, evade responsibility for their own negligence and otherwise violate the requirements of law by invoking a legal fiction—that their activity served some governmental purpose and should therefore be entitled to sovereign immunity.

In response to this unsatisfactory state of affairs, the State Department in the early 1950's began advocating immunity only for public or official acts of a government and not private or commercial activities. "This restrictive theory of sovereign immunity" was recognized by the courts. In Victory Transport, sovereign immunity was seen as "a derogation from the normal exercise of the jurisdiction by the courts and should be accorded only in clear cases."

In 1976, Congress codified the restrictive theory in the Foreign Sovereign Immunities Act. This codification has extricated the State Department from the sticky business of deciding which government is entitled to immunity, and for what activities. It gives the courts that power, and they have exercised it expertly. Further, the FSIA ended the immunity that foreign states enjoyed from the execution of judgments won by private parties in court. The FSIA gives litigants not only a right to due process, but in most cases a remedy as well. Unfortunately, there are still some gaps.

The amendments I introduced today fill the gaps in the FSIA. Simply stated, they perfect the jurisdiction of the court and provide for better enforcement and execution of judgments once they are rendered by the court.

Experience has demonstrated that the FSIA's current provisions for adjudication of expropriation claims fail to provide an adequate remedy for many Americans who are the victims of foreign expropriations. This is true because the courts continue to apply a legal anachronism, the act of State doctrine, as a bar to adjudication of expropriation claims. In deference to this doctrine, our courts now often dismiss cases properly within their jurisdiction when the dispute requires them to judge the validity of an act of a foreign government. The most notorious examples date from Fidel Castro's expropriation of the assets of U.S. citizens after his takeover in 1959. Even though the takeovers were generally acknowledged to be both confiscatory and discriminatory and thus in violation of international law, U.S. courts dismissed the claims of the expropriated Americans trying to attach Cuban assets in this country.

Congress thought it cured this ill when it adopted the Sabintino amendment to the Foreign Assistance Act in 1964 but the courts have interpreted that statute very narrowly. We must free our courts from this self-imposed restraint and end these dismissals by reflex. The courts should be encouraged to adjudicate expropriation cases that are in violation of international law. In cases where the FSIA confers jurisdiction, this bill excludes the use of the act of state doctrine to bar adjudication.

These amendments also clarify the jurisdiction of the courts by expressly defining a commercial activity to include debt securities and guarantees issued by foreign states. Although the FSIA already has that effect, a clarifying amendment would reassure the cour[illegible].

The amendments enhance the power of parties to have arbitration awards recognized and enforced in American courts, most importantly in the area of arbitration. The procedure of sub-

mitting disputes to an impartial arbitrator extends back to the earliest days of international law. Thucydides writes that a treaty of alliance between Sparta and Argos in 418 B.C. stipulated that they would take their differences to arbitration on fair and equal terms. Once again international arbitration has gained prominence as a mechanism for resolving international disputes, this time, commercial disputes between governments and private individuals or corporations. Under this procedure, an arbitration clause is written into the agreement negotiated between the corporation and the government of the country with which it wishes to do business. In this way any dispute that arises can be resolved by the arbitrator.

Obviously, unless the arbitration agreement is enforceable, the arbitration is meaningless. Recent decisions in the U.S. courts suggest that serious uncertainties surround the enforcement of international arbitration awards. In one case, the court, using the act of state doctrine, failed to recognize an arbitration award against a foreign government.

This amendment will reassure businesses that the international arbitration process will work. It does so by amending the FSIA to say that an agreement to arbitrate constitutes a waiver of immunity in an action to enforce that agreement or the resultant award.

Prior to passage of the FSIA, there was no effective means of serving a process upon a foreign state. So litigants resorted to prejudgment attachment of a foreign government's property. That would at least get them into court. But then the FSIA prohibited jurisdictional prejudgment attachment. In its place, it provided a mechanism for service of process upon a foreign state.

However, the Iran claims litigation has demonstrated the need for reconsideration of prejudgment attachment of assets, when there is evidence of imminent removal of assets by a foreign government in order to avoid execution.

To ensure that right to a meaningful judgment, this bill would amend the FSIA to authorize prejudgment attachment to secure satisfaction against an agency or instrumentality of a foreign state under carefully defined conditions. These conditions will provide a better balance between the due process of litigants and the foreign policy concerns of the U.S. Government.

Providing a right without a remedy is neither good policy nor good law. My bill corrects that situation by allowing execution of a judgment against a broader range of commercial property owned by a foreign state; making it easier to execute a judgment against the commercial assets of a foreign government.

In admiralty cases, this bill would restrict penalties for improper arrest of a vessel to the damages incurred during the detention—at present, such penalties are excessive. Litigants would retain a right to go to court. Finally, this bill allows an aggrieved party to bring an action against the ship itself. This eliminates the serious uncertainties that exist under the current law due to the difficulty in ascertaining the true ownership of a vessel and the obvious mobility of such property. Litigants in U.S. courts should not have to watch helplessly as their only remedy sails away.

Some of my colleagues may be familiar with measures I introduced in the 97th Congress on the enforcement of arbitral awards and the restrictions on the use of the act of state doctrine. The reform I am proposing today applies only to modifying the Foreign Sovereign Immunities Act. However, those earlier measures and this bill have a common purpose—the advancement of the rule of law worldwide through the codification of recognized legal standards. For a law-abiding nation like the United States, a movement in this direction can only work to our benefit.

We don't want litigants in our courts to be the "hit and run" victims of an outmoded concept of sovereign immunity. These amendments to the Foreign Sovereign Immunities Act are consonant with the way we do business today and will encourage our export effort. With a U.S. trade deficit of over $123 billion, nothing should have a higher priority. These amendments are strongly endorsed by the American Bar Association and are the first priority on its international law agenda.

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. 1071

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1603 of title 28, United States Code, is amended by adding at the end thereof the following:

"(f) A 'commercial activity' includes any promise to pay made by a foreign state, any debt security issued by a foreign state, and any guarantee by a foreign state of a promise to pay made by another party.".

SEC. 2. (a) Section 1605(a) of title 28, United States Code, is amended by—

(1) striking out "or" at the end of paragraph (4);

(2) striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or"; and

(3) adding at the end thereof the following:

"(6) which is brought to enforce an agreement made by the foreign state with or for the benefit of a private party to submit to arbitration all or any differences which have arisen or which may arise between the parties with respect to a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration under the laws of the United States, or which is brought to confirm, recognize or enforce an award made pursuant to such an agreement to arbitrate, if (A) the arbitration takes place in the United States, (B) the agreement or award is or may be governed by a treaty or other international agreement in force for the United States calling for the recognition and enforcement of arbitral awards, or (C) the underlying claim, save for the agreement to arbitrate, could have been brought in a United States court under this section or section 1607.".

(b) Section 1605(b) of title 28, United States Code, is amended by—

(1) striking out the material after the first semicolon in paragraph (1) and inserting in lieu thereof the following: "and if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit, the service of process of arrest shall be deemed to constitute valid delivery of such notice, but the party bringing the suit shall be liable for any damages sustained by the foreign state as a result of the arrest if the party bringing the suit had actual or constructive knowledge that the vessel or cargo of a foreign state was involved; and"; and

(2) striking out the matter after paragraph (2) and inserting in lieu thereof the following:

"(c) Whenever notice is delivered under subsection (b)(1) the suit to enforce a maritime lien shall thereafter proceed and shall be heard and determined according to the principles of law and rules of practice of suits in rem whenever it appears that, had the vessel been privately owned and possessed, a suit in rem might have been maintained. A decree against the foreign state may include costs of suit and, where the decree is for money judgment, interest as ordered by the court, provided that the court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose. Such value shall be determined as of the time notice is served under subsection (b)(1). Decrees shall be subject to appeal and revision as provided in other cases of admiralty and maritime jurisdiction. Nothing shall preclude the plaintiff in any proper case from seeking relief in personam in the same action brought to enforce a maritime lien as provided by this section.

"(d) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case brought to foreclose a preferred mortgage, as defined by the Ship Mortgage Act (46 U.S.C. 911). Such action shall be brought and shall be heard and determined in accordance with the provisions of such Act, and the principles of law and rules of practice of suits in rem, whenever it appears that had the vessel been privately owned and possessed a suit in rem might have been maintained.".

SEC. 3. Section 1606 of title 28, United States Code, is amended by—

(1) inserting "(a)" before "As"; and

(2) adding at the end thereof the following:

"(b) The Federal act of state doctrine shall not be applied on behalf of a foreign state with respect to any claim or counterclaim asserted pursuant to the provisions of

this chapter which is based upon an expropriation or other taking of property, including contract rights, without the payment of prompt, adequate, and effective compensation or otherwise in violation of international law or which is based upon a breach of contract, nor shall such doctrine bar enforcement of an agreement to arbitrate or an arbitral award rendered against a foreign state.".

Sec. 4. Section 1610 of title 28, United States Code, is amended—

(1) in subsection (a) by striking out ", used for a commercial activity in the United States," and by inserting ", or upon an arbitral award," after "a State";

(2) by amending paragraph (2) of subsection (a) to read as follows:

"(2) the property is used or intended to be used for a commercial activity in the United States, or";

(3) by amending paragraph (3) of subsection (a) to read as follows:

(3) the property belongs to an agency or instrumentality of a foreign states engaged in commercial activity in the United States and the judgment relates to a claim for which the agency or instrumentality is not immune by virture of section 1605 or 1607 of this chapter, or";

(4) by amending paragraph (4)(B) to read as follows:

"(B) which is immovable and situated in the United States.";

(5) by striking out paragraph (5) of subsection (a);

(6) by inserting between paragraph (4) and subsection (b) the following: "This subsection shall not apply to property that is used for purposes of maintaining a diplomatic or consular mission or the residence of the chief of such mission, including a bank account unless that bank account is also used for commercial purposes unrelated to diplomatic or consular functions.";

(7) by striking out subsection (b);

(8) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively;

(9) by striking out "subsection (c)" in subsection (c) as redesignated in paragraph (7) of this section and inserting in lieu thereof "subsection (b)";

(10) in subsection (c)(2), as redesignated herein, by inserting "or an arbitral award" after "judgment"; and

(11) by adding at the end thereof the following:

"(d)(1) In addition to subsection (c), any property in the United States of an agency or instrumentality of a foreign state engaged in commercial activity in the United States shall not be immune from attachment or injunctive relief prior to the entry of judgment in any action brought in a court of the United States or of a State, or prior to the expiration of the period of time provided in subsection (b) of this section, if—

"(A) the property attached or enjoined would be subject to execution under this chapter with respect to that judgment,

"(B) the purpose of the attachment or injunction is to secure satisfaction of a judgment or an arbitral award that has been or may ultimately be entered against the agency or instrumentality and not to obtain jurisdiction,

"(C) the property of a private party would be subject to such attachment or injunctive relief in like circumstances,

"(D) the moving party has shown—

"(i) a probability of success on the merits, or has obtained a judgment in favor of such party, and

"(ii) a probability that the assets will be removed from the United States or disposed of by the agency or instrumentality before a judgment is entered or satisfied and that such action would frustrate execution of such judgment, and

"(E) the moving party posts a bond in an amount equal to the greater of 50 percent of the value of the property attached or any higher amount required under applicable law.

"(2) If the agency or instrumentality has not appeared to oppose an attachment or injunctive relief granted under this subsection, or if such agency has appeared but has not had an adequate opportunity to present an opposition, the court shall grant an immediate hearing to seek dissolution of the attachment or order, and the court shall dissolve the attachment or order if the agency or instrumentality—

"(A) demonstrates that one or more of the applicable criteria in this subsection has not been satisfied, or

"(B) posts a bond in the amount of the claim or the affected property, whichever is less.

"(e) The vessels of a foreign state shall not be immune from arrest in rem, interlocutory sale, and execution in actions brought to foreclose a preferred mortgage as provided in section 1605(c).".

By Mr. QUAYLE:

S.J. Res. 130. Joint resolution designating the week beginning on November 10, 1985, as "National Blood Pressure Awareness Week"; to the Committee on the Judiciary.

NATIONAL BLOOD PRESSURE AWARENESS WEEK

● Mr. QUAYLE. Mr. President, it is my pleasure today to introduce a joint resolution to designate the week of November 10–16, 1985, as "National Blood Pressure Awareness Week."

Elevated blood pressure, or hypertension, has been a health problem for many, many years; a discussion of it appeared in the oldest medical textbook in written history, which was written approximately 3,000 to 5,000 years ago. Today elevated blood pressure, or hypertension, occurs in over 60 million Americans. While we do not fully understand the causes of 95 percent of hypertension, we certainly do know the consequences of a failure to bring it under control; it is a major factor in the incidence of stroke, heart attack, and other cardiovascular system diseases. In addition, the prevalence of hypertension in the black population of the United States has been found to be considerably higher than the rate in the white population, and hypertension-related deaths are disproportionately higher among black individuals. In short, the statistics show that blacks get hypertension earlier in life, at higher levels, and with greater frequency.

Particularly distressing is the fact that while a simple, painless test can detect this condition, a large number of hypertensive individuals remain unaware that they are affected by this "silent killer." Although more than 700,000 Americans died from strokes and heart attacks during 1982, a reduction of 30 percent in cardiovascular disease-related mortality occurred between 1970 and 1980. Moreover, the death rate for hypertension has fallen by 53 percent since 1968. This decline can be partially attributed to increased awareness and better control of blood pressure.

In addition to reductions in needless mortality and morbidity which can accrue through blood pressure control, increases in productivity and decreases in health care expenditures can also be effected. In 1983, $2 billion in employee earnings, representing more than 29 million work days, were lost because of cardiovascular diseases which affect more than 30 percent of the work force. In total, this year, these diseases are expected to cost the United States economy $72 billion in direct medical expenses and lost output due to disabilities. Worksite demonstration projects sponsored by the National Heart, Lung, and Blood Institute have revealed that absenteeism and health care expenditures are greater for individuals with hypertension. More importantly, both absenteeism and health care expenditures were reduced as blood pressure was returned to the normal range.

The importance of blood pressure control was emphasized in the National Heart, Blood Vessel, Lung, and Blood Act of 1972, and again in the 1980 report of the U.S. Surgeon General, entitled "Promoting Health/Preventing Disease: Objectives for the Nation." The latter report serves as the framework for Public Health Service programs to improve the health of the American people. The worksite projects noted above are one example of many programs which have demonstrated that the detrimental effects of cardiovascular disease can be diminished by blood pressure control.

On any grounds—quality of life, productivity, or economics—increased attention to the identification of individuals with hypertension and greater awareness of the consequences of elevated blood pressure is extremely important to all Americans.

I am, therefore, pleased to introduce this joint resolution in order to focus additional attention on this subject during the same week that 10–12,000 health professionals and concerned citizens will meet here in Washington, DC, for the annual meeting of the American Heart Association. I urge all my colleagues in the Senate to take this opportunity to promote enhanced awareness of the problems associated with hypertension and, at the same time, to work toward reducing the terrible human losses associated with it. I also would like to invite my colleagues to join with me and cosponsor this important effort.

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

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

S.J. RES. 130

Whereas diseases resulting from hypertension cause needless mortality and morbidity which can be reduced if hypertension is discovered through blood pressure screening;

Whereas sixty million Americans are hypertensive;

Whereas hypertension is a major factor in five hundred thousand strokes and one hundred and seventy-five thousand stroke-related deaths annually as well as more than one million five hundred thousand heart attacks and five hundred and sixty-seven thousand heart attack-related deaths annually;

Whereas the prevalence of hypertension in black males is 33 percent higher than in white males, and the prevalence of hypertension in black females is twice that of their counterparts;

Whereas twenty-nine million workdays, representing $2,000,000,000 in earnings, are lost each year because of cardiovascular diseases;

Whereas the risk of the major cardiovascular diseases is directly related to hypertension and even mild elevation in blood pressure may result in substantial risk of illness;

Whereas much of the 30 per centum reduction in mortality between 1970 and 1980 for stroke, hypertension heart disease and other cardiovascular system disease can be partially attributed to increased awareness and better control of blood pressure; and

Whereas increased blood pressure screening will identify greater numbers of Americans at risk for hypertension-related cardiovascular disease and encourage these Americans to seek treatment to control their blood pressure: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 10, 1985, is hereby designated as "National Blood Pressure Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 49

At the request of Mr. MCCLURE, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 49, a bill to protect firearm owners' constitutional rights, civil liberties, and rights to privacy.

S. 244

At the request of Mr. ABDNOR, the name of the Senator from Nebraska [Mr. ZORINSKY] was added as a cosponsor of S. 244, a bill to limit to the national median family income the amount of farm loss which may be deducted against nonfarm income by high income taxpayers in competition with full-time, family-sized farm operators.

S. 361

At the request of Mr. MOYNIHAN, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 361, a bill to amend the Internal Revenue Code of 1954 to make permanent the deduction for charitable contributions by non-itemizers.

S. 491

At the request of Mr. QUAYLE, the names of the Senator from Pennsylvania [Mr. HEINZ], the Senator from Delaware [Mr. ROTH], the Senator from Mississippi [Mr. COCHRAN], the Senator from South Dakota [Mr. PRESSLER], the Senator from New York [Mr. MOYNIHAN], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 491, a bill to improve debt-collection activities and default recoveries and to reduce collection costs and program abuse under student loan programs administered by the Department of Education, and for other purposes.

S. 725

At the request of Mr. CHAFEE, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 725, a bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1986, 1987, 1988, 1989, and 1990.

S. 800

At the request of Mr. MCCLURE, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 800, a bill to increase the maximum annual dollar amount limitation on deductions allowed under the Internal Revenue Code of 1954 for contributions to an individual retirement account of a spouse and to provide that the limitation relating to the amount of compensation received shall be computed on the basis of the combined compensation of a husband and wife.

S. 849

At the request of Mr. HART, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 849, a bill to establish a National Infrastructure Fund to provide funds for interest-free loans to State and local governments for construction and improvement of highways, bridges, water supply and distribution systems, mass transportation facilities and equipment, and wastewater treatment facilities, and for other purposes.

S. 855

At the request of Mr. PRYOR, the names of the Senator from Oklahoma [Mr. BOREN] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 855, a bill for the relief of rural mail carriers.

S. 873

At the request of Mr. CHAFEE, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 873, a bill to amend title XIX of the Social Security Act to assist severely disabled individuals to attain or maintain their maximum potential for independence and capacity to participate in community and family life.

S. 1048

At the request of Mr. DENTON, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1048, a bill to amend title 18 of the United States Code and the Adoption Reform Act.

SENATE JOINT RESOLUTION 32

At the request of Mr. PRESSLER, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Utah [Mr. HATCH], the Senator from New Mexico [Mr. DOMENICI], the Senator from Oklahoma [Mr. NICKLES], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 32, joint resolution to authorize and request the President to designate September 15, 1985, as "Ethnic American Day."

SENATE JOINT RESOLUTION 43

At the request of Mr. THURMOND, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of Senate Joint Resolution 43, a joint resolution to authorize the Armored Force Monument Committee, the United States Armor Association, the World Wars Tank Corps Association, the Veterans of the Battle of the Bulge, the 11th Armored Cavalry Regiment Association, the Tank Destroyer Association, the 1st, 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, and 16th Armored Division Associations, and the Council of Armored Division Associations, jointly to erect a memorial to the "American Armored Force" on U.S. Government property in Arlington, VA, and for other purposes.

SENATE JOINT RESOLUTION 76

At the request of Mr. NICKLES, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 76, a joint resolution to proclaim March 22, 1985, as "National Energy Education Day."

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. MCCLURE, the name of the Senator from Alabama [Mr. DENTON] was added as a cosponsor of Senate Concurrent Resolution 43, a concurrent resolution expressing the sense of the Congress that the English language is the official language of the United States.

SENATE RESOLUTION 53

At the request of Mr. DODD, the names of the Senator from Michigan [Mr. LEVIN], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Resolution 53, a resolution concerning the Internal Revenue Code.

SENATE RESOLUTION 154—PAYING TRIBUTE TO AMERICAN VETERANS OF WORLD WAR II ON THE 40TH ANNIVERSARY OF V-E DAY

Mr. LAUTENBERG (for himself, Mr. BYRD, Mr. DOLE, Mr. CRANSTON, Mr. MURKOWSKI, Mr. ABDNOR, Mr. ARMSTRONG, Mr. BAUCUS, Mr. BIDEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. CHILES, Mr. COCHRAN, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURENBERGER, Mr. EVANS, Mr. EXON, Mr. FORD, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GORTON, Mr. GRASSLEY, Mr. HARKIN, Mr. HART, Mr. HATFIELD, Mrs. HAWKINS, Mr. HECHT, Mr. HEFLIN, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mr. INOUYE, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. KERRY, Mr. LEAHY, Mr. LEVIN, Mr. LONG, Mr. LUGAR, Mr. MATSUNAGA, Mr. MATTINGLY, Mr. MCCONNELL, Mr. MCCLURE, Mr. MELCHER, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. QUAYLE, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SARBANES, Mr. SASSER, Mr. SIMON, Mr. SIMPSON, Mr. SPECTER, Mr. STAFFORD, Mr. STENNIS, Mr. SYMMS, Mr. THURMOND, Mr. TRIBLE, Mr. WARNER, Mr. WILSON, and Mr. ZORINSKY) submitted the following resolution; which was placed on the calendar:

S. RES. 154

Whereas on the morning of May 7, 1945 in Reims, France, Colonel General Alfred Jodl of the German High Command signed the terms of unconditional surrender on behalf of his government, and Lt. General Walter B. Smith, Supreme Allied Commander Eisenhower's Chief of Staff, signed for the Allies; and those terms were ratified in Berlin on May 9, 1945;

Whereas the free world has traditionally celebrated May 8th as the day of Allied "Victory in Europe" over Germany, or V-E Day;

Whereas May 8, 1985 marks the fortieth anniversary of V-E Day;

Whereas that victory represented, as the world later came to realize, the triumph of good over unspeakable evil, and the promise of a peaceful future for a Europe ravaged by the bloodiest war in its history;

Whereas V-E Day was a day for which millions had worked and fought and prayed and died during that terrible war;

Whereas the victory was made possible by the selfless heroism of the 15,000,000 Americans and the millions of other Allied servicemen who fought valiantly to prevent Hitler's onslaught;

Whereas many American servicemen willingly risked their lives in service to the Nation to defend the democratic ideals and respect for human rights upon which the Nation was founded; and

Whereas 407,000 American servicemen were called upon to make the ultimate sacrifice for their country during the war:

Now, therefore, be it *Resolved*, That it is the sense of the Senate of the United States that—

1. On the fortieth anniversary of V-E Day, the deep gratitude of the Nation is expressed to the American servicemen who bravely fought against the advance of Nazi tyranny in World War II, and the Nation honors those who gave their lives in the cause;

2. V-E Day belongs to the veterans who made victory possible, and to the families who gave our servicemen courage and sent loved ones into battle for the Nation; and

3. The Nation recognizes the enormous debt owed to the veterans for patriotism and bravery on the battlefields of World War II.

Mr. LAUTENBERG. Mr. President, I rise today to submit a resolution to pay tribute to the American veterans of World War II on the 40th anniversary of V-E Day. Mr. President, 77 of my colleagues have joined me in sponsoring this resolution. In addition, I am grateful to have the support and endorsements of the Veterans of Foreign Wars of the United States of America, the Catholic War Veterans of the United States of America, and the Jewish War Veterans of the United States of America.

Every year on May 8, the world celebrates the Allied "Victory in Europe," known as V-E Day. That victory represented, as the world later came to realize, the triumph of good over unspeakable evil, and the promise of a peaceful future for a Europe ravaged by the bloodiest war in its history. May 8 is particularly special this year since it marks the 40th anniversary of the end of the European chapter of World War II.

It is fitting that we take the time to acknowledge that V-E Day, and our Allied victory, was made possible by the selfless heroism of the 15,000,000 Americans and the millions of other Allied servicemen who fought valiantly in World War II. We owe a great debt to the many American servicemen who willingly risked their lives in service to our country to defend the democratic ideals and respect for human rights upon which it was founded.

Through this resolution, we seek to express our Nation's deep gratitude to the American servicemen who bravely fought against the advance of Nazi tyranny, and to their families, who gave them courage and sent them into battle for our country. We also honor the 407,000 American servicemen who were called upon to make the ultimate sacrifice for their country.

Forty years after V-E Day, the light of history has shone on the events of World War II. It has illuminated just how much we owe our veterans for their patriotism and bravery on the battlefields of World War II. The world can never repay that debt. But we can take the opportunity, on this historic anniversary of V-E Day, to express our appreciation to our veterans for their outstanding contribution to our country and our world.

Mr. President, I ask unanimous consent that the letters from the Veterans of Foreign Wars of the United States of America, the Catholic War Veterans of the United States of America, and the Jewish War Veterans of the United States of America be printed in the RECORD at the conclusion of my remarks for the information of my colleagues.

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

VETERANS OF FOREIGN WARS OF THE UNITED STATES,
May 2, 1985.

Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the more than 2.7 million men and women of the Veterans of Foreign Wars of the United States, and its Ladies Auxiliary, I wish to commend you for introducing a resolution in the United States Senate paying tribute to American Veterans of World War II on the fortieth anniversary of V-E Day.

With the signing of the terms of unconditional surrender by the German High Command, the bloodiest era in European history came to the end. Your resolution is most fitting in acknowledging the sacrifices of the hundreds of thousands of Americans who fought to end that terrible war.

The VFW strongly supports and encourages the timely passage of this much deserved resolution.

Sincerely,

BILLY RAY CAMERON,
National Commander-in-Chief.

CATHOLIC WAR VETERANS OF THE UNITED STATES OF AMERICA,
Washington, DC, May 2, 1985.

Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: We support the Senate Resolution to pay tribute to the American veterans of World War II on the 40th Anniversary of V-E Day.

We believe it is very important to recognize the bravery of those veterans on this 40th Anniversary.

We wholeheartedly support this legislation and urge its quick passage.

Sincerely,

DAVID J. ZIELINSKI,
National Commander.

MAY 2, 1985.

Senator FRANK R. LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: The Jewish War Veterans of the USA is pleased to support your Resolution honoring America's Veterans on the occasion of the 40th anniversary of the end of the war in Europe. We are confident that this resolution will find wide and bi-partisan support and that it will be swiftly adopted.

Thank you for your efforts on behalf of America's Veterans.

Sincerely,

SAMUEL GREENBERG,
National Commander.

SENATE RESOLUTION 155—CONDEMNING THE ACTIONS OF THE ETHIOPIAN GOVERNMENT

Mr. CHILES (for himself, Mr. JOHNSTON, Mr. BUMPERS, Mr. BIDEN, Mr. PELL, and Mr. SASSER) submitted the

following resolution, which was ordered held at the desk until the close of business on May 6, 1985, by unanimous consent:

S. RES. 155

Whereas, the current extended drought in more than twenty African countries has placed 10 million or more people at risk of starvation; and

Whereas, the United States and other donors around the world are engaging in an unprecedented campaign to curb further deaths in Ethiopia and other African countries; and

Whereas, the success of these emergency assistance efforts depends largely on the cooperation and support of the authorities within each country receiving assistance; and

Whereas, there remains continuing evidence of widespread brutality, diversion of food assistance and disruption of relief efforts by the government of Ethiopia, including destroying numerous villages and farms; and

Whereas, the government of Ethiopia has brutally removed people from the famine relief camp at Ibnet, forcing more than 50,000 famine victims, including thousands of young children, into what can be described as a "death march." Now, therefore, be it

Resolved, That the Senate,

(1) Condemns the actions of the Ethiopian government in the forced evacuation of the Ibnet refugee camp; and

(2) Condemns the continuing actions of the Ethiopian government to disrupt and divert international relief efforts to help the needy in Ethiopia.

Mr. CHILES. Mr. President, in recent months the world has responded with an outpouring of concern and generosity to efforts to end the famine in Ethiopia. The almost unimaginable suffering that has taken place in that nation has moved us all. Our common goal has been to bring food and supplies to thousands of the starving, and to bring an end to the horror of fellow human beings dying from malnutrition.

Against this background of one of the worst human tragedies of the modern era, there is mounting evidence of an unspeakable campaign or policy by the Marxist military Government of Ethiopia to pursue its own political goals with brutal and deadly force and no regard for the welfare of suffering Ethiopian citizens.

Recent news reports in the Washington Post and other media have disclosed actions by the Ethiopian regime that should shock and outrage any person or government with a concern with the basic rights of human beings. Reports are coming out that the Ethiopian Army forceably evacuated and burned the Ibnet famine relief camp. Troops herded more than 50,000 famine victims, including several thousand children under 5, out of Ibnet. What was a general feeding, child nutrition and medical center is now a blackened plain.

Obviously, these people, still weak, undernourished and suffering from disease, are not in a condition to be relocated. And yet the leaders of the Worker's Party of Ethiopia have initiated what can accurately be called a death march. To clear the camp, residents were killed. Pregnant women, chased by soldiers, miscarried. Grass huts were set afire while still occupied. Private relief nurses report that hundreds of very sick children have disappeared.

Now tens of thousands of weak and often sick people are wandering in the rugged highlands of Ethiopia. Some will have to walk for 2 weeks to reach their former homes. Many, perhaps even half, will die of exposure, hunger, or illness. Seventeen bodies have already been counted along the road leading east from Ibnet. Officials of the Ethiopian Worker's Party have ordered that no one from the regions of Welo and Gondar is to be given food, water or medical assistance.

And to what fate are these people being consigned. The Wollo region, the eventual destination of many of the evacuees, remains an inhospitable area with little seed, very limited supplies of farm tools and almost no food. In essence those that survive the march are condemned to the same fate that drove them to be refugees in the first place.

Mr. President, in a time that has witnessed much cruelty and inhumane treatment by ruthless regimes; in a time that has seen human rights trampled for the goals of some twisted ideology, this action by the Ethiopian Government is still almost impossible to comprehend. I cannot believe that this outrage has not galvanized world opinion to condemn this outlaw government. I cannot believe that the United Nations has not moved to condemn. I cannot believe that the civilized world has not protested this affront to civilization.

Mr. President, I am submitting a resolution to provide an opportunity for the U.S. Senate to express its outrage and condemnation. We must not let this despicable action by a so-called government escape the censure it so warrants.

AMENDMENTS SUBMITTED

FIRST CONCURRENT RESOLUTION ON THE BUDGET

GRAMM (AND OTHERS) AMENDMENT NO. 51

Mr. GRAMM (for himself, Mr. THURMOND, Mr. HELMS, Mr. NICKLES, Mr. MATTINGLY, Mr. MCCLURE, and Mr. DENTON) proposed an amendment to amendment No. 43 proposed by Mr. DOLE (and Mr. DOMENICI), and subsequently amended, to the concurrent resolution (S. Con. Res. 32) setting forth the congressional budget for the U.S. Government for fiscal years 1986, 1987, and 1988 and revising the congressional budget for the U.S. Government for the fiscal year 1985; as follows:

In the pending amendment, do the following:

On page 13, increase the amount on line 20 by $300,000,000.

On page 13, increase the amount on line 21 by $300,000,000.

On page 14, increase the amount on line 4 by $300,000,000.

On page 14, increase the amount on line 5 by $300,000,000.

On page 14, increase the amount on line 13 by $300,000,000.

On page 14, increase the amount on line 14 by $300,000,000.

On page 28, decrease the amount on line 15 by $300,000,000.

On page 28, decrease the amount on line 16 by $300,000,000.

On page 28, decrease the amount on line 23 by $300,000,000.

On page 28, decrease the amount on line 24 by $300,000,000.

On page 29, decrease the amount on line 6 by $300,000,000.

On page 29, decrease the amount on line 7 by $300,000,000.

On page 37, decrease the first amount on line 11 by $319,000,000.

On page 37, decrease the second amount on line 11 by $287,000,000.

On page 37, decrease the amount on line 12 by $336,000,000.

On page 37, decrease the amount on line 13 by $335,000,000.

On page 37, decrease the first amount on line 14 by $356,000,000.

On page 37, decrease the second amount on line 14 by $354,000,000.

On page 42, increase the first amount on line 6 by $319,000,000.

On page 42, increase the second amount on line 6 by $287,000,000.

On page 42, increase the amount on line 7 by $336,000,000.

On page 42, increase the amount on line 8 by $335,000,000.

On page 42, increase the first amount on line 9 by $356,000,000.

On page 42, increase the second amount on line 9 by $354,000,000.

On page 44, decrease the amount on line 10 by $319,000,000.

On page 44, decrease the amount on line 11 by $287,000,000.

On page 44, decrease the first amount on line 12 by $336,000,000.

On page 44, decrease the second amount on line 12 by $335,000,000.

On page 44, decrease the amount on line 13 by $356,000,000.

On page 44, decrease the amount on line 14 by $354,000,000.

On page 45, increase the amount on line 21 by $319,000,000.

On page 45, increase the amount on line 22 by $287,000,000.

On page 45, increase the first amount on line 23 by $336,000,000.

On page 45, increase the second amount on line 23 by $335,000,000.

On page 45, increase the amount on line 24 by $356,000,000.

On page 45, increase the amount on line 25 by $354,000,000.

On page 52, decrease the amount on line 1 by $300,000,000.

On page 52, decrease the amount on line 3 by $300,000,000.

On page 52, decrease the amount on line 4 by $300,000,000.

HELMS (AND OTHERS) AMENDMENT NO. 52

Mr. HELMS (for himself, Mr. GRASSLEY, Mrs. KASSEBAUM, Mr. THURMOND, Mr. GOLDWATER, and Mr. NICKLES) proposed an amendment to amendment No. 43 proposed by Mr. DOLE (and Mr. DOMENICI), and subsequently amended, to the concurrent resolution Senate Concurrent Resolution 32, supra; and follows:

At the end of the pending question add the following:

Notwithstanding any other provision of this resolution, the functional totals for the General Government function are reduced by an amount sufficient to allow the reduction of the salaries of Members of Congress by ten per centum.

AUTHORIZING EXPENDITURES FOR THE COMMITTEES OF THE SENATE

BYRD AMENDMENT NO. 53

Mr. BYRD proposed an amendment to the resolution (S. Res. 145) to authorize expenditures for the committees of the Senate through February 28, 1986; as follows:

At the end of the resolution, add the following new section:

AMENDMENT TO S. RES. 354, 98TH CONGRESS

SEC. . Senate Resolution 354, 98th Congress, agreed to March 2, 1984, is amended by adding at the end thereof the following new section:

"AUTHORITY FOR EMPLOYMENT OF CERTAIN PREVIOUSLY DISPLACED PERSONNEL

"SEC. 22. Notwithstanding any provision of the preceding sections of this resolution, the authority contained in such sections insofar as it pertains to the funding of, and payment for, employment of personnel, shall be extended from February 28, 1985, through July 15, 1985, in the case of an individual who is certified, by the Chairman of the Committee on Rules and Administration, to the Secretary of the Senate as being an employee who was displaced, as a committee employee, by reason of the committee reorganizations which took place at the beginning of the first session of the 99th Congress, and who otherwise meets such criteria for employment under this section as is prescribed by the Committee on Rules and Administration; except that no individual shall be paid under authority of this section for any period exceeding 60 days.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Senate Committee on Governmental Affairs will hold a hearing on U.S. political and financial involvement in the United Nations on Tuesday, May 7, at 9:30 a.m., in SD-342. For further information, please contact Mr. Ian Butterfield at 224-4751.

Mr. President, the Senate Committee on Governmental Affairs will hold an oversight hearing on the Implementation of the Grace Commission report on Thursday, May 9, at 9:30 a.m. in SD-342. For further information, please contact Link Hoewing at 224-4751.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Friday, May 3, 1985, to consider certain nominations for the Synthetic Fuels Corporation.

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

ADDITIONAL STATEMENTS

NATIONAL BIPARTISAN COMMISSION ON CENTRAL AMERICA

● Mr. DOMENICI. Mr. President, it is 16 months since the report of the National Bipartisan Commission on Central America was presented to the Nation. Twelve distinguished Americans of both parties, under the leadership of Henry Kissinger, offered an analysis of the situation on Central America that has survived well the passage of time. I am proud to have served as a Senate advisor to the Commission.

On April 23, the Senate voted to support the democratic resistance to the nine Sandinista leaders in Nicaragua. The House subsequently failed to support the democratic resistance and its call for national reconciliation. There are encouraging signs that the other body now recognizes its mistake and will shortly move to help Nicaragua reclaim its revolutionary promises of peace and freedom.

An excellent article in today's Christian Science Monitor provides some interesting comments on the relationship between the report of the bipartisan Commission and the decisions Congress must make regarding Nicaragua.

I ask that the article be printed in the RECORD.

The article follows:

NICARAGUA'S REWARD

(By John Hughes)

Daniel Ortega, Nicaragua's leader, has been in Moscow, and although the photographs show no smile flickering across his ever-grace face, it must have been a satisfactory visit.

Before he left Managua, there were reports that Mr. Ortega was seeking $200 million in aid from the Soviets. Nobody knows whether he got it. The Soviets are usually coy about announcing the size and content of their aid packages.

But the Soviet reception for Ortega was fulsome. He was warmly received by the top brass, including Mikhail Gorbachev and Foreign Minister Andrei Gromyko. The nuanced mumbo jumbo of the communique issued afterward is being interpreted by the experts as meaning that Ortega got a bundle.

And why not? The Soviets have reason to be pleased with their Nicaraguan protégé and the direction he is moving their Central American aspirations.

For the Soviets, the Nicaraguan revolution of 1979 was as significant as the Cuban revolution 20 years earlier. Viktor Volski, president of the Soviet Association of Friendship with Latin American Countries, called it a "model" to be followed. Boris Ponomarev, a national party secretary in charge of relations with noncommunist countries, included Central America for the first time among third-world states undergoing revolutionary changes of "a socialist orientation." Mr. Ponomarev was one of the officials Ortega huddled with in Moscow. Marshal Nikolai Ogarkov, then the top Soviet military man, put Nicaragua on a level with Cuba in terms of its potential opportunity for the Soviet Union.

The cornerstone of Moscow's Central American policy is, of course, Cuba. With its Air Force of more than 200 combat jets, its assault helicopters and other military paraphernalia, Cuba is the No. 2 military power in Latin America, after Brazil. It has dispatched combat troops to Africa, and "advisers" by the hundreds of Grenada, in the past, and Nicaragua.

But according to one group of experts, "Cuba's island geography complicates its sponsorship of subversion. Nicaragua suffers no such limitation . . . as a mainland platform; therefore, Nicaragua is a crucial steppingstone for Cuban and Soviet efforts to promote armed insurgency in Central America." These are not the ravings of some right-wing group of ideological zealots. This is the dispassionate and clinical assessment of the National Bipartisan Commission on Central America, the Kissinger Commission. The commission included diverse members who, while they may have had differing points of view about President Reagan's policy on Nicaragua, seemed united in their feeling that Nicaragua's present Marxist regime is bad news for the United States.

The report was completed in January of 1985. But even then there were no illusions about the unsavory ideological character of the Sandinista regime.

The commission said the Nicaraguan government volunteered an intelligence briefing that "left no reasonable doubt that Nicaragua is tied into the Cuban, and thereby the Soviet, intelligence network."

The commisssion said it encountered no leader in Central America who did not express "deep foreboding" about the impact of a militarized, totalitarian Nicaragua on the peace and security of the region.

Even though it finished deliberations more than a year ago, it had some prescient thoughts about the polarization of viewpoints in the US on Nicaragua.

"What is being tested," the commission concluded, "is not so much the ability of the US to provide large resources but rather the realism of our political attitudes, the harmony of Congressional and Administration priorities, and the adaptability of the military and civil departments of the Executive."

They are words worth pondering as Congress denies aid to the anti-Sandinistas, as a

frustrated administration looks to sanctions against Nicaragua, and as Moscow gives Daniel Ortega his reward.●

PRESS COVERAGE OF THE WAR IN AFGHANISTAN

● Mr. HUMPHREY. Mr. President, what is the most pressing need of the courageous Mujahideen, the freedom fighters of Afghanistan who have held 115,000 Soviet troops at bay for 5 years? Aside from the obvious need for greater material assistance from sympathetic nations, these warriors for the cause of liberty ask that their struggle—and the struggle of their nation for independence—be publicized. They believe that just a small measure of awareness of their struggle would galvanize public attention behind their cause, providing them with the material and psychological assistance they so desperately need in taking on the world's most powerful, most destructive military machine.

Well, if the Mujahideen hoped for a wave of coverage of the war in Afghanistan, if they expected a river of information flowing through the media to the public at large, they have instead received a trickle. A light smattering of occasional bits, buried deep within the newspaper or missed with the blink of an eye on the television.

To be sure, one should not minimize the difficulties involved in reporting stories from Afghanistan in a timely and reliable fashion. The Soviets have made coverage of the war from within Afghanistan a deadly gambit; journalists apprehended there, they say, will be summarily executed.

Additionally, lack of coverage of Afghanistan is not the case for every representative of the collective media, and it would be unfair to lump all of this Nation's newspapers, magazines, radio, and television in this same shameful category. The New York Times has posted a correspondent in Pakistan to cover major events in the war within Afghanistan. More significantly still, the Washington Times has on a regular basis printed reports of the war, as well as its ramifications throughout the region. One such article appeared Wednesday, which described the success of the Mujahideen in disrupting the seventh anniversary celebration of the Marxist revolution in Afghanistan. I ask that the article appear in the RECORD following the conclusion of my remarks. Finally, many smaller papers have covered this struggle in some measure.

Nevertheless, I cannot help but feel that we are doing a grave disservice to the Afghan freedom fighters by not covering their struggle in greater depth and with greater frequency. This sentiment, I have learned, is one shared by many, including representatives of the media themselves. Not long ago, Cliff Taylor, editor of WHEB radio station in Portsmouth, NH, broadcast an editorial castigating the media at large for their coverage of Afghanistan. The occasion was the conclusion of a visit by two Mujahideen commanders to the United States in April. The visit of these courageous warriors for freedom and the independence of their homeland received, to put it mildly, sparse attention. Mr. President, it is my hope that in the future the media will join with us in presenting the war in Afghanistan to the public for what it is: the most compelling fight of our time against the onslaught of totalitarian oppression. I ask the aforementioned editorial be printed in the RECORD following the conclusion of my remarks.

The material follows:

EDITORIAL

Two distinguished commanders of freedom fighters in Afghanistan were recently visitors to the United States. Did you know that? When visited Communists turn up, so do the liberal news media. We see almost nightly coverage of Communists from El Salvador and the Nicaraguan Sandinistas or roving "good will" ambassadors from the Soviet Union at Washington cocktail receptions.

But, when two freedom fighters from Afghanistan tour the country? Media black out! You probably don't know this, but two commanders of Afghanistan fighters battling to throw the Soviet Union troops out of their country visited the United States recently. Their purpose was to try to inform Americans of the desperate situation against the Soviet invaders.

To coin a phrase, "better they should have stayed in bed." Their news coverage by all the important, but liberal, media network was zilch! For your information they toured major cities on both coasts of the United States. They received pledges of support during news conferences from various cities, but strangely our national liberal media found more important things to report . . . like "talking heads" at Geneva . . . or the gorilla with a new pet kitten.

Brigadier Safi was Chief of Special Forces of the Royal Afghan Army. He trained with our U.S. Special Forces and with the British Special Air Service. He has personally led his men against Soviet forces.

General Commander Khan has helped inflict heavy losses on the Soviet invaders. In one night last September he helped carry out "Operation Blackout", by blowing up 170 electric towers that plunged the Afghan capital city of Kabul . . . a Soviet stronghold . . . into total darkness. . . left the city without power.

These gentlemen are prime news prospects, but they were given their own "news blackout." They were prepared to give eyewitness accounts of Soviet chemical warfare. They had photos of children maimed, blinded, disfigured by "booby trapped toys" scattered by the Soviets.

Oh, they had the stories all right . . . news we Americans should know about, but our so-called "free press" . . . the liberal press at least . . . chose to ignore them.

In a competitive business, how come at least one didn't try for a "scoop?" Do you suppose . . .? Naw. . . there couldn't be a conspiracy! Could there?

BLAST KILLS 1 AT KABUL PARADE

NEW DELHI, INDIA.—At least one person was killed and 48 wounded when a bomb exploded at a parade held last week in Kabul to mark the seventh anniversary of the Marxist revolution in Afghanistan, Western diplomatic sources said here yesterday.

The blast, suspected to be the work of Mujahideen guerrillas, occurred on April 27 as the Babrak Karmal government tried to put on a show of strength in the capital.

On April 18–19, the Mujahideen reportedly staged one of its biggest ambushes, blowing up more than 150 military vehicles on a 15-mile stretch of road between Kabul and Gardez; in southern Paktia province, the diplomatic sources said. According to Kabul radio monitored here, the Mujahideen also launched a rocket attack on an air base at Bagram.

The raids prompted reprisal attacks by Soviet forces that resulted in nearly 300 civilian deaths and the capture of large quantities of arms and ammunition in the Koh Safi region, the radio said.●

CANADIAN CONSERVATION CORP PROGRAMS: KATIMAVIK AND ONET/85

● Mr. MOYNIHAN. Mr. President, I wish to draw my colleagues' attention to two noteworthy conservation corp programs our neighbor to the north—Canada—has initiated.

The first is Katimavik. Funded at $50 million, this program enrolls 17 to 24 year-olds to perform conservation and community service work at 240 sites across the country. Tasks include improving spawning beds, restoring historic sites, evaluating human impact on the tundra, and promoting recycling in government buildings. Enrollees are essentially volunteers, receiving $1 daily, and a $1,000 bonus for completing 9 months of service. Last year, in conjunction with the UN Tree Program, Katimavik volunteers planted 2 million trees.

Another, and most exciting, program is ONET/85, which will commence in mid-July. Under this project, 100,000 Canadian youths and 2,000 delegates from other countries will gather along the banks of the mighty St. Lawrence River for an unprecedented ecological operation: the removal of some 9,000 tons of solid waste, trash, and other debris polluting 3,000 kilometers of riverbank. ONET/85 is a most ambitious and laudable undertaking during this, the International Year of the Youth.

Mr. President, I would note that the funding for Katimavik is roughly the per capita equivalent of a $500 million Federal expenditure here in the United States. Yet the administration saw fit to veto a bill last year (H.R. 999) authorizing an American Conservation Corps at $50 million. Would that we act as farsightedly about our natural and human resources as the Canadians.●

HEALTH CARE FOR THE ELDERLY

● Mr. QUAYLE. Mr. President, I would like to call my colleagues attention to a program sponsored in my home State of Indiana that is making a much needed effort to help health professionals meet the health care needs of our Nation's elderly. Specifically, this program was designed to assist pharmacists to better address the needs of our elderly population. Such efforts in the private sector are becoming more and more important when we look at the changing demographics in our country. By the year 2000, there will be 36 million elderly Americans, comprising 13 percent of the total population.

Dr. Charles Brown and Eugene Step are to be congratulated for their pioneering work in this area. I am pleased to say that the White House Office of Private Initiatives saw fit to recently commend them for their work.

I ask to have printed in the RECORD an article from the Indianapolis News describing this program in more detail.

The article follows:

[From the Indianapolis News, Mar. 14, 1985]

NEW PROGRAM TARGETS HEALTH CARE FOR AGED

(By Lou Hiner)

WASHINGTON.—Purdue University and Eli Lilly & Co. are among the participants in a new educational program to help "practicing health professionals" meet the needs of the nation's 28 million aged persons.

The program, sponsored by the American Association of Colleges of Pharmacy (AACP), was discussed at a National Press Club conference. College deans, congressional and government representatives and persons associated with 20 different health fields attended.

Among the long-range hopes of the undertaking is better cooperation and coordination between pharmacists and doctors in treating older persons.

The curriculum proposed for pharmacy schools includes a 1,100-page textbook for students and a 350-page guide for the instructors. Both publications cover such topics as drug use, nutrition, common disorders, physiology, death and dying and patient communication.

Charles Brown, assistant professor of clinical pharmacy at Purdue, is among the authors of the 30-chapter textbook. Also attending the conference from Purdue were Pharmacy Dean Varrow Tyler and Assistant Dean George Spratto.

Lilly was represented by Eugene Step, pharmaceutical division president, and William Pillow, manager of professional relations.

COMMENDATIONS

Brown and Step received commendations at the luncheon session from the White House Office of Private Initiatives for their roles in developing the curriculum. The scrolls were signed by President Reagan.

The training program is designed for use at pharmacy colleges and also in an ongoing educational plan for practicing pharmacists. The later will be given college credits for studies completed in their home communities.

Dr. Carl Trinca, AACP executive director, explained to the conference:

"The comprehensive curriculum brings special attention to pharmacy as the first health profession to respond in this manner to the growing demand for training health professionals about the special needs of the elderly, the fastest-growing segment of our population."

Dr. Monroe Gilmour, a director of the American Association of Retired Persons, praised the significance of the program, saying:

"It is spendid that in this day of changing pharmacy, physicians and pharmacists are going to be assuming a more cooperative role. This program will aid the flow of information as pharmacists and others in the health professions increase their understanding of the needs of our aged citizens."

PHARMACY PRACTICE AND GERIATRIC PATIENT

The American Association of Colleges of Pharmacy (AACP) is proud to present a new pharmacy education curriculum, "Pharmacy Practice and the Geriatric Patient". The curriculum was developed in response to needs identified by the White House Commission on Aging, the Congress and the Department of Health and Human Services for a comprehensive curriculum for geriatrics and gerontology.

The extensive 30-chapter curriculum, to be distributed to the nation's 72 colleges of pharmacy, is a result of a four-year effort by 70 authors and peer reviewers from 18 states. Elements of the curriculum include chapters on: characteristics of the elderly and theories of aging, physical and emotional changes in the elderly, drug therapy, special communications needs and death and dying.

The curriculum is designed for use in pharmacy settings. Yet it provides unique opportunities for individuals in all health disciplines to better utilize their professional skills in serving the elderly. It fosters positive approaches to geriatric care by increasing understanding of the physical, social and emotional needs of the elderly.

The AACP Geriatric Curriculum Project, jointly sponsored by Eli Lilly and Company, is an example of the benefits—in this case for the elderly and for health professionals—to be derived from private sector initiatives.

AACP invites you and your colleagues to become acquainted with the curriculum and consider its use in your work with the Aging community.●

THE RULES OF PROCEDURE OF THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GARN. Mr. President, in accordance with paragraph 2 of rule XXVI of the Standing Rules of the Senate, I submit the "Rules of Procedure of the Committee on Banking, Housing and Urban Affairs," to be printed in the RECORD.

There have been no changes to the rules since they were last adopted by the committee on February 4, 1981, nor have there been any requests for rule changes.

The rules follow:

RULES OF PROCEDURE FOR THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

[Adopted in executive session, Feb. 4, 1981]

RULE 1.—REGULAR MEETING DATE FOR COMMITTEE

The regular meeting day for the Committee to transact its business shall be the last Tuesday in each month, except that if the Committee has met at any time during the month prior to the last Tuesday of the month, the regular meeting of the Committee may be canceled at the discretion of the Chairman.

RULE 2.—COMMITTEE

(a) Investigations.—No investigation shall be initiated by the Committee unless the Senate for the full Committee has specifically authorized such investigation.

(b) Hearings.—No hearing of the Committee shall be scheduled outside the District of Columbia except by agreement between the Chairman of the Committee and the ranking minority member of the Committee or by a majority vote of the Committee.

(c) Confidential testimony.—No confidential testimony taken or confidential material presented at an executive session of the Committee or any report of the proceedings of such executive session shall be made public either in whole or in part by way of summary, unless specifically authorized by the Chairman of the Committee and the ranking minority member of the Committee or by a majority vote of the Committee.

(d) Interrogation of witnesses.—Committee interrogation of a witness shall be conducted only by members of the Committee or such professional staff as is authorized by the Chairman or the ranking minority member of the Committee.

(e) Prior notice of mark-up sessions.—No session of the Committee or a Subcommittee for marking up any measure shall be held unless (1) each member of the Committee or the Subcommittee, as the case may be, has been notified in writing of the date, time, and place of such session at least 48 hours prior to the commencement of such session, or (2) the Chairman of the Committee or Subcommittee determines that exigent circumstances exist requiring that the session be held sooner.

(f) Prior notice of first degree amendments.—It shall not be in order for the Committee or Subcommittee to consider any amendment in the first degree proposed to any measure under consideration by the Committee or Subcommittee unless twenty written copies of such amendment have been delivered to the office of the Committee at or before 2:00 p.m. on the business day prior to the meeting. This subsection may be waived by a majority of the Members of the Committee or Subcommittee voting. This subsection shall apply only when at least 48 hours written notice of a session to mark up a measure is required to be given under subsection (e) of this rule.

(g) Cordon rule.—Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or Subcommittee, from initial consideration in hearings through final consideration, the Clerk shall place before each member of the Committee or Subcommittee a print of the statute or the part or section thereof to be amended or repealed showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added. In addition, whenever a member of the Committee or Subcommittee offers an amendment to a bill or joint reso-

lution under consideration, those amendments shall be presented to the Committee or Subcommittee in a like form, showing by typographical devices the effect of the proposed amendment on existing law. The requirements of this subsection may be waived when, in the opinion of the Committee or Subcommittee chairman, it is necessary to expedite the business of the Committee or Subcommittee.

RULE 3.—SUBCOMMITTEES

(a) Authorization for.—A Subcommittee of the Committee may be authorized only by the action of a majority of the Committee.

(b) Membership.—No member may be a member of more than three Subcommittees and no member may chair more than one Subcommittee. No member will receive assignment to a second Subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one Subcommittee, and no member shall receive assignment to a third Subcommittee until, in order of seniority, all members have chosen assignments to two Subcommittees.

(c) Investigations.—No investigation shall be initiated by a Subcommittee unless the Senate or the full Committee has specifically authorized such investigation.

(d) Hearings.—No hearing of a Subcommittee shall be scheduled outside the District of Columbia without prior consultation with the Chairman and then only by agreement between the Chairman of the Subcommittee and the ranking minority member of the Subcommittee or by a majority vote of the Committee.

(e) Confidential testimony.—No confidential testimony taken or confidential material presented at an executive session of the Subcommittee or any report of the proceedings of such executive session shall be made public, either in whole or in part or by way of summary, unless specifically authorized by the Chairman of the Subcommittee and the ranking minority member of the Subcommittee, or by a majority vote of the Subcommittee.

(f) Interrogation of witnesses.—Subcommittee interrogation of a witness shall be conducted only by members of the Subcommittee or such professional staff as is authorized by the Chairman or the ranking minority member of the Subcommittee.

(g) Special meetings.—If at least three members of a Subcommittee desire that a special meeting of the Subcommittee be called by the Chairman of the Subcommittee, those members may file in the offices of the Committee their written request to the Chairman of the Subcommittee for that special meeting. Immediately upon the filing of the request, the Clerk of the Committee shall notify the Chairman of the Subcommittee of the filing of the request. If, within 3 calendar days after the filing of the request, the Chairman of the Subcommittee does not call the requested special meeting, to be held within 7 calendar days after the filing of the request, a majority of the members of the Subcommittee may file in the offices of the Committee their written notice that a special meeting of the Subcommittee will be held, specifying the date and hour of that special meeting. The Subcommittee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk of the Committee shall notify all members of the Subcommittee that such special meeting will be held and inform them of its date and hour. If the Chairman of the Subcommittee is not present at any regular, additional, or special meeting of the Subcommittee, the ranking member of the majority party on the Subcommittee who is present shall preside at that meeting.

(h) Voting.—No measure or matter shall be recommended from a Subcommittee to the Committee unless a majority of the Subcommittee are actually present. The vote of the Subcommittee to recommend a measure or matter to the Committee shall require the concurrence of a majority of the members of the Subcommittee voting. On Subcommittee matters other than a vote to recommend a measure or matter to the Committee no record vote shall be taken unless a majority of the Subcommittee are actually present. Any absent member of a Subcommittee may affirmatively request that his vote to recommend a measure or matter to the Committee or his vote on any such other matter on which a record vote is taken, be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter and to inform the Subcommittee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman of the Subcommittee any time before the record vote on the measure or matter concerned is taken, the member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee.

RULE 4.—WITNESSES

(a) Filing of statements.—Any witness appearing before the Committee or Subcommittee (including any witness representing a Government agency) must file with the Committee or Subcommittee (before noon, 24 hours preceding his appearance) 75 copies of his statement to the Committee or Subcommittee. In the event that the witness fails to file a written statement in accordance with this rule, the Chairman of the Committee or Subcommittee has the discretion to deny the witness the privilege of testifying before the Committee or Subcommittee until the witness has properly complied with the rule.

(b) Length of statements.—Written statements properly filed with the Committee or Subcommittee may be as lengthy as the witness desires and may contain such documents or other addenda as the witness feels is necessary to present properly his views to the Committee or Subcommittee. It shall be left to the discretion of the Chairman of the Committee or Subcommittee as to what portion of the documents presented to the Committee or Subcommittee shall be published in the printed transcript of the hearings.

(c) Fifteen-minute duration.—Oral statements of witnesses shall be based upon their filed statements but shall be limited to 15 minutes duration. This period may be extended at the discretion of the Chairman presiding at the hearings.

(d) Subpeona of witnesses.—Witnesses may be subpoenaed by the Chairman of the Committee or a Subcommittee with the agreement of the ranking minority member of the Committee or Subcommittee or by a majority vote of the Committee or Subcommittee.

(e) Counsel permitted.—Any witness subpoenaed by the Committee or Subcommittee to a public or executive hearing may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

(f) Expenses of witnesses.—No witness shall be reimbursed for his appearance at a public or executive hearing before the Committee or Subcommittee unless such reimbursement is agreed to by the Chairman and ranking minority member of the Committee or by a majority vote of the Committee.

(g) Limits of questions.—Questioning of a witness by members shall be limited to 10 minutes duration, except that if a member is unable to finish his questioning in the 10-minute period, he may be permitted further questions of the witness after all members have been given an opportunity to question the witness.

Additional opportunity to question a witness shall be limited to a duration of 10 minutes until all members have been given the opportunity of questioning the witness for a second time. This 10-minute time period per member will be continued until all members have exhaused their questions of the witness.

RULE 5.—VOTING

(a) Vote to report a measure or matter.—No measure or matter shall be reported from the Committee unless a majority of the Committee are actually present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of the members of the Committee who are present.

Any absent member may affirmatively request that his vote to report a matter be cast by proxy. The proxy shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the record vote on the measure or matter concerned is taken, any member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee, along with the record of the rollcall vote of the members present and voting, as an official record of the vote on the measure or matter.

(b) Vote on matters other than a report on a measure or matter.—On Committee matters other than a vote to report a measure or matter, no record vote shall be taken unless a majority of the Committee are actually present. On any such other matter, a member of the Committee may request that his vote may be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the vote on such other matter is taken, the member may withdraw a proxy previously given. All proxies relating to such other matters shall be kept in the files of the Committee.

RULE 6.—QUORUM

No executive session of a Committee or a Subcommittee shall be called to order unless a majority of the Committee or Subcommittee, as the case may be, are actually present. Unless the Committee otherwise provides or is required by the Rules of the Senate, one member shall constitute a quorum for the receipt of evidence, the swearing of witnesses, and the taking of testimony.

RULE 7.—STAFF PRESENT ON DAIS

Only members and the Clerk of the Committee shall be permitted on the dais during public or executive hearings, except that a member may have one staff person accompany him during such public or executive hearing on the dais. If a member desires a second staff person to accompany him on the dais he must make a request to the Chairman for that purpose.●

CALENDAR

Mr. DOLE. Mr. President, as I understand it, the following calendar items have been cleared: No. 95, No. 96, No. 97, No. 98, No. 99, No. 100, No. 101, No. 102, No. 103, No. 104, and No. 106.

Mr. BYRD. Mr. President, I have checked carefully, and on this side there is no objection to proceeding with the calendar orders that the distinguished majority leader has enumerated.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar items I have enumerated.

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

NATIONAL SCIENCE WEEK

The joint resolution (S.J. Res. 59) to designate "National Science Week," was considered.

Mr. HATCH. Mr. President, on February 21, 1985, I, along with Senator KENNEDY, introduced Senate Joint Resolution 59, a resolution establishing the week of May 12-18, 1985, as "National Science Week." This week will consist of science-related activities sponsored by local, State, and national organizations. These activities will include such things as radio and television programs, museum exhibits, science programs in schools of all levels, and open houses in research facilities. The National Science Foundation will assist these various organizations and serve as a coordinator for the week's events.

By promoting public recognition of the achievements of science and technology, "National Science Week" will help to facilitate an increased level of interest among our Nation's youth. While "National Science Week" activities are for all Americans, the fresh enthusiasm of young people for discovery is vital in tomorrow's increasingly technological world.

I take a few minutes of our time today to recognize the University of Utah for its efforts to promote the public understanding of science and technology in Utah. National Science Week is being commemorated by the faculty, staff, and students at the University of Utah in a week-long series of events relating to science, technology, and mathematics.

The scheduled events cover a wide spectrum of activities benefitting and equally wide range of people. There will be science demonstration shows for children held at the Children's Museum of Utah, a nature walk featuring Utah's remarkable trees and flora in conjunction with the State Arboretum of Utah, and lectures, informal talks, and demonstrations by Utah's science and engineering scholars in their particular specialties. These professors will familiarize Utahns with everything from the Utah/MIT Dextrous Hand, the world's most sophisticated robotic limb, to mathematical models of the chemical, biological, and physical worlds. Utahns will even be able to experience the world of flight simulators used for pilot and tactical training and the realm of computer graphics with the well-known computer-aided design and computer-aided manufacturing system.

With the participation of business, academia, and various State and local organizations, and with the guidance of the National Science Foundation, National Science Week observances will further the awareness of scientific and technological progress taking place in Utah. We are, I believe, justifiably proud of our achievements.

I am sure other Senators' States are also planning appropriate activities to celebrate National Science Week. I urge my colleagues to join me in recognizing their efforts not only to recognize America's accomplishments during this special week, but also to support our scientists and engineers in their continuing search for knowledge. America's future depends on their abilities and on their devotion to the pursuit of American excellence in all of these fields of endeavor.

The joint resolution was ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 59

Whereas science and technology are currently major elements in the expansion of the economy and in the improvement of the quality of life in the United States;

Whereas the rate of scientific discovery and technological innovation continues to increase more rapidly than at any time in our history;

Whereas it is vital to build and maintain a highly dedicated and motivated work force with scientific and technological skills;

Whereas it is important that scientific research be made more interesting and accessible to youth as a potential career option;

Whereas it is in the national interest to increase the public's awareness and understanding of science and technology; and

Whereas schools, universities, museums, and professional, educational, and voluntary organizations, along with industry, labor, government, and private individuals, should be encouraged to work cooperatively to develop programs, events, and materials that will contribute to the public's education in science and technology: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 12 through May 18, 1985, is designated as "National Science Week". The President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities, including programs aimed at furthering the awareness of all Americans, and particularly the Nation's youth, of the importance of science and technology.

NATIONAL CORRECTIONAL OFFICERS WEEK

The joint resolution (S.J. Res. 64) to designate the week beginning May 5, 1985, as "National Correctional Officers Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and the preamble are as follows:

S.J. RES. 64

Whereas American correctional officers who work in our jails and prisons are currently responsible for the containment and control of over six hundred thousand prisoners;

Whereas correctional officers must protect inmates from violence while encouraging them to develop skills and attitudes that can help them become productive members of society following their release;

Whereas the morale of correctional officers is affected by many factors, and the public perception of the role of correctional officers is more often based upon dramatization rather than factual review;

Whereas good job performance requires correctional officers to absorb the adverse attitudes present in confinement while maintaining themselves as professionals in order to have their actions appreciated and accepted by the public at large;

Whereas correctional officers had been similarly honored by many States and localities in 1984;

Whereas correctional officers had been similarly honored by a similar joint resolution of the Senate and House of Representatives of the United States in Congress assembled in 1984; and

Whereas the attitude and morale of correctional officers is a matter worthy of serious congressional attention: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning May 5, 1985, hereby is designated "National Correctional Officers Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

BALTIC FREEDOM DAY

The Senate proceeded to consider the joint resolution (S.J. Res. 66) designating June 14, 1985, as "Baltic Freedom Day."

Mr. SIMON. Mr. President, I am pleased and proud to offer my support to proclaim June 14, 1985, as Baltic Freedom Day.

As Americans, we are fortunate to live in a society where our freedoms are protected by the Constitution. We are guaranteed the freedom to speak out opinions, to practice our religions, to gather in meetings.

There is a nation which does not recognize these basic human rights. It is a country which persecutes those who

wish to practice religion. It is a country which suppresses speech. That nation is the Soviet Union. We hope and pray they will modify their positions.

In 1941, President Franklin Roosevelt and Prime Minister Winston Churchill signed a historic declaration known as the Atlantic Charter. The charter embodied fundamental principles of human rights, including freedom from fear and want, freedom of speech, and freedom of religion. More importantly, the second provision in the Atlantic Charter stresses the importance of the "principle of self-determination." The Soviet Unions forcible incorporation of Lithuania, Latvia, and Estonia clearly violates the spirit and word of the charter.

United States' policy has consistently supported freedom for the Baltic States. That policy must remain unchanged. As the deputy chairman of the U.S. delegation to the 1980 Review Conference of the Helsinki Act stated, "No occupation or acquisition of territory in contravention of international law will be recognized as legal." This provision applies directly to the Baltic States.

We must not rest until the brave people of Lithuania, Latvia, and Estonia are allowed to pursue their dreams of liberty.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and the preamble are as follows:

S.J. RES. 66

Whereas the people of the Baltic Republics of Lithuania, Latvia, and Estonia have cherished the principles of religious and political freedom and independence;

Whereas the Baltic Republics have existed as independent, sovereign nations belonging to and fully recognized by the League of Nations; and

Whereas the people of the Baltic Republics have individual and separate cultures, national traditions, and languages distinctively foreign to those of Russia;

Whereas the Union of the Soviet Socialist Republics (U.S.S.R.) in 1940 did illegally seize and occupy the Baltic Republics and by force incorporate them against their national will and contrary to their desire for independence and sovereignty into the U.S.S.R.;

Whereas the U.S.S.R. since 1940 has systematically removed native Baltic peoples from their homelands by deporting them to Siberia and caused great masses of Russians to relocate in the Baltic Republics, thus threatening the Baltic cultures with extinction;

Whereas the U.S.S.R. has imposed upon the captive people of the Baltic Republics an oppressive political system which has destroyed every vestige of democracy, civil liberties, and religious freedom;

Whereas the people of Estonia, Latvia, and Lithuania find themselves today subjugated by the U.S.S.R., locked into a union they deplore, denied basic human rights, and persecuted for daring to protest;

Whereas the U.S.S.R. refuses to abide by the Helsinki accords which the U.S.S.R. voluntarily signed;

Whereas the United States stands as a champion of liberty, dedicated to the principles of national self-determination, human rights, and religious freedom, and opposed to oppression and imperialism;

Whereas the United States, as a member of the United Nations, has repeatedly voted with a majority of that international body to uphold the right of other countries of the world, including those in Africa and Asia, to determine their fates and be free of foreign domination;

Whereas the U.S.S.R. has steadfastly refused to return to the people of the Baltic States of Latvia, Lithuania, and Estonia, the right to exist as independent republics separate and apart from the U.S.S.R. or pemit a return of personal, political, and religious freedoms, and

Whereas the U.S.S.R. conscripts Estonians, Latvians, and Lithuanians into the Soviet Armed Force, compelling them to serve in Afghanistan, Vietnam, and Cuba: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States recognizes the continuing desire and the right of the people of Lithuania, Latvia, and Estonia for freedom and independence from the domination of the U.S.S.R. and deplores the refusal of the U.S.S.R. to recognize the sovereignty of the Baltic Republics and to yield to their rightful demands for independence from foreign domination and oppression and that the fourteenth day of June 1985, the anniversay of the mass deportation of Baltic peoples from their homelands in 1941, be designated "Baltic Freedom Day" as a symbol of the solidarity of the American people with the aspirations of the enslaved Baltic people and that the President of the United States be authorized and requested to issue a proclamation for the observance of Baltic Freedom Day with appropriate ceremonies and activities.

NATIONAL ASTHMA AND ALLERGY AWARENESS WEEK

The joint resolution (S.J. Res. 83) designating the week beginning on May 5, 1985, as "National Asthma and Allergy Awareness Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution and the preamble are as follows:

S.J. RES. 83

Whereas asthma and allergic diseases result in physical, emotional, and economic hardship for more than thirty-five million Americans and their families;

Whereas thousands of Americans, many of them young, die each year from asthma even though sufficient medical knowledge and resources exist to prevent many asthma-related deaths;

Whereas student absenteeism is due in significant part to asthma and allergic diseases;

Whereas environmental conditions in the workplace often cause or exacerbate asthma and allergic diseases among employees;

Whereas many hospital patients suffer allergic reactions to prescribed medications;

Whereas it is estimated that the American public pays $4,000,000,000 per year in medical bills directly attributable to the treatment and diagnosis of asthma and allergic diseases and pays another $2,000,000,000 per year as a result of the indirect social cost of such illnesses;

Whereas, because of recent developments in the study of immunology, health care providers are better equipped to diagnose and treat asthma and allergic diseases; and

Whereas increased public awareness of recent scientific advancements in the study of immunology will help many of the common misconceptions concerning asthma, allergic diseases, and the victims of those illnesses: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on May 5, 1985, is hereby designated as "National Asthma and Allergy Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

NATIONAL POW/MIA RECOGNITION DAY

The joint resolution (S.J. Res. 87) to provide for the designation of July 19, 1985, as "National POW/MIA Recognition Day," was considered.

Mr. MURKOWSKI. Mr. President, I rise today to urge the support of my colleagues for Senate Joint Resolution 87 which I introduced on March 19. This resolution would designate July 19, 1985, as "National POW/MIA Recognition Day," and would conform with 6 previous such days that have served as an important symbol of the gratitude all Americans feel toward those who were interned while serving bravely in defense of our Nation as well as those servicepersons who have yet to be accounted for and who remain missing in action. Senate Joint Resolution 87 was reported unanimously from the Judiciary Committee on May 2.

The intent of this special day is to provide proper recognition to those brave Americans who rendered honorable and faithful service to their country, often under very brutal and inhuman conditions.

This resolution honors those missing heroes and those who endured terrible pain and deprivation before they were returned to their families and to the country for which they fought so courageously. For the prisoners of war, comfort was believing that America was still working for their release. Their endurance through such arduous times reflected their faith in our country's efforts to obtain their freedom. The missing-in-action and their families need to know that the search will not end until all who are missing are accounted for. Those who have suffered such hardship keep their faith by remembering the ideals and people which have guided them and

which have provided the justification for their endurance of such hardships. In turn, we must never forget them.

A POW/MIA Recognition Day accords to the POW's, MIA's, and their families, our very special thanks for their many sacrifices and special contributions. By this gesture, we enhance ourselves as a nation and keep in mind that there have been and will always be those to serve so that our country can remain strong and free.

In addition to its symbolic value, "National POW/MIA Recognition Day," would serve to increase public awareness in the United States and throughout the world that there remain almost 2,500 servicemen and civilians still unaccounted for in Indochina. During the last 3 years, the Governments of Laos and Vietnam have taken the first steps toward cooperation, compelled, in part, by a sensitivity to the increased public awareness of this significant humanitarian concern.

The designation of July 19 will coincide with the activities planned by the National League of Families of American Prisoners and Missing in Southeast Asia.

The league is holding its 16th annual meeting in Washington, DC, during the week of July 14-20, 1985. The league is the only organization comprised solely of family members—membership approximately 2,000—of American POW/MIA's. The league's efforts to increase public awareness have played an important role in the progress made to date with the Indochinese governments.

I believe that it is important that we continue the vigil for our missing Americans and that we reaffirm our support for the effort to resolve their fate. To underline this commitment, I urge my colleagues to join with me in a mutually bipartisan spirit to honor these most patriotic citizens, the former prisoners-of-war and the missing-in-action, on July 19, 1985.

The joint resolution was ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution and the preamble are as follows:

S.J. RES. 87

Whereas the United States has fought in many wars;

Whereas thousands of American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many such prisoners of war died from such treatment;

Whereas many Americans missing in action remain unaccounted for and the uncertainty surrounding their fate has caused their families to suffer acute hardship; and

Whereas the sacrifices of American prisoners of war and Americans missing in action and their families are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the nineteenth day of July 1985 shall be designated as "National P.O.W./M.I.A. Recognition Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such day with appropriate activities.

NATIONAL FOSTER GRANDPARENTS MONTH

The Senate proceeded to consider the joint resolution (S.J. Res. 92) to designate October 1985 as "National Foster Grandparents Month."

Mr. DENTON. Mr. President, on March 26, 1985, I introduced Senate Joint Resolution 92, a resolution designating the month of October 1985 as "National Foster Grandparents Month." On May 2, the resolution was unanimously reported to the full Senate by the Judiciary Committee.

The Foster Grandparent Program, which is part of ACTION, the national volunteer agency, celebrates its 20th anniversary this year. When it was first established in 1965, there were 33 projects in 27 States, involving 782 foster grandparent volunteers; today, approximately 19,000 foster grandparents are serving 65,000 children in 245 projects jointly funded by Federal and private sectors and in eight totally non-federally funded projects. The projects are located in all 50 States, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia.

The program recruits foster grandparent volunteers, usually low-income people who are age 60 or over. The volunteers are given 40 hours of preservice training and orientation, and thereafter are supervised by child-care teams in the agencies, in which they serve 20 hours each week.

The volunteers provide unique, personal guidance and care to tens of thousands of physically, emotionally, and mentally handicapped children, and to children who are abused, neglected, in the juvenile justice system, or in need of other special help.

The program brings benefits to all who participate, and to the Nation. The volunteers benefit from improved health, increased independence, decreased isolation, and lessened financial burdens; the children served make great gains in their physical, social, and psychological development. For many children, the love of a foster grandparent is the first personal warmth and concern they have ever known.

The Foster Grandparent Program is one of the most meaningful social service programs ever developed, providing volunteers with opportunities to participate creatively in community service. Their activities continue to improve our society's attitude about the ability of retired persons to help solve social problems. The foster grandparent volunteers represent a tremendous return on tax dollars, and are of a great value to the American people.

By designating October 1985 as "National Foster Grandparents Month" we will give the volunteers the recognition they so rightly deserve.

I urge my colleagues to support the joint resolution.

The joint resolution ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution and the preamble are as follows:

S.J. RES. 92

Whereas the Foster Grandparent Program celebrates its twentieth anniversary in 1985;

Whereas the Foster Grandparent Program, administered by the national volunteer agency known as the ACTION Agency, was the first Federal program to provide older individuals with opportunities for retirement to service as an alternative to retirement from activity;

Whereas older individuals participating in the Foster Grandparent Program have provided unique, personal guidance and care to tens of thousands of physically, emotionally, and mentally handicapped chidren and children who are abused, neglected, in the juvenile justice system, or in need of special help;

Whereas in its first year of operation the Foster Grandparent Program established 33 projects in 27 States and involved 782 Foster grandparent volunteers;

Whereas today approximately 19,000 Foster Grandparents are serving some 65,000 children in 245 projects in the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia;

Whereas the growth of the Foster Grandparent Program reflects increasing public and institutional awareness of the enormous benefit that such Program brings to all who participate in it and to the Nation: the volunteers benefit from improved health, increased independence, decreased isolation, and lessened finanical burdens; and the children who are served make great gains in their physical, social, and psychological development, and the love of a Foster Grandparent is for many children the first personal warmth and concern they have known;

Whereas the service of Foster Grandparent volunteers represents a tremendous return on tax dollars and a great value to the American people;

Whereas the Foster Grandparent Program is one of the most meaningful social service programs ever developed, providing older individuals with opportunities to participate crucially and creatively in community service; and

Whereas the activities of Foster Grandparent volunteers continue to improve the public attitude concerning older individuals and to demonstrate the importance of using the expertise of retired persons to help solve social problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1985 is designated as "National Foster Grandparent Month", and the President is authorized and requested to issue a proclamation call-

ing upon all government agenies, interested organizations, community groups, and the people of the Unted States to celebrate the twentieth anniversary of the Foster Grandparent Program by observing such month with appropriate ceremonies and activities.

BETTER HEARING AND SPEECH MONTH

The joint resolution (S.J. Res. 93) to designate the month of May 1985 as "Better Hearing and Speech Month," was considered.

Mr. GLENN. Mr. President, I am pleased to be a cosponsor of legislation designating May 1985 as Better Hearing and Speech Month. This resolution will promote awareness of the needs and the abilities of the communicatively disabled. Such awareness, along with understanding and compassion on the part of the nondisabled, has helped, and must continue to help, the hearing and speech handicapped to achieve their full potential.

My wife Annie is just one of millions of communicatively impaired people who has mastered her disability and has capitalized on her other, considerable skills and talents. It is from personal experience, then, that I have seen the extraordinary gains which can be made as long as the able-bodied recognize that, along with their special needs, the handicapped possess special abilities.

It is essential that we all realize what handicapped persons have long known—a disability is not an adversity to which one surrenders but an obstacle to overcome.

The PRESIDING OFFICER. The question is on a third reading.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and the preamble are as follows:

S.J. RES. 93

Whereas more than fifteen million Americans of all ages experience some form of hearing impairment, ranging from mild hearing loss to profound deafness;

Whereas more than ten million Americans of all ages experience some form of speech or language impairment;

Whereas the deaf, hard of hearing, and speech or language impaired have made significant contributions to society in virtually every occupational category and profession;

Whereas those with communication disorders continue to encounter impediments and obstacles which limit their education and employment opportunities; and

Whereas the remaining barriers which prevent the communicatively handicapped from fulfilling their potential must be recognized and eliminated: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May 1985 is designated "Better Hearing and Speech Month" and the President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

VERY SPECIAL ARTS U.S.A. MONTH

The joint resolution (S.J. Res. 103) to designate the month of May 1985, as "Very Special Arts U.S.A. Month," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution and the preamble are as follows:

S.J. RES. 103

Whereas programs involving the arts enhance the learning and enrich the lives of disabled individuals;

Whereas arts with the handicapped is a means of integrating disabled individuals into the mainstream of education and cultural society;

Whereas programs bringing arts to the handicapped inform the general public, parents, volunteers, and the business community of the value of arts to the disabled;

Whereas the emphasis is needed to expand support for arts programs with the handicapped and to increase participation and commitment of the community and educators to these activities;

Whereas the National Committee, Arts with the Handicapped, an educational affiliate of the John F. Kennedy Center for the Performing Arts has successfully entered into its eleventh year as the coordinating agency for arts programs for disabled children, youth, and adults; and

Whereas the National Committee conducts education programs in all fifty States, the District of Columbia, and the Commonwealth of Puerto Rico to assure that all disabled individuals have access to programs which bring the arts into their lives: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May, 1985, is designated as "Very Special Arts U.S.A. Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

TIME OF REMEMBRANCE FOR VICTIMS OF TERRORISM

The Senate proceeded to consider the joint resolution (S.J. Res. 104) to proclaim October 23, 1985, as "A Time of Remembrance" for all victims of terrorism throughout the world.

Mr. DENTON. Mr. President, on April 3, 1985, Senator LEAHY and I, along with 35 other cosponsors, introduced Senate Joint Resolution 104, a joint resolution proclaiming October 23, 1985, as a "Time of Remembrance" for all victims of terrorism throughout the world. On May 2, the resolution was unanimously reported to the full Senate by the Judiciary Committee. I believe it is especially appropriate that we take up consideration of Senate Joint Resolution 104 during this period in which we honor the memory of the victims of the Holocaust.

Mr. President, on September 28, 1984, the President signed into law Senate Joint Resolution 336, a joint resolution proclaiming October 23, 1984, as "A Time of Remembrance" for all victims of terrorism throughout the world and marking the first anniversary of the terrorist attack on the multinational peacekeeping mission in Beirut, Lebanon. I was proud to be the sponsor of that joint resolution which 59 of my colleagues cosponsored.

On October 19, the President issued a proclamation, called for by the joint resolution, urging "all Americans to take time to reflect on the sacrifices that have been made in the pursuit of peace and freedom * * *" and calling upon "the departments and agencies of the United States and interested organizations, groups, and individuals to fly U.S. flags at half staff throughout the world in the hope that the desire for peace and freedom take firm root in every person and every nation."

The originating and driving organization behind this effort was No Greater Love, a national nonprofit, nonpolitical humanitarian organization dedicated to providing programs of care and friendship to children whose parents have been killed while serving our country. On October 23, No Greater Love sponsored a commemorative ceremony marking a time of remembrance at Arlington National Cemetery. This ceremony proved to be one of international significance and success. Letters of support and appreciation for this effort were received from diplomatic officials, Governors, organizations, and individuals from across the Nation and around the world.

In light of the tremendous response to the declaration of October 23, 1984, as "A Time of Remembrance," and because of the continuing tragedy of world-wide terrorism families of the victims of terrorism have requested that "A Time of Remembrance" be made an annual occurrence. This would not only make us all more aware of the need to confront the problem of terrorism but would also assure the families that their loved ones who lost their lives in the service of our country would continue to be honored and that their service and sacrifice would never be forgotten by those whom they served.

Mr. President, I urge my colleagues to support Senate Joint Resolution 104.

The joint resolution was ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution and the preamble are as follows:

S.J. RES. 104

Whereas the problem of terrorism has become an international concern that knows

no boundaries—religious, racial, political, or national;

Whereas thousands of men, women, and children have died at the hands of terrorists in nations around the world, and today terrorism continues to claim the lives of many peace-loving individuals;

Whereas October 23, 1983, is the date on which the largest number of Americans were killed in a single act of terrorism—the bombing of the United States compound in Beirut, Lebanon, in which two hundred and forty-one United States servicemen lost their lives;

Whereas many of these victims died defending ideals of peace and freedom; and

Whereas it is appropriate to honor all victims of terrorism, and in America to console the families of victims, and to cherish the freedom that their sacrifices make possible for all Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 23, 1985, be proclaimed as "A Time of Remembrance", to urge all Americans to take time to reflect on the sacrifices that have been made in the pursuit of peace and freedom, and to promote active participation by the American people through the wearing of a purple ribbon, a symbol of patriotism, dignity, loyalty, and martyrdom. The President is authorized and requested to issue a proclamation calling upon the departments and agencies of the United States and interest organizations, groups, and individuals to fly the United States flags at half staff throughout the world in the hope that the desire for peace and freedom take firm root in every person and every nation.

MISSING CHILDREN DAY

The joint resolution (S.J. Res. 118) to designate May 25, 1985, as "Missing Children Day," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 118

Whereas on May 25, 1979, six-year-old Etan Patz disappeared from his home in New York City and is still missing;

Whereas over one million eight hundred thousand children disappear from home annually;

Whereas children who are missing from home and are not living in a family environment are frequently the victims of sexual and physical exploitation;

Whereas an estimated 60 per centum of missing children are sexually abused while away from home;

Whereas the search for missing children is frequently a low-priority investigation in many law enforcement agencies;

Whereas efforts between Federal and local law enforcement agencies in child abduction cases are usualy uncoordinated, haphazard, and ineffective; and

Whereas the problem of the missing child has been plagued by misinformation and there is a need to increase public understanding and awareness of this problem: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 25, 1985, is designated as "Missing Children Day", and the President is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe the day with appropriate ceremonies, programs, and activities.

OLDER AMERICANS MONTH

The joint resolution (H.J. Res. 195) designating May 1985 as "Older Americans Month," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

DR. JONAS E. SALK DAY

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 258, a joint resolution to designate "Dr. Jonas E. Salk Day."

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 258) to designate May 6, 1985, as "Dr. Jonas E. Salk Day."

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution (H.J. Res. 258) was ordered to a third reading, and was read the third time, and passed.

The preamble was agreed to.

Mr. DOLE. Mr. President, I move to indefinitely postpone the Senate companion bill, Calendar No. 105 (S.J. Res. 123).

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

EXPORT ADMINISTRATION AMENDMENTS ACT OF 1985

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 883.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 883) entitled "An Act to extend the Export Administration Act of 1979", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

Titles I and II of this Act may be cited as the "Export Administration Amendments Act of 1985".

TITLE I—AMENDMENTS TO EXPORT ADMINISTRATION ACT OF 1979

SEC. 101. REFERENCE TO THE ACT.

Except as a otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Export Administration Act of 1979.

SEC. 102. FINDINGS.

Section 2 (50 U.S.C. App. 2401) is amended as follows:

(1) Paragraph (2) is amended by striking out "by strengthening the trade balance and the value of the United States dollar, thereby reducing inflation" and inserting in lieu thereof "by earning foreign exchange, thereby contributing favorably to the trade balance".

(2) Paragraph (3) is amended by striking out "which would strengthen the Nation's economy" and inserting in lieu thereof "consistent with the economic, security, and foreign policy objectives of the United States".

(3) Paragraph (6) is amended to read as follows:

"(6) Uncertainty of export control policy can inhibit the efforts of United States business and work to the detriment of the overall attempt to improve the trade balance of the United States.".

(4) Paragraph (9) is amended by striking out "achievement of a positive balance of payments" and inserting in lieu thereof "a positive contribution to the balance of payments".

(5) Section 2 is amended by adding at the end the following:

"(10) It is important that the administration of export controls imposed for foreign policy purposes give special emphasis to the need to control exports of goods and substances hazardous to the public health and the environment which are banned or severely restricted for use in the United States, and which, if exported, could affect the international reputation of the United States as a responsible trading partner.

"(11) The acquisition of national security sensitive goods and technology by the Soviet Union and other countries, the actions or policies of which run counter to the national security interests of the United States, has led to the significant enhancement of Soviet bloc military-industrial capabilities. This enhancement poses a threat to the security of the United States, its allies, and other friendly nations, and places additional demands on the defense budget of the United States.

"(12) Availability to controlled countries of goods and technology from foreign sources is a fundamental concern of the United States and should be eliminated through negotiations and other appropriate means whenever possible.

"(13) Excessive dependence of the United States, its allies, or countries sharing common strategic objectives with the United States, on energy and other critical resources from potential adversaries can be harmful to the mutual and individual security of all those countries.".

SEC. 103. DECLARATION OF POLICY.

Section 3 (50 U.S.C. App. 2402) is amended as follows:

(1) Paragraph (3) is amended by inserting before the period at the end "or common strategic objectives".

(2) Paragraph (7) is amended—

(A) by striking out "every reasonable effort" in the second sentence and inserting in lieu thereof "reasonable and prompt efforts"; and

(B) by striking out "resorting to the imposition of controls on exports from the United States" in the second sentence and inserting in lieu thereof "imposing export controls".

(3) Paragraph (8) is amended—

(A) by striking out "every reasonable effort" in the second sentence and inserting in lieu thereof "reasonable and prompt efforts"; and

(B) by striking out "resorting to the imposition of export controls" in the second sen-

tence and inserting in lieu thereof "imposing export controls".

(4) Paragraph (9) is amended—

(A) by inserting "or common strategic objectives" after "commitments" each place it appears; and

(B) by inserting before the period at the end the following: ", and to encourage other friendly countries to cooperate in restricting the sale of goods and technology that can harm the security of the United States".

(5) Section 3 is amended by adding at the end the following:

"(12) It is the policy of the United States to sustain vigorous scientific enterprise. To do so involves sustaining the ability of scientists and other scholars freely to communicate research findings, in accordance with applicable provisions of law, by means of publication, teaching, conferences, and other forms of scholarly exchange.

"(13) It is the policy of the United States to control the export of goods and substances banned or severely restricted for use in the United States in order to foster public health and safety and to prevent injury to the foreign policy of the United States as well as to the credibility of the United States as a responsible trading partner.

"(14) It is the policy of the United States to cooperate with countries which are allies of the United States and countries which share common strategic objectives with the United States in minimizing dependence on imports of energy and other critical resources from potential adversaries and in developing alternative supplies of such resources in order to minimize strategic threats posed by excessive hard currency earnings derived from such resource exports by countries with policies adverse to the security interests of the United States.

"(15) It is the policy of the United States, particularly in light of the Soviet massacre of innocent men, women, and children aboard Korean Air Lines flight 7, to continue to object to exceptions to the International Control List for the Union of Soviet Socialist Republics, subject to periodic review by the President.".

SEC. 104. GENERAL PROVISIONS.

(a) VALIDATED LICENSES AUTHORIZING MULTIPLE EXPORTS.—Section 4(a)(2) (50 U.S.C. App. 2403(a)(2)) is amended to read as follows:

"(2) Validated licenses authorizing multiple exports, issued pursuant to an application by the exporter, in lieu of an individual validated license for each such export, including, but not limited to, the following:

"(A) A distribution license, authorizing exports of goods to approved distributors or users of the goods in countries other than controlled countries. The Secretary shall grant the distribution license primarily on the basis of the reliability of the applicant and foreign consignees with respect to the prevention of diversion of goods to controlled countries. The Secretary shall have the responsibility of determining, with the assistance of all appropriate agencies, the reliability of applicants and their immediate consignees. The Secretary's determination shall be based on appropriate investigations of each applicant and periodic reviews of licensees and their compliance with the terms of licenses issued under this Act. Factors such as the applicant's products or volume of business, or the consignees' geographic location, sales distribution area, or degree of foreign ownership, which may be relevant with respect to individual cases, shall not be determinative in creating categories or general criteria for the denial of applications or withdrawal of a distribution license.

"(B) A comprehensive operations license, authorizing exports and reexports of technology and related goods, including items from the list of militarily critical technologies developed pursuant to section 5(d) of this Act which are included on the control list in accordance with that section, from a domestic concern to and among its foreign subsidiaries, affiliates, joint venturers, and licensees that have long-term, contractually defined relations with the exporter, are located in countries other than controlled countries, and are approved by the Secretary. The Secretary shall grant the license to manufacturing, laboratory, or related operations on the basis of approval of the exporter's systems of control, including internal proprietary controls, applicable to the technology and related goods to be exported rather than approval of individual export transactions. The Secretary and the Commissioner of Customs, consistent with their authorities under section 12(a) of this Act, and with the assistance of all appropriate agencies, shall periodically, but not less frequently than annually, perform audits of licensing procedures under this subparagraph in order to assure the integrity and effectiveness of those procedures.

"(C) A project license, authorizing exports of goods or technology for a specified activity.

"(D) A service supply license, authorizing exports of spare or replacement parts for goods previously exported.".

(b) CONTROL LIST.—Section 4(b) is amended—

(1) by striking out "Commodity" and "commodity"; and

(2) by striking out "consisting of any goods or technology subject to export controls under this Act" and inserting in lieu thereof "stating license requirements (other than for general licenses) for exports of goods and technology under this Act".

(c) FOREIGN AVAILABILITY.—Section 4(c) is amended—

(1) by striking out "significant" and inserting in lieu thereof "sufficient";

(2) by inserting after "those produced in the United States" the following: "so as to render the controls ineffective in achieving their purposes"; and

(3) by adding at the end the following: "In complying with the provisions of this subsection, the President shall give strong emphasis to bilateral or multilateral negotiations to eliminate foreign availability. The Secretary and the Secretary of Defense shall cooperate in gathering information relating to foreign availability, including the establishment and maintenance of a jointly operated computer system.".

(d) NOTIFICATION OF PUBLIC AND CONSULTATION WITH BUSINESS.—Section 4(f) is amended to read as follows:

"(f) NOTIFICATION OF THE PUBLIC; CONSULTATION WITH BUSINESS.—The Secretary shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Secretary shall meet regularly with representatives of a broad spectrum of enterprises, labor organizations, and citizens interested in or affected by export controls, in order to obtain their views on United States export control policy and the foreign availability of goods and technology.".

SEC. 105. NATIONAL SECURITY CONTROLS.

(a) AUTHORITY.—

(1) TRANSFERS TO EMBASSIES OF CONTROLLED COUNTRIES.—Section 5(a)(1) (50 U.S.C. App. 2404(a)(1)) is amended by inserting after the first sentence the following new sentence: "The authority contained in this subsection includes the authority to prohibit or curtail the transfer of goods or technology within the United States to embassies and affiliates of controlled countries.".

(2) CLERICAL AMENDMENT.—Section 5(a)(2) is amended—

(A) by striking out "(A)"; and

(B) by striking out subparagraph (B).

(3) SAFEGUARDS TO PREVENT DIVERSIONS.—Section 5(a)(3) is amended by striking out the last sentence.

(b) POLICY TOWARD INDIVIDUAL COUNTRIES.—

(1) CONTROLLED COUNTRIES.—Section 5(b) is amended by striking out the first sentence and inserting in lieu thereof the following: "(1) In administering export controls for national security purposes under this section, the President shall establish as a list of controlled countries those countries set forth in section 620(f) of the Foreign Assistance Act of 1961, except that the President may add any country to or remove any country from such list of controlled countries if he determines that the export of goods or technology to such country would or would not (as the case may be) make a significant contribution to the military potential of such country or a combination of countries which would prove detrimental to the national security of the United States. In determining whether a country is added to or removed from the list of controlled countries, the President shall take into account—

"(A) the extent to which the country's policies are adverse to the national security interests of the United States;

"(B) the country's Communist or non-Communist status;

"(C) the present and potential relationship of the country with the United States;

"(D) the present and potential relationships of the country with countries friendly or hostile to the United States;

"(E) the country's nuclear weapons capability and the country's compliance record with respect to multilateral nuclear weapons agreements to which the United States is a party; and

"(F) such other factors as the President considers appropriate.

Nothing in the preceding sentence shall be interpreted to limit the authority of the President provided in this Act to prohibit or curtail the export of any goods or technology to any country to which exports are controlled for national security purposes other than countries on the list of controlled countries specified in this paragraph.".

(2) EXPORTS TO COCOM COUNTRIES.—Section 5(b) is amended by adding at the end the following:

"(2) No authority or permission to export may be required under this section before goods or technology are exported in the case of exports to a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee, if the goods or technology is at such a level of performance characteristics that the export of the goods or technology to controlled countries requires only notification of the participating governments of the Coordinating Committee.".

(3) TECHNICAL AMENDMENT.—Section 5(b)(1), as amended by paragraph (1) of this subsection, is amended in the last sentence by striking out "specified in the preceding sen-

tence" and inserting in lieu thereof "set forth in this paragraph".

(c) CONTROL LIST.—

(1) ANNUAL REVIEW.—Section 5(c) is amended—

(A) in paragraph (1) by striking out "commodity"; and

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

"(3) The Secretary shall review the list established pursuant to this subsection at least once each year in order to carry out the policy set forth in section 3(2)(A) of this Act and the provisions of this section, and shall promptly make such revisions of the list as may be necessary after each such review. Before beginning each annual review, the Secretary shall publish notice of that annual review in the Federal Register. The Secretary shall provide an opportunity during such review for comment and the submission of data, with or without oral presentation, by interested Government agencies and other affected or potentially affected parties. The Secretary shall publish in the Federal Register any revisions in the list, with an explanation of the reasons for the revisions. The Secretary shall further assess, as part of such review, the availability from sources outside the United States of goods and technology comparable to those subject to export controls imposed under this section.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(B) of this subsection shall take effect on October 1, 1985.

(d) EXPORT LICENSES.—Section 5(e) is amended—

(1) in paragraph (1) by striking out "a qualified general license in lieu of a validated license" and inserting in lieu thereof "the multiple validated export licenses described in section 4(a)(2) of this Act in lieu of individual validated licenses"; and

(2) by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) The Secretary, subject to the provisions of subsection (1) of this section, shall not require an individual validated export license for replacement parts which are exported to replace on a one-for-one basis parts that were in a good that has been lawfully exported from the United States.

"(4) The Secretary shall periodically review the procedures with respect to the multiple validated export licenses, taking appropriate action to increase their utilization by reducing qualification requirements or lowering minimum thresholds, to combine procedures which overlap, and to eliminate those procedures which appear to be of marginal utility.

"(5) The export of goods subject to export controls under this section shall be eligible, at the discretion of the Secretary, for a distribution license and other licenses authorizing multiple exports of goods, in accordance with section 4(a)(2) of this Act. The export of technology and related goods subject to export controls under this section shall be eligible for a comprehensive operations license in accordance with section 4(a)(2)(B) of this Act.".

(e) INDEXING.—Section 5(g) is amended to read as follows:

"(g) INDEXING.—In order to ensure that requirements for validated licenses and other licenses authorizing multiple exports are periodically removed as goods or technology subject to such requirements becomes obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for annual increases in the performance levels of goods or technology subject to any such licensing requirement. The regulations issued by the Secretary shall establish as one criterion for the removal of goods or technology from such license requirements the anticipated needs of the military of controlled countries. Any such goods or technology which no longer meets the performance levels established by the regulations shall be removed from the list established pursuant to subsection (c) of this section unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other department or agency of the United States objects to such removal and the Secretary determines, on the basis of such objection, that the goods or technology shall not be removed from the list. The Secretary shall also consider, where appropriate, removing site visitation requirements for goods and technology which are removed from the list unless objections described in this subsection are raised.".

(f) MULTILATERAL EXPORT CONTROLS.—Section 5(i) is amended—

(1) by striking out paragraph (3);

(2) in paragraph (4)—

(A) by striking out "(4)" and inserting in lieu thereof "(3)"; and

(B) by striking out "pursuant to paragraph (3)" and inserting in lieu thereof "by the members of the Committee"; and

(3) by adding at the end the following:

"(4) Agreement to enhance full compliance by all parties with the export controls imposed by agreement of the Committee through the establishment of appropriate mechanisms.

"(5) Agreement to improve the International Control List and minimize the approval of exceptions to that list, strengthen enforcement and cooperation in enforcement efforts, provide sufficient funding for the Committee, and improve the structure and function of the Secretariat of the Committee by upgrading professional staff, translation services, data base maintenance, communications, and facilities.

"(6) Agreement to coordinate the systems of export control documents used by the participating governments in order to verify effectively the movement of goods or technology subject to controls by the Committee from the country of any such government to any other place.

"(7) Agreement to establish uniform, adequate criminal and civil penalties to deter more effectively diversions of items controlled for export by agreement of the Committee.

"(8) Agreement to increase on-site inspections by national enforcement authorities of the participating governments to ensure that end users who have imported items controlled for export by agreement of the Committee are using such items for the stated end uses, and that such items are, in fact, under the control of those end users.

"(9) Agreement to strengthen the Committee so that it functions effectively in controlling export trade in a manner that better protects the national security of each participant to the mutual benefit of all participants.".

(g) COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES.—Section 5(j) is amended to read as follows:

"(j) COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES.—(1) Any United States firm, enterprise, or other nongovernmental entity which enters into an agreement with any agency of the government of a controlled country, that calls for the encouragement of technical cooperation and that is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report to the Secretary the agreement with such agency in sufficient detail.

"(2) The provisions of paragraph (1) shall not apply to colleges, universities, or other educational institutions.".

(h) NEGOTIATIONS WITH OTHER COUNTRIES.—Section 5(k) is amended—

(1) by inserting after "conducting negotiations with other countries" the following: ", including those countries not participating in the group known as the Coordinating Committee,"; and

(2) by adding at the end the following: "In cases where such negotiations produce agreements on export restrictions comparable in practice to those maintained by the Coordinating Committee, the Secretary shall treat exports, whether by individual or multiple licenses, to countries party to such agreements in the same manner as exports to members of the Coordinating Committee are treated, including the same manner as exports are treated under subsection (b)(2) of this section and section 10(o) of this Act.".

(i) DIVERSION OF CONTROLLED GOODS OR TECHNOLOGY.—Section 5(l) is amended to read as follows:

"(l) DIVERSION OF CONTROLLED GOODS OR TECHNOLOGY.—(1) Whenever there is reliable evidence, as determined by the Secretary, that goods or technology which were exported subject to national security controls under this section to a controlled country have been diverted to an unauthorized use or consignee in violation of the conditions of an export license, the Secretary for as long as that diversion continues—

"(A) shall deny all further exports, to or by the party or parties responsible for that diversion or who conspired in that diversion, of any goods or technology subject to national security controls under this section, regardless of whether such goods or technology are available from sources outside the United States; and

"(B) may take such additional actions under this Act with respect to the party or parties referred to in subparagraph (A) as the Secretary determines are appropriate in the circumstances to deter the further unauthorized use of the previously exported goods or technology.

"(2) As used in this subsection, the term 'unauthorized use' means the use of United States goods or technology in the design, production, or maintenance of any item on the United States Munitions List, or the military use of any item on the International Control List of the Coordinating Committee.".

(j) ADDITIONAL NATIONAL SECURITY PROVISIONS.—Section 5 is amended by adding at the end the following new subsections:

"(m) GOODS CONTAINING MICROPROCESSORS.—Export controls may not be imposed under this section on a good solely on the basis that the good contains an embedded microprocessor, if such microprocessor cannot be used or altered to perform functions other than those it performs in the good in which it is embedded. An export control may be imposed under this section on a good containing an embedded microprocessor referred to in the preceding sentence only on the basis that the functions of the good itself are such that the good, if exported, would make a significant contribution to the military potential of any other country or combination of countries which

would prove detrimental to the national security of the United States.

"(n) SECURITY MEASURES.—The Secretary and the Commissioner of Customs, consistent with their authorities under section 12(a) of this Act, and in consultation with the Director of the Federal Bureau of Investigation, shall provide advice and technical assistance to persons engaged in the manufacture or handling of goods or technology subject to export controls under this section to develop security systems to prevent violations or evasions of those export controls.

"(o) RECORDKEEPING.—The Secretary, the Secretary of Defense, and any other department or agency consulted in connection with a license application under this Act or a revision of a list of goods or technology subject to export controls under this Act, shall make and keep records of their respective advice, recommendations, or decisions in connection with any such license application or revision, including the factual and analytical basis of the advice, recommendations, or decisions.

"(p) NATIONAL SECURITY CONTROL OFFICE.—To assist in carrying out the policy and other authorities and responsibilities of the Secretary of Defense under this section, there is established in the Department of Defense a National Security Control Office under the direction of the Under Secretary of Defense for Policy. The Secretary of Defense may delegate to that office such of those authorities and responsibilities, together with such ancillary functions, as the Secretary of Defense considers appropriate.

"(q) EXCLUSION FOR AGRICULTURAL COMMODITIES.—This section does not authorize export controls on agricultural commodities, including fats, oils, and animal hides and skins.".

SEC. 106. MILITARILY CRITICAL TECHNOLOGIES.

(a) Section 5(d) (50 U.S.C. App. 2404(d)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B) by striking out "and" after "test equipment,";

(B) by adding "and" at the end of subparagraph (C);

(C) by inserting after subparagraph (C) the following:

"(D) keystone equipment which would reveal or give insight into the design and manufacture of a United States military system,"; and

(D) by striking out "countries to which exports are controlled under this section" and inserting in lieu thereof the following: ", or available in fact from sources outside the United States to, controlled countries"; and

(2) by striking out paragraphs (4) through (6) and inserting in lieu thereof the following:

"(4) The Secretary and the Secretary of Defense shall integrate items on the list of militarily critical technologies into the control list in accordance with the requirements of subsection (c) of this section. The integration of items on the list of militarily critical technologies into the control list shall proceed with all deliberate speed. Any disagreement between the Secretary and the Secretary of Defense regarding the integration of an item on the list of militarily critical technologies into the control list shall be resolved by the President. Except in the case of a good or technology for which a validated license may be required under subsection (f)(4) or (h)(6) of this section, a good or technology shall be included on the control list only if the Secretary finds that controlled countries do not possess that good or technology, or a functionally equivalent good or technology, and the good or technology or functionally equivalent good or technology is not available in fact to a controlled country from sources outside the United States in sufficient quantity and of comparable quality so that the requirement of a validated license for the export of such good or technology is or would be ineffective in achieving the purpose set forth in subsection (a) of this section. The Secretary and the Secretary of Defense shall jointly submit a report to the Congress, not later than 1 year after the date of the enactment of the Export Administration Amendments Act of 1985, on actions taken to carry out this paragraph. For the purposes of this paragraph, assessment of whether a good or technology is functionally equivalent shall include consideration of the factors described in subsection (f)(3) of this section.

"(5) The Secretary of Defense shall establish a procedure for reviewing the goods and technology on the list of militarily critical technologies at least annually for the purpose of removing from the list of militarily critical technologies any goods or technology that are no longer militarily critical. The Secretary of Defense may add to the list of militarily critical technologies any good or technology that the Secretary of Defense determines is militarily critical, consistent with the provisions of paragraph (2) of this subsection. If the Secretary and the Secretary of Defense disagree as to whether any change in the list of militarily critical technologies by the addition or removal of a good or technology should also be made in the control list, consistent with the provisions of the fourth sentence of paragraph (4) of this subsection, the President shall resolve the disagreement.

"(6) The establishment of adequate export controls for militarily critical technology and keystone equipment shall be accompanied by suitable reductions in the controls on the products of that technology and equipment.

"(7) The Secretary of Defense shall, not later than 1 year after the date of the enactment of the Export Administration Amendments Act of 1985, report to the Congress on efforts by the Department of Defense to assess the impact that the transfer of goods or technology on the list of militarily critical technologies to controlled countries has had or will have on the military capabilities of those countries.".

SEC. 107. FOREIGN AVAILABILITY.

(a) CONSULTATIONS ON FOREIGN AVAILABILITY.—Section 5(f)(1) (50 U.S.C. App. 2404(f)(1)) is amended by inserting after "The Secretary, in consultation with" the following: "the Secretary of Defense and other".

(b) DETERMINATIONS OF FOREIGN AVAILABILITY.—Section 5(f)(3) is amended to read as follows:

"(3) The Secretary shall make a foreign availability determination under paragraph (1) or (2) on the Secretary's own initiative or upon receipt of an allegation from an export license applicant that such availability exists. In making any such determination, the Secretary shall accept the representations of applicants made in writing and supported by reasonable evidence, unless such representations are contradicted by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In making determinations of foreign availability, the Secretary may consider such factors as cost, reliability, the availability and reliability of spare parts and the cost and quality thereof, maintenance programs, durability, quality of end products produced by the item proposed for export, and scale of production. For purposes of this paragraph, 'evidence' may include such items as foreign manufacturers' catalogues, brochures, or operation or maintenance manuals, articles from reputable trade publications, photographs, and depositions based upon eyewitness accounts.".

(c) NEGOTIATIONS ON FOREIGN AVAILABILITY.—Section 5(f)(4) is amended by striking out the first sentence and inserting in lieu thereof the following: "In any case in which export controls are maintained under this section notwithstanding foreign availability, on account of a determination by the President that the absence of the controls would prove detrimental to the national security of the United States, the President shall actively pursue negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. If, within 6 months after the President's determination, the foreign availability has not been eliminated, the Secretary may not, after the end of that 6-month period, require a validated license for the export of the goods or technology involved. The President may extend the 6-month period described in the preceding sentence for an additional period of 12 months if the President certifies to the Congress that the negotiations involved are progressing and that the absence of the export control involved would prove detrimental to the national security of the United States.".

(d) OFFICE OF FOREIGN AVAILABILITY.—

(1) ESTABLISHMENT.—Section 5(f)(5) is amended to read as follows:

"(5) The Secretary shall establish in the Department of Commerce an Office of Foreign Availability which, in the fiscal year 1985, shall be under the direction of the Assistant Secretary of Commerce for Trade Administration, and, in the fiscal year 1986 and thereafter, shall be under the direction of the Under Secretary of Commerce for Export Administration. The Office shall be responsible for gathering and analyzing all the necessary information in order for the Secretary to make determinations of foreign availability under this Act. The Secretary shall make available to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at the end of each 6-month period during a fiscal year information on the operations of the Office, and on improvements in the Government's ability to assess foreign availability, during that 6-month period, including information on the training of personnel, the use of computers, and the use of Foreign Commercial Service officers. Such information shall also include a description of representative determinations made under this Act during that 6-month period that foreign availability did or did not exist (as the case may be), together with an explanation of such determinations.".

(2) CLERICAL AMENDMENT.—Section 5(f)(6) is amended by striking out "Office of Export Administration" and inserting in lieu thereof "Office of Foreign Availability".

(e) REGULATIONS ON FOREIGN AVAILABILITY.—Section 5(f) is amended by adding at the end the following new paragraph:

"(7) The Secretary shall issue regulations with respect to determinations of foreign availability under this Act not later than 6 months after the date of the enactment of

the Export Administration Amendments Act of 1985.".

(f) TECHNICAL ADVISORY COMMITTEES.—

(1) MEMBERSHIP.—Section 5(h)(1) is amended by inserting ", the intelligence community," after "Departments of Commerce, Defense, and State".

(2) MATTERS ON WHICH COMMITTEES CONSULTED.—Section 5(h)(2) is amended in the second sentence—

(A) by striking out "and" at the end of clause (C); and

(B) by inserting before the period at the end of the second sentence the following: ", and (E) any other questions relating to actions designed to carry out the policy set forth in section 3(2)(A) of this Act.".

(3) FOREIGN AVAILABILITY CERTIFICATIONS.—Section 5(h)(6) is amended by striking out "and provides adequate documentation" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "the technical advisory committee shall submit that certification to the Congress at the same time the certification is made to the Secretary, together with the documentation for the certification. The Secretary shall investigate the foreign availability so certified and, not later than 90 days after the certification is made, shall submit a report to the technical advisory committee and the Congress stating that—

"(A) the Secretary has removed the requirement of a validated license for the export of the goods or technology, on account of the foreign availability,

"(B) the Secretary has recommended to the President that negotiations be conducted to eliminate the foreign availability, or

"(C) the Secretary has determined on the basis of the investigation that the foreign availability does not exist.

To the extent necessary, the report may be submitted on a classified basis. In any case in which the Secretary has recommended to the President that negotiations be conducted to eliminate the foreign availability, the President shall actively pursue such negotiations with the governments of the appropriate foreign countries. If, within 6 months after the Secretary submits such report to the Congress, the foreign availability has not been eliminated, the Secretary may not, after the end of that 6-month period, require a validated license for the export of the goods or technology involved. The President may extend the 6-month period described in the preceding sentence for an additional period of 12 months if the President certifies to the Congress that the negotiations involved are progressing and that the absence of the export control involved would prove detrimental to the national security of the United States.".

(i) STANDARD FOR FOREIGN AVAILABILITY.—Subsections (f)(1), (f)(2), and (h)(6) of section 5 are each amended by striking out "sufficient quality" and inserting in lieu thereof "comparable quality".

(j) TECHNICAL AMENDMENTS.—Subsections (f)(1), (f)(4), and (h)(6) of section 5 are each amended by striking out "countries to which exports are controlled under this section" and inserting in lieu thereof "controlled countries".

SEC. 108. FOREIGN POLICY CONTROLS.

(a) AUTHORITY.—Section 6(a) (50 U.S.C. App. 2405(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "or (8)" and inserting in lieu thereof "(8), or (13)"; and

(B) by inserting in the second sentence after "Secretary of State" the following: ", the Secretary of Defense, the Secretary of Agriculture, the Secretary of the Treasury, the United States Trade Representative,";

(2) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively;

(3) by inserting after paragraph (1) the following new paragraph:

"(2) Any export control imposed under this section shall apply to any transaction or activity undertaken with the intent to evade that export control, even if that export control would not otherwise apply to that transaction or activity."; and

(4) in paragraph (3), as redesignated by paragraph (2) of this subsection, by striking out "(e)" and inserting in lieu thereof "(f)".

(b) CRITERIA.—Section 6(b) is amended to read as follows:

"(b) CRITERIA.—(1) Subject to paragraph (2) of this subsection, the President may impose, extend, or expand export controls under this section only if the President determines that—

"(A) such controls are likely to achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls, and that foreign policy purpose cannot be achieved through negotiations or other alternative means;

"(B) the proposed controls are compatible with the foreign policy objectives of the United States and with overall United States policy toward the country to which exports are to be subject to the proposed controls;

"(C) the reaction of other countries to the imposition, extension, or expansion of such export controls by the United States is not likely to render the controls ineffective in achieving the intended foreign policy purpose or to be counterproductive to United States foreign policy interests;

"(D) the effect of the proposed controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology, or on the economic well-being of individual United States companies and their employees and communities does not exceed the benefit to United States foreign policy objectives; and

"(E) the United States has the ability to enforce the proposed controls effectively.

"(2) With respect to those export controls in effect under this section on the date of the enactment of the Export Administration Amendments Act of 1985, the President, in determining whether to extend those controls, as required by subsection (a)(3) of this section, shall consider the criteria set forth in paragraph (1) of this subsection and shall consider the foreign policy consequences of modifying the export controls.".

(c) CONSULTATION WITH INDUSTRY.—Section 6(c) is amended to read as follows:

"(c) CONSULTATION WITH INDUSTRY.—The Secretary in every possible instance shall consult with and seek advice from affected United States industries and appropriate advisory committees established under section 135 of the Trade Act of 1974 before imposing any export control under this section. Such consultation and advice shall be with respect to the criteria set forth in subsection (b)(1) and such other matters as the Secretary considers appropriate.".

(d) CONSULTATION WITH OTHER COUNTRIES.—Section 6 is amended—

(1) by redesignating subsections (d) through (k) as subsections (e) through (l), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) CONSULTATION WITH OTHER COUNTRIES.—When imposing export controls under this section, the President shall, at the earliest appropriate opportunity, consult with the countries with which the United States maintains export controls cooperatively, and with such other countries as the President considers appropriate, with respect to the criteria set forth in subsection (b)(1) and such other matters as the President considers appropriate.".

(e) CONSULTATION WITH THE CONGRESS.—Section 6(f), as redesignated by subsection (d) of this section, is amended to read as follows:

"(f) CONSULTATION WITH THE CONGRESS.—(1) The President may impose or expand export controls under this section, or extend such controls as required by subsection (a)(3) of this section, only after consultation with the Congress, including the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(2) The President may not impose, expand, or extend export controls under this section until the President has submitted to the Congress a report—

"(A) specifying the purpose of the controls;

"(B) specifying the determinations of the President (or, in the case of those export controls described in subsection (b)(2), the considerations of the President) with respect to each of the criteria set forth in subsection (b)(1), the bases for such determinations (or considerations), and any possible adverse foreign policy consequences of the controls;

"(C) describing the nature, the subjects, and the results of, or the plans for, the consultation with industry pursuant to subsection (c) and with other countries pursuant to subsection (d);

"(D) specifying the nature and results of any alternative means attempted under subsection (e), or the reasons for imposing, expanding, or extending the controls without attempting any such alternative means; and

"(E) describing the availability from other countries of goods or technology comparable to the goods or technology subject to the proposed export controls, and describing the nature and results of the efforts made pursuant to subsection (h) to secure the cooperation of foreign governments in controlling the foreign availability of such comparable goods or technology.

Such report shall also indicate how such controls will further significantly the foreign policy of the United States or will further its declared international obligations.

"(3) To the extent necessary to further the effectiveness of the export controls, portions of a report required by paragraph (2) may be submitted to the Congress on a classified basis, and shall be subject to the provisions of section 12(c) of this Act. Each such report shall, at the same time it is submitted to the Congress, also be submitted to the General Accounting Office for the purpose of assessing the report's full compliance with the intent of this subsection.

"(4) In the case of export controls under this section which prohibit or curtail the export of any agricultural commodity, a report submitted pursuant to paragraph (2) shall be deemed to be the report required by section 7(g)(3)(A) of this Act.

"(5) In addition to any written report required under this section, the Secretary, not less frequently than annually, shall present in oral testimony before the Committee on

Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on policies and actions taken by the Government to carry out the provisions of this section.".

(f) EXCLUSION OF CERTAIN ITEMS FROM FOREIGN POLICY CONTROLS.—Section 6(g), as redesignated by subsection (d) of this section, is amended—

(1) by inserting after the first sentence the following: "This section also does not authorize export controls on donations of goods (including, but not limited to, food, educational materials, seeds and hand tools, medicines and medical supplies, water resources equipment, clothing and shelter materials, and basic household supplies) that are intended to meet basic human needs."; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "This subsection shall not apply to any export control on medicine, medical supplies, or food, except for donations, which is in effect on the date of the enactment of the Export Administration Amendments Act of 1985. Notwithstanding the preceding provisions of this subsection, the President may impose export controls under this section on medicine, medical supplies, food, and donations of goods in order to carry out the policy set forth in paragraph (13) of section 3 of this Act.".

(g) FOREIGN AVAILABILITY.—

(1) IN GENERAL.—Section 6(h), as redesignated by subsection (d) of this section, is amended—

(A) by inserting "(1)" immediately before the first sentence; and

(B) by adding at the end the following:

"(2) Before extending any export control pursuant to subsection (a)(3) of this section, the President shall evaluate the results of his actions under paragraph (1) of this subsection and shall include the results of that evaluation in his report to the Congress pursuant to subsection (f) of this section.

"(3) If, within 6 months after the date on which export controls under this section are imposed or expanded, or within 6 months after the date of the enactment of the Export Administration Amendments Act of 1985 in the case of export controls in effect on such date of enactment, the President's efforts under paragraph (1) are not successful in securing the cooperation of foreign governments described in paragraph (1) with respect to those export controls, the Secretary shall thereafter take into account the foreign availability of the goods or technology subject to the export controls. If the Secretary affirmatively determines that a good or technology subject to the export controls is available in sufficient quantity and comparable quality from sources outside the United States to countries subject to the export controls so that denial of an export license would be ineffective in achieving the purposes of the controls, then the Secretary shall, during the period of such foreign availability, approve any license application which is required for the export of the good or technology and which meets all requirements for such a license. The Secretary shall remove the good or technology from the list established pursuant to subsection (l) of this section if the Secretary determines that such action is appropriate.

"(4) In making a determination of foreign availability under paragraph (3) of this subsection, the Secretary shall follow the procedures set forth in section 5(f)(3) of this Act.".

(2) AMENDMENTS NOT APPLICABLE TO CERTAIN EXISTING CONTROLS.—The amendments made by paragraph (1) of this subsection shall not apply to export controls in effect under subsection (i), (j), or (k) of section 6 of the Export Administration Act of 1979 (as redesignated by subsection (d) of this section) immediately before the date of the enactment of this Act, or to export controls made effective by subsection (i)(2) of this section or by section 6(n) of the Export Administration Act of 1979 (as added by subsection (l)(1) of this section).

(h) INTERNATIONAL OBLIGATIONS.—Section 6(i), as redesignated by subsection (d) of this section, is amended by striking out "(f), and (g)" and inserting in lieu thereof "(e), (g), and (h)".

(i) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—

(1) IN GENERAL.—Section 6(j), as redesignated by subsection (d) of this section, is amended to read as follows:

"(j) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—(1) The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before any license is approved for the export of goods or technology valued at more than $7,000,000 to any country concerning which the Secretary of State has made the following determinations:

"(A) Such country has repeatedly provided support for acts of international terrorism.

"(B) Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.

"(2) Any determination which has been made with respect to a country under paragraph (1) of this subsection may not be rescinded unless the President, at least 30 days before the proposed rescission would take effect, submits to the Congress a report justifying the rescission and certifying that—

"(A) the country concerned has not provided support for international terrorism, including support or sanctuary for any major terrorist or terrorist group in its territory, during the preceding 6-month period; and

"(B) the country concerned has provided assurances that it will not support acts of international terrorism in the future.".

(2) APPLICABILITY TO PRIOR DETERMINATIONS.—Any determination with respect to any country which was made before January 1, 1982, under section 6(i) of the Export Administration Act of 1979, as in effect before the date of the enactment of this Act, and which was no longer in effect on the date of the enactment of this Act, shall be reinstated upon the expiration of 90 days after such date of enactment unless, within that 90-day period, the President submits a report under section 6(j)(2) of the Export Administration Act of 1979, as amended by subsection (d) of this section and paragraph (1) of this subsection, containing the certification described in such section 6(j)(2) with respect to that country.

(j) CRIME CONTROL INSTRUMENTS.—

(1) CONCURRENCE OF SECRETARY OF STATE.—Section 6(k)(1), as redesignated by subsection (d) of this section, is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this Act—

"(A) any determination of the Secretary of what goods or technology shall be included on the list established pursuant to subsection (l) of this section as a result of the export restrictions imposed by this subsection shall be made with the concurrence of the Secretary of State, and

"(B) any determination of the Secretary to approve or deny an export license application to export crime control or detection instruments or equipment shall be made in concurrence with the recommendations of the Secretary of State submitted to the Secretary with respect to the application pursuant to section 10(e) of this Act,

except that, if the Secretary does not agree with the Secretary of State with respect to any determination under subparagraph (A) or (B), the matter shall be referred to the President for resolution.".

(2) APPLICABILITY OF AMENDMENT.—The amendment made by paragraph (1) of this subsection shall apply to determinations of the Secretary of Commerce which are made on or after the date of the enactment of this Act.

(k) CONTROL LIST.—Section 6(l), as redesignated by subsection (d) of this section, is amended—

(1) in the first sentence by striking out "commodity"; and

(2) by amending the second sentence to read as follows: "The Secretary shall clearly identify on the control list which goods or technology, and which countries or destinations, are subject to which types of controls under this section.".

(l) ADDITIONAL PROVISIONS ON FOREIGN POLICY CONTROLS.—

(1) CONTRACT SANCTITY, EXTENSION OF CERTAIN CONTROLS, AND EXPANDED AUTHORITY.—Section 6 is amended by adding at the end the following:

"(m) EFFECT ON EXISTING CONTRACTS AND LICENSES.—The President may not, under this section, prohibit or curtail the export or reexport of goods, technology, or other information—

"(1) in performance of a contract or agreement entered into before the date on which the President reports to the Congress, pursuant to subsection (f) of this section, his intention to impose controls on the export or reexport of such goods, technology, or other information, or

"(2) under a validated license or other authorization issued under this Act,

unless and until the President determines and certifies to the Congress that—

"(A) a breach of the peace poses a serious and direct threat to the strategic interest of the United States,

"(B) the prohibition or curtailment of such contracts, agreements, licenses, or authorizations will be instrumental in remedying the situation posing the direct threat, and

"(C) the export controls will continue only so long as the direct threat persists.

"(n) EXTENSION OF CERTAIN CONTROLS.—Those export controls imposed under this section with respect to South Africa which were in effect on February 28, 1982, and ceased to be effective on March 1, 1982, September 15, 1982, or January 20, 1983, shall become effective on the date of the enactment of this subsection, and shall remain in effect until 1 year after such date of enactment. At the end of that 1-year period, any of those controls made effective by this subsection may be extended by the President in accordance with subsections (b) and (f) of this section.

"(o) EXPANDED AUTHORITY TO IMPOSE CONTROLS.—(1) In any case in which the President determines that it is necessary to

impose controls under this section without any limitation contained in subsection (c), (d), (e), (g), (h), or (m) of this section, the President may impose those controls only if the President submits that determination to the Congress, together with a report pursuant to subsection (f) of this section with respect to the proposed controls, and only if a law is enacted authorizing the imposition of those controls. If a joint resolution authorizing the imposition of those controls is introduced in either House of Congress within 30 days after the Congress receives the determination and report of the President, that joint resolution shall be referred to the Committee on Banking, Housing, and Urban Affairs of the Senate and to the appropriate committee of the House of Representatives. If either such committee has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution.

"(2) For purposes of this subsection, the term 'joint resolution' means a joint resolution the matter after the resolving clause of which is as follows: 'That the Congress, having received on a determination of the President under section 6(o)(1) of the Export Administration Act of 1979 with respect to the export controls which are set forth in the report submitted to the Congress with that determination, authorizes the President to impose those export controls.', with the date of the receipt of the determination and report inserted in the blank.

"(3) In the computation of the periods of 30 days referred to in paragraph (1), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.".

(2) APPLICABILITY OF AMENDMENTS.—Subsections (m) and (o) of section 6 of the Export Administration Act of 1979, as added by paragraph (1) of this subsection, shall not apply to export controls in effect immediately before the date of the enactment of this Act, or to export controls made effective by subsection (i)(2) of this section or by section 6(n) of the Export Administration Act of 1979 (as added by paragraph (1) of this subsection).

SEC. 109. PETITIONS FOR MONITORING OR SHORT SUPPLY CONTROLS.

Section 7(c) (50 U.S.C. App. 2406(c)) is amended to read as follows:

"(c) PETITIONS FOR MONITORING OR CONTROLS.—(1)(A) Any entity, including a trade association, firm, or certified or recognized union or group of workers, that is representative of an industry or a substantial segment of an industry that processes metallic materials capable of being recycled may transmit a written petition to the Secretary requesting the monitoring of exports or the imposition of export controls, or both, with respect to any such material, in order to carry out the policy set forth in section 3(2)(C) of this Act.

"(B) Each petition shall be in such form as the Secretary shall prescribe and shall contain information in support of the action requested. The petition shall include any information reasonably available to the petitioner indicating that each of the criteria set forth in paragraph (3)(A) of this subsection is satisfied.

"(2) Within 15 days after receipt of any petition described in paragraph (1), the Secretary shall publish a notice in the Federal Register. The notice shall—

"(A) include the name of the material that is the subject of the petition,

"(B) include the Schedule B number of the material as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States,

"(C) indicate whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material, and

"(D) provide that interested persons shall have a period of 30 days beginning on the date of publication of such notice to submit to the Secretary written data, views or arguments, with or without opportunity for oral presentation, with respect to the matter involved.

At the request of the petitioner or any other entity described in paragraph (1)(A) with respect to the material that is the subject of the petition, or at the request of any entity representative of producers or exporters of such material, the Secretary shall conduct public hearings with respect to the subject of the petition, in which case the 30-day period may be extended to 45 days.

"(3)(A) Within 45 days after the end of the 30- or 45-day period described in paragraph (2), as the case may be, the Secretary shall determine whether to impose monitoring or controls, or both, on the export of the material that is the subject of the petition, in order to carry out the policy set forth in section 3(2)(C) of this Act. In making such determination, the Secretary shall determine whether—

"(i) there has been a significant increase, in relation to a specific period of time, in exports of such material in relation to domestic supply and demand;

"(ii) there has been a significant increase in the domestic price of such material or a domestic shortage of such material relative to demand;

"(iii) exports of such material are as important as any other cause of a domestic price increase or shortage relative to demand found under clause (ii);

"(iv) a domestic price increase or shortage relative to demand found under clause (ii) has significantly adversely affected or may significantly adversely affect the national economy or any sector thereof, including a domestic industry; and

"(v) monitoring or controls, or both, are necessary in order to carry out the policy set forth in section 3(2)(C) of this Act.

"(B) The Secretary shall publish in the Federal Register a detailed statement of the reasons for the Secretary's determination pursuant to subparagraph (A) of whether to impose monitoring or controls, or both, including the findings of fact in support of that determination.

"(4) Within 15 days after making a determination under paragraph (3) to impose monitoring or controls on the export of a material; the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within 30 days after the publication of such proposed regulations, and after considering any public comments on the proposed regulations, the Secretary shall publish and implement final regulations with respect to such monitoring or controls.

"(5) For purposes of publishing notices in the Federal Register and scheduling public hearings pursuant to this subsection, the Secretary may consolidate petitions, and responses to such petitions, which involve the same or related materials.

"(6) If a petition with respect to a particular material or group of materials has been considered in accordance with all the procedures prescribed in this subsection, the Secretary may determine, in the absence of significantly changed circumstances, that any other petition with respect to the same material or group of materials which is filed within 6 months after the consideration of the prior petition has been completed does not merit complete consideration under this subsection.

"(7) The procedures and time limits set forth in this subsection with respect to a petition filed under this subsection shall take precedence over any review undertaken at the initiative of the Secretary with respect to the same subject as that of the petition.

"(8) The Secretary may impose monitoring or controls, on a temporary basis, on the export of a metallic material after a petition is filed under paragraph (1)(A) with respect to that material but before the Secretary makes a determination under paragraph (3) with respect to that material only if—

"(A) the failure to take such temporary action would result in irreparable harm to the entity filing the petition, or to the national economy or segment thereof, including a domestic industry, and

"(B) the Secretary considers such action to be necessary to carry out the policy set forth in section 3(2)(C) of this Act.

"(9) The authority under this subsection shall not be construed to affect the authority of the Secretary under any other provision of this Act, except that if the Secretary determines, on the Secretary's own initiative, to impose monitoring or controls, or both, on the export of metallic materials capable of being recycled, under the authority of this section, the Secretary shall publish the reasons for such action in accordance with paragraph (3) (A) and (B) of this subsection.

"(10) Nothing contained in this subsection shall be construed to preclude submission on a confidential basis to the Secretary of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, or to preclude consideration of such information by the Secretary in reaching decisions required under this subsection. The provisions of this paragraph shall not be construed to affect the applicability of section 552(b) of title 5, United States Code.".

SEC. 110. SHORT SUPPLY CONTROLS.

(a) DOMESTICALLY PRODUCED CRUDE OIL.—Section 7(d) (50 U.S.C. App. 2406(d)) is amended—

(1) in paragraph (1) by striking out "unless" and all that follows through "met" and inserting in lieu thereof "subject to paragraph (2) of this subsection";

(2) in paragraph (2)(A) by striking out "makes and publishes" and inserting in lieu thereof "so recommends to the Congress after making and publishing";

(3) in paragraph (2)(B)—

(A) by striking out "reports such findings" and inserting in lieu thereof "includes such findings in his recommendation"; and

(B) by striking out "thereafter" and all that follows through the end of the sentence and inserting in lieu thereof "after receiving that recommendation, agrees to a joint resolution which approves such exports on the basis of those findings, and which is thereafter enacted into law."; and

(4) by adding at the end the following:

"(4) Notwithstanding the provisions of section 20 of this Act, the provisions of this subsection shall expire on September 30, 1990.".

(b) REFINED PETROLEUM PRODUCTS.—Section 7(e)(1) is amended in the first sentence by striking out "No" and inserting in lieu

thereof the following: "In any case in which the President determines that it is necessary to impose export controls on refined petroleum products in order to carry out the policy set forth in section 3(2)(C) of this Act, the President shall notify the Congress of that determination. The President shall also notify the Congress if and when he determines that such export controls are no longer necessary. During any period in which a determination that such export controls are necessary is in effect, no".

(c) UNPROCESSED RED CEDAR.—Section 7(i) is amended—

(1) in the last sentence of paragraph (1) by inserting "harvested from State or Federal lands" after "red cedar logs";

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(3) by inserting after paragraph (1) the following new paragraph:

"(2) To the maximum extent practicable, the Secretary shall utilize the multiple validated export licenses described in section 4(a)(2) of this Act in lieu of validated licenses for exports under this subsection."; and

(4) by amending paragraph (5)(A), as redesignated by paragraph (2) of this subsection, to read as follows:

"(A) lumber of American Lumber Standards Grades of Number 3 dimension or better, or Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 common or better;".

(d) AGRICULTURAL COMMODITIES.—Section 7(g)(3) is amended to read as follows:

"(3)(A) If the President imposes export controls on any agricultural commodity in order to carry out the policy set forth in paragraph (2)(B), (2)(C), (7), or (8) of section 3 of this Act, the President shall immediately transmit a report on such action to the Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If the Congress, within 60 days after the date of its receipt of the report, adopts a joint resolution pursuant to paragraph (4) approving the imposition of the export controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If the Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

"(B) The provisions of subparagraph (A) and paragraph (4) shall not apply to export controls—

"(i) which are extended under this Act if the controls, when imposed, were approved by the Congress under subparagraph (A) and paragraph (4); or

"(ii) which are imposed with respect to a country as part of the prohibition or curtailment of all exports to that country.

"(4)(A) For purposes of this paragraph, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 7(g)(3) of the Export Administration Act of 1979, the President may impose export controls as specified in the report submitted to the Congress on .', with the blank space being filled with the appropriate date.

"(B) On the day on which a report is submitted to the House of Representatives and the Senate under paragraph (3), a joint resolution with respect to the export controls specified in such report shall be introduced (by request) in the House by the chairman of the Committee on Foreign Affairs, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(C) All joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee and all joint resolutions introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs.

"(D) If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

"(E) A joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this paragraph, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this paragraph which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

"(F) In the case of a joint resolution described in subparagraph (A), if, before the passage by one House of a joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the joint resolution of the other House.

"(5) In the computation of the period of 60 days referred to in paragraph (3) and the period of 30 days referred to in subparagraph (D) of paragraph (4), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.".

(e) CONTRACT SANCTITY.—Section 7 is amended by striking out subsection (j) and inserting in lieu thereof the following:

"(j) EFFECT OF CONTROLS ON EXISTING CONTRACTS.—The export restrictions contained in subsection (i) of this section and any export controls imposed under this section shall not affect any contract to harvest unprocessed western red cedar from State lands which was entered into before October 1, 1979, and the performance of which would make the red cedar available for export. Any export controls imposed under this section on any agricultural commodity (including fats, oils, and animal hides and skins) or on any forest product or fishery product, shall not affect any contract to export entered into before the date on which such controls are imposed. For purposes of this subsection, the term 'contract to export' includes, but is not limited to, an export sales agreement and an agreement to invest in an enterprise which involves the export of goods or technology.".

SEC. 111. LICENSING PROCEDURES.

(a) REDUCTION OF PROCESSING TIME.—Section 10 (50 U.S.C. App. 2409) is amended—

(1) by striking out "60" each place it appears and inserting in lieu thereof "40";

(2) by striking out "90" each place it appears and inserting in lieu thereof "60"; and

(3) by striking out "30" each place it appears and inserting in lieu thereof "20".

(b) AMENDMENTS WITH REGARD TO EXPORTS TO COCOM COUNTRIES.—

(1) ACTION ON APPLICATIONS NOT REFERRED TO OTHER DEPARTMENTS OR AGENCIES.—Section 10(c) is amended by striking out "In each case" and inserting in lieu thereof "Except as provided in subsection (o), in each case".

(2) REFERRALS TO OTHER DEPARTMENTS AND AGENCIES.—Section 10(d) is amended—

(A) by striking out "In each case" and inserting in lieu thereof "Except in the case of exports described in subsection (o), in each case"; and

(B) by adding at the end the following: "Notwithstanding the 10-day period set forth in subsection (b), in the case of exports described in subsection (o), in each case in which the Secretary determines that it is necessary to refer an application to any other department or agency for its information and recommendations, the Secretary shall, immediately upon receipt of the properly completed application, refer the application to such department or agency for its review. Such review shall be concurrent with that of the Department of Commerce.".

(3) ACTION BY OTHER DEPARTMENTS AND AGENCIES.—Section 10(e) is amended—

(A) in paragraph (1) by striking out the first sentence and inserting in lieu thereof the following: "Any department or agency to which an application is referred pursuant to subsection (d) shall submit to the Secretary the information or recommendations requested with respect to the application. The information or recommendations shall be submitted within 20 days after the department or agency receives the application or, in the case of exports described in subsection (o), before the expiration of the time periods permitted by that subsection."; and

(B) in paragraph (2)—

(i) by striking out "If the head" and inserting in lieu thereof "(A) Except in the case of exports described in subsection (o), if the head", and

(ii) by adding at the end the following:

"(B) In the case of exports described in subsection (o), if the head of any such department or agency notifies the Secretary, before the expiration of the 15-day period provided in subsection (o)(1), that more time is required for review by such department or agency, the Secretary shall notify the applicant, pursuant to subsection (o)(1)(C), that additional time is required to consider the application, and such department or agency shall have additional time to consider the application within the limits permitted by subsection (o)(2). If such department or agency does not submit its recommendations within the time periods per-

mitted under subsection (o), it shall be deemed by the Secretary to have no objection to the approval of such application.".

(4) ACTION BY THE SECRETARY.—Section 10(f) is amended in paragraphs (1) and (4) by adding at the end of each such paragraph the following: "The provisions of this paragraph shall not apply in the case of exports described in subsection (o).".

(c) RIGHT OF APPLICANT TO RESPOND TO NEGATIVE RECOMMENDATIONS.—Section 10(f)(2) is amended—

(1) by inserting "in writing" after "inform the applicant"; and

(2) by striking out ", and shall accord" and all that follows through the end of the paragraph and inserting in lieu thereof the following: ". Before a final determination with respect to the application is made, the applicant shall be entitled—

"(A) to respond in writing to such questions, considerations, or recommendations within 30 days after receipt of such information from the Secretary; and

"(B) upon the filing of a written request with the Secretary within 15 days after the receipt of such information, to respond in person to the department or agency raising such questions, considerations, or recommendations.

The provisions of this paragraph shall not apply in the case of exports described in subsection (o).".

(d) RIGHTS OF APPLICANT WITH RESPECT TO PROPOSED DENIAL.—Section 10(f)(3) is amended by striking out the first sentence and inserting in lieu thereof the following: "In cases where the Secretary has determined that an application should be denied, the applicant shall be informed in writing, within 5 days after such determination is made, of—

"(A) the determination,

"(B) the statutory basis for the proposed denial,

"(C) the policies set forth in section 3 of this Act which would be furthered by the proposed denial,

"(D) what if any modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with export controls imposed under this Act,

"(E) which officers and employees of the Department of Commerce who are familiar with the application will be made reasonably available to the applicant for considerations with regard to such modifications or restrictions, if appropriate,

"(F) to the extent consistent with the national security and foreign policy of the United States, the specific considerations which led to the determination to deny the application, and

"(G) the availability of appeal procedures. The Secretary shall allow the applicant at least 30 days to respond to the Secretary's determination before the license application is denied.".

(e) ADDITIONAL PROVISIONS.—Section 10 is amended—

(1) in the section heading by adding "; OTHER INQUIRIES" after "APPLICATIONS"; and

(2) by adding at the end the following new subsections:

"(k) CHANGES IN REQUIREMENTS FOR APPLICATIONS.—Except as provided in subsection (b)(3) of this section, in any case in which, after a license application is submitted, the Secretary changes the requirements for such a license application, the Secretary may request appropriate additional information of the applicant, but the Secretary may not return the application to the applicant without action because it fails to meet the changed requirements.

"(l) OTHER INQUIRIES.—(1) In any case in which the Secretary receives a written request asking for the proper classification of a good or technology on the control list, the Secretary shall, within 10 working days after receipt of the request, inform the person making the request of the proper classification.

"(2) In any case in which the Secretary receives a written request for information about the applicability of export license requirements under this Act to a proposed export transaction or series of transactions, the Secretary shall, within 30 days after receipt of the request, reply with that information to the person making the request.

"(m) SMALL BUSINESS ASSISTANCE.—Not later than 120 days after the date of the enactment of this subsection, the Secretary shall develop and transmit to the Congress a plan to assist small businesses in the export licensing application process under this Act. The plan shall include, among other things, arrangements for counseling small businesses on filing applications and identifying goods or technology on the control list, proposals for seminars and conferences to educate small businesses on export controls and licensing procedures, and the preparation of informational brochures.

"(n) REPORTS ON LICENSE APPLICATIONS.—(1) Not later than 180 days after the date of the enactment of this subsection, and not later than the end of each 3-month period thereafter, the Secretary shall submit to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate a report listing—

"(A) all applications on which action was completed during the preceding 3-month period and which required a period longer than the period permitted under subsection (c), (f)(1), or (h) of this section, as the case may be, before notification of a decision to approve or deny the application was sent to the applicant; and

"(B) in a separate section, all applications which have been in process for a period longer than the period permitted under subsection (c), (f)(1), or (h) of this section, as the case may be, and upon which final action has not been taken.

"(2) With regard to each application, each listing shall identify—

"(A) the application case number;

"(B) the value of the goods or technology to which the application relates;

"(C) the country of destination of the goods or technology;

"(D) the date on which the application was received by the Secretary;

"(E) the date on which the Secretary approved or denied the application;

"(F) the date on which the notification of approval or denial of the application was sent to the applicant; and

"(G) the total number of days which elapsed between receipt of the application, in its properly completed form, and the earlier of the last day of the 3-month period to which the report relates, or the date on which notification of approval or denial of the application was sent to the applicant.

"(3) With respect to an application which was referred to other departments or agencies, the listing shall also include—

"(A) the departments or agencies to which the application was referred;

"(B) the date or dates of such referral; and

"(C) the date or dates on which recommendations were received from those departments or agencies.

"(4) With respect to an application referred to any other department or agency which did not submit or has not submitted its recommendations on the application within the period permitted under subsection (e) of this section to submit such recommendations, the listing shall also include—

"(A) the office responsible for processing the application and the position of the officer responsible for the office; and

"(B) the period of time that elapsed before the recommendations were submitted or that has elapsed since referral of the application, as the case may be.

"(5) Each report shall also provide an introduction which contains—

"(A) a summary of the number of applications described in paragraph (1)(A) and (B) of this subsection, and the value of the goods or technology involved in the applications, grouped according to—

"(i) the number of days which elapsed before action on the applications was completed, or which has elapsed without action on the applications being completed, as follows: 61 to 75 days, 76 to 90 days, 91 to 105 days, 106 to 120 days, and more than 120 days; and

"(ii) the number of days which elapsed before action on the applications was completed, or which has elapsed without action on the applications being completed, beyond the period permitted under subsection (c), (f)(1), or (h) of this section for the processing of applications, as follows: not more than 15 days, 16 to 30 days, 31 to 45 days, 46 to 60 days, and more than 60 days; and

"(B) a summary by country of destination of the number of applications described in paragraph (1)(A) and (B) of this subsection, and the value of the goods or technology involved in the applications, on which action was not completed within 60 days.

"(o) EXPORTS TO MEMBERS OF COORDINATING COMMITTEE.—(1) Fifteen working days after the date of formal filing with the Secretary of an individual validated license application for the export of goods or technology to a country that maintains export controls on such goods or technology pursuant to the agreement of the governments participating in the group known as the Coordinating Committee, a license for the transaction specified in the application shall become valid and effective and the goods or technology are authorized for export pursuant to such license unless—

"(A) the application has been otherwise approved by the Secretary, in which case it shall be valid and effective according to the terms of the approval;

"(B) the application has been denied by the Secretary pursuant to this section and the applicant has been so informed, or the applicant has been informed, pursuant to subsection (f)(3) of this section, that the application should be denied; or

"(C) the Secretary requires additional time to consider the application and the applicant has been so informed.

"(2) In the event that the Secretary notifies an applicant pursuant to paragraph (1)(C) that more time is required to consider an individual validated license application, a license for the transaction specified in the application shall become valid and effective and the goods or technology are authorized for export pursuant to such license 30 working days after the date that such license application was formally filed with the Secretary unless—

"(A) the application has been otherwise approved by the Secretary, in which case it

shall be valid and effective according to the terms of the approval; or

"(B) the application has been denied by the Secretary pursuant to this section and the applicant has been so informed, or the applicant has been informed, pursuant to subsection (f)(3) of this section, that the application should be denied.

"(3) In reviewing an individual license application subject to this subsection, the Secretary shall evaluate the information set forth in the application and the reliability of the end-user.

"(4) Nothing in this subsection shall affect the scope or availability of licenses authorizing multiple exports set forth in section 4(a)(2) of this Act.

"(5) The provisions of this subsection shall take effect 4 months after the date of the enactment of the Export Administration Amendments Act of 1985.".

SEC. 112. VIOLATIONS.

(a) IN GENERAL.—Section 11(a) (50 U.S.C. App. 2410(a)) is amended by inserting after "violates" the following: "or conspires to or attempts to violate".

(b) WILLFUL VIOLATIONS.—Section 11(b) is amended—

(1) in paragraph (1)—

(A) by striking out "exports anything contrary to" and inserting in lieu thereof "violates or conspires to or attempts to violate";

(B) by striking out "such exports" and inserting in lieu thereof "the exports involved";

(C) by inserting after "benefit of" the following: ", or that the destination or intended destination of the goods or technology involved is,"; and

(D) by striking out "country to which exports are restricted for national security or" and inserting in lieu thereof "controlled country or any country to which exports are controlled for";

(2) in paragraph (2) by striking out the last sentence; and

(3) by adding after paragraph (2) the following new paragraphs:

"(3) Any person who possesses any goods or technology—

"(A) with the intent to export such goods or technology in violation of an export control imposed under section 5 or 6 of this Act or any regulation, order, or license issued with respect to such control, or

"(B) knowing or having reason to believe that the goods or technology would be so exported,

shall, in the case of a violation of an export control imposed under section 5 (or any regulation, order, or license issued with respect to such control), be subject to the penalties set forth in paragraph (1) of this subsection and shall, in the case of a violation of an export control imposed under section 6 (or any regulation, order, or license issued with respect to such control), be subject to the penalties set forth in subsection (a).

"(4) Any person who takes any action with the intent to evade the provisions of this Act or any regulation, order, or license issued under this Act shall be subject to the penalties set forth in subsection (a), except that in the case of an evasion of an export control imposed under section 5 or 6 of this Act (or any regulation, order, or license issued with respect to such control), such person shall be subject to the penalties set forth in paragraph (1) of this subsection.

"(5) Nothing in this subsection or subsection (a) shall limit the power of the Secretary to define by regulations violations under this Act.".

(c) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—Section 11(c) is amended—

(1) by striking out "head" and all that follows in paragraph (1) through "thereof," and inserting in lieu thereof "Secretary (and officers and employees of the Department of Commerce specifically designated by the Secretary)"; and

(2) by adding at the end the following new paragraphs:

"(3) An exception may not be made to any order issued under this Act which revokes the authority of a United States person to export goods or technology unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate are first consulted concerning the exception.

"(4) The President may by regulation provide standards for establishing levels of civil penalty provided in this subsection based upon the seriousness of the violation, the culpability of the violator, and the violator's record of cooperation with the Government in disclosing the violation.".

(d) REFUNDS OF PENALTIES.—Section 11(e) is amended—

(1) by inserting after "subsection (c)" the following: ", or any amounts realized from the forfeiture of any property interest or proceeds pursuant to subsection (g),"; and

(2) by inserting after "refund any such penalty" the following: "imposed pursuant to subsection (c)".

(e) FORFEITURES; PRIOR CONVICTIONS.—Section 11 is amended—

(1) by redesignating subsection (g) as subsection (i); and

(2) by inserting after subsection (f) the following new subsections:

"(g) FORFEITURE OF PROPERTY INTEREST AND PROCEEDS.—(1) Any person who is convicted under subsection (a) or (b) of a violation of an export control imposed under section 5 of this Act (or any regulation, order, or license issued with respect to such control) shall, in addition to any other penalty, forfeit to the United States—

"(A) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in the goods or tangible items that were the subject of the violation;

"(B) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in tangible property that was used in the export or attempt to export that was the subject of the violation; and

"(C) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

"(2) The procedures in any forfeiture under this subsection, and the duties and authority of the courts of the United States and the Attorney General with respect to any forfeiture action under this subsection or with respect to any property that may be subject to forfeiture under this subsection, shall be governed by the provisions of section 1963 of title 18, United States Code.

"(h) PRIOR CONVICTIONS.—No person convicted of a violation of section 793, 794, or 798 of title 18, United States Code, section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778) shall be eligible, at the discretion of the Secretary, to apply for or use any export license under this Act for a period of up to 10 years from the date of the conviction. The Secretary may revoke any export license under this Act in which such person has an interest at the time of the conviction.".

(f) TECHNICAL AMENDMENT.—Section 11(i), as redesignated by subsection (e) of this section, is amended by striking out "or (f)" and inserting in lieu thereof "(f), (g), or (h)".

SEC. 113. ENFORCEMENT.

(a) GENERAL AUTHORITY.—Section 12(a) (50 U.S.C. App. 2411(a)) is amended—

(1) by inserting "(1)" immediately before the first sentence;

(2) by striking out "such investigations and" and inserting in lieu thereof "such investigations within the United States, and the Commissioner of Customs (and officers or employees of the United States Customs Service specifically designated by the Commissioner) may make such investigations outside of the United States, and the head of such department or agency (and such officers or employees) may";

(3) by striking out "the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and" and inserting in lieu thereof "a district court of the United States,";

(4) by adding at the end the following new sentence: "In addition to the authority conferred by this paragraph, the Secretary (and officers or employees of the Department of Commerce designated by the Secretary) may conduct, outside the United States, pre-license investigations and post-shipment verifications of items licensed for export, and investigations in the enforcement of section 8 of this Act."; and

(5) by adding at the end the following new paragraphs:

"(2)(A) Subject to subparagraph (B) of this paragraph, the United States Customs Service is authorized, in the enforcement of this Act, to search, detain (after search), and seize goods or technology at those ports of entry or exit from the United States where officers of the Customs Service are authorized by law to conduct such searches, detentions, and seizures, and at those places outside the United States where the Customs Service, pursuant to agreements or other arrangements with other countries, is authorized to perform enforcement activities.

"(B) An officer of the United States Customs Service may do the following in carrying out enforcement authority under this Act:

"(i) Stop, search, and examine a vehicle, vessel, aircraft, or person on which or whom such officer has reasonable cause to suspect there are any goods or technology that has been, is being, or is about to be exported from the United States in violation of this Act.

"(ii) Search any package or container in which such officer has reasonable cause to suspect there are any goods or technology that has been, is being, or is about to be exported from the United States in violation of this Act.

"(iii) Detain (after search) or seize and secure for trial any goods or technology on or about such vehicle, vessel, aircraft, or person, or in such package or container, if such officer has probable cause to believe the goods or technology has been, is being, or is about to be exported from the United States in violation of this Act.

"(iv) Make arrests without warrant for any violation of this Act committed in his or her presence or view or if the officer has probable cause to believe that the person to be arrested has committed or is committing such a violation.

The arrest authority conferred by clause (iv) of this subparagraph is in addition to any arrest authority under other laws.

"(3)(A) Subject to subparagraph (B) of this paragraph, the Secretary shall have the responsibility for the enforcement of section 8 of this Act and, in the enforcement of the other provisions of this Act, the Secretary is authorized to search, detain (after search), and seize goods or technology at those places within the United States other than those ports specified in paragraph (2)(A) of this subsection. The search, detention (after search), or seizure of goods or technology at those ports and places specified in paragraph (2)(A) may be conducted by officers or employees of the Department of Commerce designated by the Secretary with the concurrence of the Commissioner of Customs or a person designated by the Commissioner.

"(B) The Secretary may designate any employee of the Office of Export Enforcement of the Department of Commerce to do the following in carrying out enforcement authority under this Act:

"(i) Execute any warrant or other process issued by a court or officer of competent jurisdiction with respect to the enforcement of the provisions of this Act.

"(ii) Make arrests without warrant for any violation of this Act committed in his or her presence or view, or if the officer or employee has probable cause to believe that the person to be arrested has committed or is committing such a violation.

"(iii) Carry firearms in carrying out any activity described in clause (i) or (ii).

"(4) The authorities conferred by paragraphs (2) and (3) shall be exercised pursuant to regulations promulgated by the Attorney General concerning searches, detentions, stops, examinations, seizures, arrests, execution of warrants, or use of firearms.

"(5) All cases involving violations of this Act shall be referred to the Secretary for purposes of determining civil penalties and administrative sanctions under section 11(c) of this Act, or to the Attorney General for criminal action in accordance with this Act.

"(6) Notwithstanding any other provision of law, the United States Customs Service may expend in the enforcement of export controls under this Act not more than $12,000,000 in the fiscal year 1985 and not more than $14,000,000 in the fiscal year 1986.

"(7) Not later than 90 days after the date of the enactment of the Export Administration Amendments Act of 1985, the Secretary, with the concurrence of the Secretary of the Treasury, shall publish in the Federal Register procedures setting forth, in accordance with this subsection, the responsibilities of the Department of Commerce and the United States Customs Service in the enforcement of this Act. In addition, the Secretary, with the concurrence of the Secretary of the Treasury, may publish procedures for the sharing of information in accordance with subsection (c)(3) of this section, and procedures for the submission to the appropriate departments and agencies by private persons of information relating to the enforcement of this Act.

"(8) For purposes of this section, a reference to the enforcement of this Act or to a violation of this Act includes a reference to the enforcement or a violation of any regulation, order, or license issued under this Act.".

(b) CONFIDENTIALITY.—Section 12(c)(3) is amended—

(1) by striking out "Departments or agencies which obtain" and inserting in lieu thereof "Any department or agency which obtains";

(2) by inserting ", including information pertaining to any investigation," after "enforcement of this Act";

(3) by striking out "the department" and inserting in lieu thereof "each department"; and

(4) by adding at the end the following: "The Secretary and the Commissioner of Customs, upon request, shall exchange any licensing and enforcement information with each other which is necessary to facilitate enforcement efforts and effective license decisions. The Secretary, the Attorney General, and the Commissioner of Customs shall consult on a continuing basis with one another and with the heads of other departments and agencies which obtain information subject to this paragraph, in order to facilitate the exchange of such information.".

SEC. 114. ADMINISTRATIVE PROCEDURE.

Section 13 (50 U.S.C. App. 2412) is amended—

(1) in the section heading by striking out "EXEMPTION FROM CERTAIN PROVISIONS RELATING TO";

(2) in subsection (a) by inserting "and subsection (c) of this section" after "11(c)(2)"; and

(3) by adding at the end the following:

"(c) PROCEDURES RELATING TO CIVIL PENALTIES AND SANCTIONS.—(1) In any case in which a civil penalty or other civil sanction (other than a temporary denial order or a penalty or sanction for a violation of section 8) is sought under section 11 of this Act, the charged party is entitled to receive a formal complaint specifying the charges and, at his or her request, to contest the charges in a hearing before an administrative law judge. Subject to the provisions of this subsection, any such hearing shall be conducted in accordance with sections 556 and 557 of title 5, United States Code. With the approval of the administrative law judge, the Government may present evidence in camera in the presence of the charged party or his or her representative. After the hearing, the administrative law judge shall make findings of fact and conclusions of law in a written decision, which shall be referred to the Secretary. The Secretary shall, in a written order, affirm, modify, or vacate the decision of the administrative law judge within 30 days after receiving the decision. The order of the Secretary shall be final and is not subject to judicial review.

"(2) The proceedings described in paragraph (1) shall be concluded within a period of 1 year after the complaint is submitted, unless the administrative law judge extends such period for good cause shown.

"(d) IMPOSITION OF TEMPORARY DENIAL ORDERS.—(1) In any case in which it is necessary, in the public interest, to prevent an imminent violation of this Act or any regulation, order, or license issued under this Act, the Secretary may, without a hearing, issue an order temporarily denying United States export privileges (hereinafter in this subsection referred to as a 'temporary denial order') to a person. A temporary denial order may be effective no longer than 60 days unless renewed in writing by the Secretary for additional 60-day periods in order to prevent such an imminent violation, except that a temporary denial order may be renewed only after notice and an opportunity for a hearing is provided.

"(2) A temporary denial order shall define the imminent violation and state why the temporary denial order was granted without a hearing. The person or persons subject to the issuance or renewal of a temporary denial order may file an appeal of the issuance or renewal of the temporary denial order with an administrative law judge who shall, within 10 working days after the appeal is filed, recommend that the temporary denial order be affirmed, modified, or vacated. Parties may submit briefs and other material to the judge. The recommendation of the administrative law judge shall be submitted to the Secretary who shall either accept, reject, or modify the recommendation by written order within 5 working days after receiving the recommendation. The written order of the Secretary under the preceding sentence shall be final and is not subject to judicial review. The temporary denial order shall be affirmed only if it is reasonable to believe that the order is required in the public interest to prevent an imminent violation of this Act or any regulation, order, or license issued under this Act.

"(e) APPEALS FROM LICENSE DENIALS.—A determination of the Secretary, under section 10(f) of this Act, to deny a license may be appealed by the applicant to an administrative law judge who shall have the authority to conduct proceedings to determine only whether the item sought to be exported is in fact on the control list. Such proceedings shall be conducted within 90 days after the appeal is filed. Any determination by an administrative law judge under this subsection and all materials filed before such judge in the proceedings shall be reviewed by the Secretary, who shall either affirm or vacate the determination in a written decision within 30 days after receiving the determination. The Secretary's written decision shall be final and is not subject to judicial review. Subject to the limitations provided in section 12(c) of this Act, the Secretary's decision shall be published in the Federal Register.".

SEC. 115. ANNUAL REPORT.

(a) CONTENTS OF REPORT.—Section 14(a)(15) (50 U.S.C. App. 2413(a)(15)) is amended by striking out "an analysis" and all that follows through "process, and".

(b) ADDITIONAL REPORTING REQUIREMENTS.—Section 14 is amended by adding at the end the following:

"(d) REPORT ON EXPORTS TO CONTROLLED COUNTRIES.—The Secretary shall include in each annual report a detailed report which lists every license for exports to controlled countries which was approved under this Act during the preceding fiscal year. Such report shall specify to whom the license was granted, the type of goods or technology exported, and the country receiving the goods or technology. The information required by this subsection shall be subject to the provisions of section 12(c) of this Act.

"(e) REPORT ON DOMESTIC ECONOMIC IMPACT OF EXPORTS TO CONTROLLED COUNTRIES.—The Secretary shall include in each annual report a detailed description of the extent of injury to United States industry and the extent of job displacement caused by United States exports of goods and technology to controlled countries. The annual report shall also include a full analysis of the consequences of exports of turnkey plants and manufacturing facilities to controlled countries which are used by such countries to produce goods for export to the United States or to compete with United States products in export markets.".

SEC. 116. UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION; REGULATIONS.

(a) IN GENERAL.—Section 15 (50 U.S.C. App. 2414) is amended to read as follows:

"ADMINISTRATIVE AND REGULATORY AUTHORITY

"SEC. 15. (a) UNDER SECRETARY OF COMMERCE.—The President shall appoint, by and with the advice and consent of the Senate, an Under Secretary of Commerce for Export Administration who shall carry out all functions of the Secretary under this Act which were delegated to the office of the Assistant Secretary of Commerce for Trade Administration before the date of the enactment of the Export Administration Amendments Act of 1985, and such other functions under this Act which were delegated to such office before such date of enactment, as the Secretary may delegate. The Secretary shall designate three Assistant Secretaries of Commerce to assist the Under Secretary in carrying out such functions.

"(b) ISSUANCE OF REGULATIONS.—The President and the Secretary may issue such regulations as are necessary to carry out the provisions of this Act. Any such regulations issued to carry out the provisions of section 5(a), 6(a), 7(a), or 8(b) may apply to the financing, transporting, or other servicing of exports and the participation therein by any person. Any such regulations the purpose of which is to carry out the provisions of section 5, or of section 4(a) for the purpose of administering the provisions of section 5, may be issued only after the regulations are submitted for review to the Secretary of Defense, the Secretary of State, and such other departments and agencies as the Secretary considers appropriate. The preceding sentence does not require the concurrence or approval of any official, department, or agency to which such regulations are submitted.

"(c) AMENDMENTS TO REGULATIONS.—If the Secretary proposes to amend regulations issued under this Act, the Secretary shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives on the intent and rationale of such amendments. Such report shall evaluate the cost and burden to United States exporters of the proposed amendments in relation to any enhancement of licensing objectives. The Secretary shall consult with the technical advisory committees authorized under section 5(h) of this Act in formulating or amending regulations issued under this Act. The procedures defined by regulations in effect on January 1, 1984, with respect to sections 4 and 5 of this Act, shall remain in effect unless the Secretary determines, on the basis of substantial and reliable evidence, that specific change is necessary to enhance the prevention of diversions of exports which would prove detrimental to the national security of the United States or to reduce the licensing and paperwork burden on exporters and their distributors.".

(b) PAY FOR THE UNDER SECRETARY.—Section 5314 of title 5, United States Code, is amended by inserting "Under Secretary of Commerce for Export Administration," after "Under Secretary of Commerce for Economic Affairs,".

(c) PAY FOR THE ASSISTANT SECRETARIES.—Section 5315 of such title is amended by striking out

"Assistant Secretaries of Commerce (8)."

and inserting in lieu thereof

"Assistant Secretaries of Commerce (12).".

(d) EFFECTIVE DATE.—The provisions of section 15(a) of the Export Administration Act of 1979, as amended by subsection (a) of this section, and the amendments made by subsections (b) and (c) of this section shall take effect on October 1, 1985.

(e) BUDGET ACT.—Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this section shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

SEC. 117. DEFINITIONS.

Section 16 (50 U.S.C. App. 2415) is amended—

(1) in paragraph (3), by inserting "natural or manmade substance," after "article,";

(2) by amending paragraph (4) to read as follows:

"(4) the term 'technology' means the information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves;";

(3) by redesignating paragraph (5) as paragraph (8); and

(4) by inserting after paragraph (4) the following new paragraphs:

"(5) the term 'export' means—

"(A) an actual shipment, transfer, or transmission of goods or technology out of the United States;

"(B) a transfer of goods or technology in the United States to an embassy or affiliate of a controlled country; or

"(C) a transfer to any person of goods or technology either within the United States or outside of the United States with the knowledge or intent that the goods or technology will be shipped, transferred, or transmitted to an unauthorized recipient;

"(6) the term 'controlled country' means a controlled country under section 5(b)(1) of this Act;

"(7) the term 'United States' means the States of the United States, the District of Columbia, and any commonwealth, territory, dependency, or possession of the United States, and includes the outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)); and".

SEC. 118. EFFECT ON OTHER ACTS.

(a) CLARIFYING AMENDMENT.—Section 17(a) (50 U.S.C. App. 2416(a)) is amended by striking out "Nothing" and inserting in lieu thereof "Except as otherwise provided in this Act, nothing".

(b) ACT NOT TO AFFECT CERTAIN PROVISIONS OF AGRICULTURAL ACT OF 1970.—Section 17 is amended by adding at the end the following:

"(f) AGRICULTURAL ACT OF 1970.—Nothing in this Act shall affect the provisions of the last sentence of section 812 of the Agricultural Act of 1970 (7 U.S.C. 612c-3).".

SEC. 119. AUTHORIZATION OF APPROPRIATIONS.

Section 18 (50 U.S.C. App. 2417) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 18. (a) REQUIREMENT OF AUTHORIZING LEGISLATION.—(1) Notwithstanding any other provision of law, money appropriated to the Department of Commerce for expenses to carry out the purposes of this Act may be obligated or expended only if—

"(A) the appropriation thereof has been previously authorized by law enacted on or after the date of the enactment of the Export Administration Amendments Act of 1985; or

"(B) the amount of all such obligations and expenditures does not exceed an amount previously prescribed by law enacted on or after such date.

"(2) To the extent that legislation enacted after the making of an appropriation to carry out the purposes of this Act authorizes the obligation or expenditure thereof, the limitation contained in paragraph (1) shall have no effect.

"(3) The provisions of this subsection shall not be superseded except by a provision of law enacted after the date of the enactment of the Export Administration Amendments Act of 1985 which specifically repeals, modifies, or supersedes the provisions of this subsection.

"(b) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

"(1) $24,600,000 for the fiscal year 1985, of which $8,712,000 shall be available only for enforcement, $1,851,000 shall be available only for foreign availability assessments under subsections (f) and (h)(6) of section 5 of this Act, and $14,037,000 shall be available for all other activities under this Act;

"(2) $29,500,000 for the fiscal year 1986, of which $10,000,000 shall be available only for enforcement, $2,000,000 shall be available only for foreign availability assessments under subsections (f) and (h)(6) of section 5 of this Act, and $17,500,000 shall be available for all other activities under this Act; and

"(3) such additional amounts for each of the fiscal years 1985 and 1986 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.".

SEC. 120. TERMINATION OF AUTHORITY.

Section 20 (50 U.S.C. App. 2419) is amended to read as follows:

"TERMINATION DATE

"SEC. 20. The authority granted by this Act terminates on September 30, 1989.".

SEC. 121. IMPORT SANCTIONS.

Chapter 4 of title II of the Trade Expansion Act of 1962 (19 U.S.C. 1861 et seq.) is amended by adding at the end the following new section:

"SEC. 233. IMPORT SANCTIONS FOR EXPORT VIOLATIONS.

"(a) Any person who violates any national security export control imposed under section 5 of the Export Administration Act of 1979 (50 U.S.C. App. 2404), or any regulation, order, or license issued under that section, may be subject to such controls on the importing of goods or technology into the United States as the President may prescribe.

"(b) Except as provided in subsection (a) of this section, any person who violates any regulation issued under a multilateral agreement, formal or informal, to control exports for national security purposes, to which the United States is a party, may be subject to such controls on the importing of goods or technology into the United States as the President may prescribe, but only if—

"(1) negotiations with the government or governments, party to the multilateral agreement, with jurisdiction over the violation have been conducted and been unsuccessful in restoring compliance with the regulation involved;

"(2) the President, after the failure of such negotiations, has notified the government or governments described in paragraph (1) and the other parties to the multilateral agree-

ment that the United States proposes to subject the person committing the violation to specific controls on the importing of goods or technology into the United States upon the expiration of 60 days from the date of such notification; and

"(3) a majority of the parties to the multilateral agreement (other than the United States), before the end of that 60-day period, have expressed to the President concurrence in the proposed import controls or have abstained from stating a position with respect to the proposed controls.".

SEC. 122. HOURS OF OFFICE OF EXPORT ADMINISTRATION.

The Secretary of Commerce shall modify the office hours of the Office of Export Administration of the Department of Commerce on at least four days of each workweek so as to accommodate communications to the Office by exporters throughout the continental United States during the normal business hours of those exporters.

SEC. 123. TECHNICAL AMENDMENTS.

(a) ARMS EXPORT CONTROL ACT.—Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) is amended by striking out "(f)" and inserting in lieu thereof "(g)".

(b) MINERAL LEASING ACT OF 1920.—Subsection (u) of section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185) is amended—

(1) by striking out "1969 (Act of December 30, 1969; 83 Stat. 841)" and inserting in lieu thereof "1979 (50 U.S.C. App. 2401 and following)"; and

(2) by striking out "1969" each subsequent place it appears and inserting in lieu thereof "1979".

SEC. 124. AMENDMENT TO THE FOREIGN ASSISTANCE ACT OF 1961.

Section 502B(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2)) is amended by inserting after "Senate" the first place it appears the following: "and the chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate (when licenses are to be issued pursuant to the Export Administration Act of 1979).".

SEC. 125. EXPORT OF HORSES.

The Act of March 3, 1891 (46 U.S.C. 466a and 466b), is amended by adding at the end the following:

"SEC. 3. EXPORT OF HORSES.

"(a) RESTRICTION ON EXPORT OF HORSES.—Notwithstanding any other provision of law, no horse may be exported by sea from the United States, or any of its territories or possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under subsection (b).

"(b) GRANTING OF WAIVERS.—The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

"(c) PENALTIES.—

(1) CRIMINAL PENALTY.—Any person who knowingly violates this section or any regulation, order, or license issued under this section shall be fined not more than 5 times the value of the consignment of horses involved or $50,000, whichever is greater, or imprisoned not more than 5 years, or both.

"(2) CIVIL PENALTY.—The Secretary of Commerce, after providing notice and an opportunity for an agency hearing on the record, may impose a civil penalty of not to exceed $10,000 for each violation of this section or any regulation, order, or license issued under this section, either in addition to or in lieu of any other liability or penalty which may be imposed.".

SEC. 126. ALASKAN OIL STUDY.

(a) REVIEW OF ALASKAN OIL POLICY.—

(1) IN GENERAL.—The President shall undertake a comprehensive review of the issues and related data concerning possible changes in the existing incentives to produce crude oil from the North Slope of Alaska (including changes in Federal and State taxation, pipeline tariffs, and Federal leasing policies) and possible changes in the existing distribution of crude oil from the North Slope of Alaska (including changes in export restrictions which would permit exports at free market levels and at levels of 50,000 barrels per day, 100,000 barrels per day, 200,000 barrels per day, and 500,000 barrels per day), as well as the appropriateness of continuing existing controls. Such review shall include, but not be limited to, a study of—

(A) the effect of such changes on the energy and national security of the United States and its allies;

(B) the role of such changes in United States foreign policymaking, including international energy policymaking;

(C) the impact of such changes on employment levels in the maritime industry, the oil industry, and other industries;

(D) the impact of such changes on the refiners and on consumers;

(E) the impact of such changes on the revenues and expenditures of the Federal Government and the government of Alaska;

(F) the effect of such changes on incentives for oil and gas exploration and development in the United States; and

(G) the effect of such changes on the overall trade deficit of the United States, and the trade deficit of the United States with respect to particular countries, including the effect of such changes on trade barriers of other countries.

(2) FINDINGS, OPTIONS, AND RECOMMENDATIONS.—The President shall develop, after consulting with appropriate State and Federal officials and other persons, findings, options, and recommendations regarding the production and distribution of crude oil from the North Slope of Alaska.

(b) CONSULTATION AND REPORT.—In carrying out subsection (a), the President shall consult with the Committees on Foreign Affairs and Energy and Commerce of the House of Representatives and the appropriate committees of the Senate. Not later than 9 months after the date of the enactment of this Act, the President shall transmit to each of those committees a report which contains the results of the review under subsection (a)(1), and the findings, options, and recommendations developed under subsection (a)(2).

TITLE II—EXPORT PROMOTION PROGRAMS

SEC. 201. REQUIREMENT OF PRIOR AUTHORIZATION.

(a) GENERAL RULE.—Notwithstanding any other provision of law, money appropriated to the Department of Commerce for expenses to carry out any export promotion program may be obligated or expended only if—

(1) the appropriation thereof has been previously authorized by law enacted on or after the date of the enactment of this Act; or

(2) the amount of all such obligations and expenditures does not exceed an amount previously prescribed by law enacted on or after such date.

(b) EXCEPTION FOR LATER LEGISLATION AUTHORIZING OBLIGATIONS OR EXPENDITURES.—To the extent that legislation enacted after the making of an appropriation to carry out any export promotion program authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) shall have no effect.

(c) PROVISIONS MUST BE SPECIFICALLY SUPERSEDED.—The provisions of this section shall not be superseded except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) EXPORT PROMOTION PROGRAM DEFINED.—For purposes of this title, the term "export promotion program" means any activity of the Department of Commerce designed to stimulate or assist United States businesses in marketing their goods and services abroad competitively with businesses from other countries, including, but not limited to—

(1) trade development (except for the trade adjustment assistance program) and dissemination of foreign marketing opportunities and other marketing information to United States producers of goods and services, including the expansion of foreign markets for United States textiles and apparel and any other United States products;

(2) the development of regional and multilateral economic policies which enhance United States trade and investment interests, and the provision of marketing services with respect to foreign countries and regions;

(3) the exhibition of United States goods in other countries; and

(4) the operations of the United States and Foreign Commercial Service, or any successor agency.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $113,273,000 for each of the fiscal years 1985 and 1986 to the Department of Commerce to carry out export promotion programs.

SEC. 203. BARTER ARRANGEMENTS.

(a) REPORT ON STATUS OF FEDERAL BARTER PROGRAMS.—The Secretary of Agriculture and the Secretary of Energy shall, not later than 90 days after the date of the enactment of this Act, submit to the Congress a report on the status of Federal programs relating to the barter or exchange of commodities owned by the Commodity Credit Corporation for materials and products produced in foreign countries. Such report shall include details of any changes necessary in existing law to allow the Department of Agriculture and, in the case of petroleum resources, the Department of Energy, to implement fully any barter program.

(b) AUTHORITIES OF THE PRESIDENT.—The President is authorized—

(1) to barter stocks of agricultural commodities acquired by the Government for petroleum and petroleum products, and for other materials vital to the national interest, which are produced abroad, in situations in which sales would otherwise not occur; and

(2) to purchase petroleum and petroleum products, and other materials vital to the national interest, which are produced abroad and acquired by persons in the United States through barter for agricultural commodities produced in and exported from the United States through normal commercial trade channels.

(c) OTHER PROVISIONS OF LAW NOT AFFECTED.—In the case of any petroleum, petroleum

products, or other materials vital to the national interest, which are acquired under subsection (b), nothing in this section shall be construed to render inapplicable the provisions of any law then in effect which apply to the storage, distribution, or use of such petroleum, petroleum products, or other materials vital to the national interest.

(d) CONVENTIONAL MARKETS NOT TO BE DISPLACED BY BARTERS.—The President shall take steps to ensure that, in making any barter described in subsection (a) or (b)(1) or any purchase authorized by subsection (b)(2), existing export markets for agricultural commodities operating on conventional business terms are safeguarded from displacement by the barter described in subsection (a), (b)(1), or (b)(2), as the case may be. In addition, the President shall ensure that any such barter is consistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade.

(e) REPORT TO THE CONGRESS.—The Secretary of Energy shall report to the Congress on the effect on energy security and on domestic energy supplies of any action taken under this section which results in the acquisition by the Government of petroleum or petroleum products. Such report shall be submitted to the Congress not later than 90 days after such acquisition.

TITLE III—NUCLEAR AGREEMENTS FOR COOPERATION

SEC. 301. AGREEMENTS FOR COOPERATION.

(a) NOTIFICATION OF AND CONSULTATION WITH THE CONGRESS; HEARINGS.—Section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) is amended—

(1) in subsection a. by inserting after "Assessment Statement" the following: "(A) which shall analyze the consistency of the text of the proposed agreement for cooperation with all the requirements of this Act, with specific attention to whether the proposed agreement is consistent with each of the criteria set forth in this subsection, and (B)";

(2) in subsection b. by inserting before "the President" the following: "the President has submitted text of the proposed agreement for cooperation, together with the accompanying unclassified Nuclear Proliferation Assessment Statement, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, the President has consulted with such Committees for a period of not less than thirty days of continuous session (as defined in section 130 g. of this Act) concerning the consistency of the terms of the proposed agreement with all the requirements of this Act, and"; and

(3) in subsection d. by inserting before the sentence which begins "Any such proposed agreement" the following: "During the sixty-day period the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall each hold hearings on the proposed agreement for cooperation and submit a report to their respective bodies recommending whether it should be approved or disapproved.".

(b) CONGRESSIONAL REVIEW OF AGREEMENTS.—Subsection d. of section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)) is amended—

(1) by striking out "adopts a concurrent resolution" and inserting in lieu thereof "adopts, and there is enacted, a joint resolution";

(2) by striking out the period at the end of the first proviso and inserting in lieu thereof ": Provided further, That an agreement for cooperation exempted by the President pursuant to subsection a. from any requirement contained in that subsection shall not become effective unless the Congress adopts, and there is enacted, a joint resolution stating that the Congress does favor such agreement."; and

(3) by striking out "130 of this Act for the consideration of Presidential submissions" and inserting in lieu thereof "130 i. of this Act".

(c) PROCEDURES FOR CONSIDERATION OF AGREEMENTS.—

(1) TECHNICAL CHANGES.—Section 130 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2159(a)) is amended—

(A) in the first sentence—

(i) by striking out "123 d.,"; and

(ii) by striking out ", and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate,"; and

(B) in the proviso, by striking out "and if, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of this Act, the other relevant committee of that House has reported such a resolution, such committee shall be deemed discharged from further consideration of that resolution".

(2) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS.—Section 130 of the Atomic Energy Act of 1954 is amended by adding at the end the following:

"i. (1) For the purposes of this subsection, the term 'joint resolution' means a joint resolution, the matter after the resolving clause of which is as follows: 'That the Congress (does or does not) favor the proposed agreement for cooperation transmitted to the Congress by the President on .', with the date of the transmission of the proposed agreement for cooperation inserted in the blank, and the affirmative or negative phrase within the parenthetical appropriately selected.

"(2) On the day on which a proposed agreement for cooperation is submitted to the House of Representatives and the Senate under section 123 d., a joint resolution with respect to such agreement for cooperation shall be introduced (by request) in the House by the chairman of the Committee on Foreign Affairs, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement for cooperation is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(3) All joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee or committees, and all joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations and in addition, in the case of a proposed agreement for cooperation arranged pursuant to section 91 c., 144 b., or 144 c., the Committee on Armed Services.

"(4) If the committee of either House to which a joint resolution has been referred has not reported it at the end of 45 days after its introduction, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter; except that, in the case of a joint resolution which has been referred to more than one committee, if before the end of that 45-day period one such committee has reported the joint resolution, any other committee to which the joint resolution was referred shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

"(5) A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

"(6) In the case of a joint resolution described in paragraph (1), if prior to the passage by one House of a joint resolution of that House, that House receives a joint resolution with respect to the same matter from the other House, then—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.".

(d) APPLICABILITY OF AMENDMENTS.—The amendments made by this section shall apply to any agreement for cooperation which is entered into after the date of the enactment of this Act.

Amend the title so as to read: "An Act to reauthorize the Export Administration Act of 1979, and for other purposes.".

Mr. DOLE. Mr. President, I move that the Senate disagree with the amendments of the House of Representaives and request a conference with the House of Representatives on the disagreeing votes thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. MURKOWSKI] appointed Mr. GARN, Mr. HEINZ, and Mr. PROXMIRE conferees on the part of the Senate.

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

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

OMNIBUS COMMITTEE FUNDING RESOLUTION AMENDMENTS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to consideration of Calendar No. 90, Senate Resolution 145, a resolution to authorize expenditures for the committees of the Senate through February 28, 1986.

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

The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 145) to authorize expenditures for the committee of the Senate through February 28, 1986.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

AMENDMENT NO. 53

(Purpose: To provide transition funding for committee staff members)

Mr. BYRD. 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 West Virginia [Mr. BYRD], proposes an amendment numbered 53.

Mr. BYRD. 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 the end of the resolution, add the following new section:

AMENDMENT TO S. RES. 354, 98TH CONGRESS

SEC. . Senate Resolution 354, 98th Congress, agreed to March 2, 1984, is amended by adding at the end thereof the following new section:

"AUTHORITY FOR EMPLOYMENT OF CERTAIN PREVIOUSLY DISPLACED PERSONNEL

"SEC. 22. Notwithstanding any provision of the preceding sections of this resolution, the authority contained in such sections insofar as it pertains to the funding of, and payment for, employment of personnel, shall be extended from February 28, 1985, through July 15, 1985 in the case of an individual who is certified, by the Chairman of the Committee on Rules and Administration, to the Secretary of the Senate as being an employee who was displaced, as a committee employee, by reason of the committee reorganizations which took place at the beginning of the first session of the 99th Congress, and who otherwise meets such criteria for employment under this section as is prescribed by the Committee on Rules and Administration; except that no individual shall be paid under authority of this section for any period exceeding 60 days.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from West Virginia [Mr. BYRD].

The amendment (No. 53) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the resolution, as amended.

The resolution (S. Res. 145), as amended, was agreed to, as follows:

S. RES. 145

Resolved, That this resolution may be cited as the "Omnibus Committee Funding Resolution Amendments".

SEC. 2. (a) Section 2(a) of Senate Resolution 85, agreed to February 28, 1985 (hereafter in this resolution referred to as the "Resolution") is amended by striking out "$8,102,000 and inserting in lieu thereof "$44,828,358".

(b) Section 2(b) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

SEC. 3. (a) Section 3(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 3(b) of the Resolution is amended—

(1) by striking out "$231,800" and inserting in lieu thereof "$1,300,500";

(2) by striking out "$700" the first time it appears and inserting in lieu thereof "$4,000"; and

(3) by striking out "$700" the second time it appears and inserting in lieu thereof "$4,000".

SEC. 4. (a) Section 4(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 4(b) of the Resolution is amended—

(1) by striking out "$719,600" and inserting in lieu thereof "$4,117,385";

(2) by striking out "$15,800" and inserting in lieu thereof "$115,000"; and

(3) by striking out "$1,300" and inserting in lieu thereof "$8,000".

SEC. 5. (a) Section 5(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 5(b) of the Resolution is amended—

(1) by striking out "$373,300" and inserting in lieu thereof "$2,158,810";

(2) by striking out "$2,500" and inserting in lieu thereof "$15,000"; and

(3) by striking out "$1,000" and inserting in lieu thereof "$6,000".

SEC. 6. (a) Section 6(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 6(b) of the Resolution is amended—

(1) by striking out "$301,000" and inserting in lieu thereof "$1,660,768";

(2) by striking out "$200" the first time it appears and inserting in lieu thereof "$1,000"; and

(3) by striking out "$200" the second time it appears and inserting in lieu thereof "$1,000".

SEC. 7. (a) Section 7(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 7(b) of the Resolution is amended—

(1) by striking out "$533,000" and inserting in lieu thereof "$2,958,298"; and

(2) by striking out "$7,500" and inserting in lieu thereof "$45,000".

SEC. 8. (a) Section 8(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 8(b) of the Resolution is amended—

(1) by striking out "$608,000" and inserting in lieu thereof "$3,312,233";

(2) by striking out "$3,300" and inserting in lieu thereof "$20,000"; and

(3) by striking out "$2,800" and inserting in lieu thereof "$16,960".

SEC. 9. (a) Section 9(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 9(b) of the Resolution is amended—

(1) by striking out "$420,800" and inserting in lieu thereof "$2,397,763";

(2) by striking out "$5,800" and inserting in lieu thereof "$35,000"; and

(3) by striking out "$1,100" and inserting in lieu thereof "$7,000".

SEC. 10. (a) Section 10(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 10(b) of the Resolution is amended—

(1) by striking out "$425,000" and inserting in lieu thereof "$2,333,631";

(2) by striking out "$1,300" and inserting in lieu thereof "$8,000"; and

(3) by striking out "$300" and inserting in lieu thereof "$2,000".

SEC. 11. (a) Section 11(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 11(b) of the Resolution is amended—

(1) by striking out "$396,500" and inserting in lieu thereof "$2,217,073";

(2) by inserting "(1)" after the word "amount";

(3) by striking out "$5,000" and inserting in lieu thereof "$30,000"; and

(4) by inserting before the period at the end thereof a comma and the following: "and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act)".

SEC. 12. (a) Section 12(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

"(b) Section 12(b) of the Resolution is amended—

(1) by striking out "$455,400" and inserting in lieu thereof "$2,434,509";

(2) by striking out "(1) not to exceed $3,000" and inserting in lieu thereof "not to exceed $18,000"; and

(3) by striking out "and (2) not to exceed $100 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act)".

SEC. 13. (a) Section 13(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 13(b) of the Resolution is amended—

(1) by striking out "$827,400" and inserting in lieu thereof "$4,440,229";

(2) by striking out "$31,500" and inserting in lieu thereof "$189,000"; and

(3) by striking out "$1,800" and inserting in lieu thereof "$10,750".

(c) Section 13(c)(3) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

SEC. 14. (a) Section 14(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 14(b) of the Resolution is amended—

(1) by striking out "$778,500" and inserting in lieu thereof "$4,246,242";

(2) by striking out "$6,000" and inserting in lieu thereof "$36,000"; and

(3) by striking out "$200" and inserting in lieu thereof "$1,000".

SEC. 15. (a) Section 15(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 15(b) of the Resolution is amended—

(1) by striking out "$808,700" and inserting in lieu thereof "$4,453,130"; and

(2) by striking out "$13,300" and inserting in lieu thereof "$56,600'.

SEC. 16. (a) Section 16(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 16(b) of the Resolution is amended—

(1) by striking out "$223,400" and inserting in lieu thereof "$1,229,446";

(2) by striking out "$2,500" and inserting in lieu thereof "$4,000"; and

(3) by striking out "$400" and inserting in lieu thereof "$3,500".

SEC. 17. (a) Section 17(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 17(b) of the Resolution is amended by striking out "$167,000" and inserting in lieu thereof "$926,220".

SEC. 18. (a) Section 18(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 18(b) of the Resolution is amended by striking out "$155,900" and inserting in lieu thereof "$887,069".

SEC. 19. (a) Section 19(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 19(b) of the Resolution is amended—

(1) by striking out "$193,300" and inserting in lieu thereof "$1,072,116";

(2) by striking out "$5,800" and inserting in lieu thereof "$35,000"; and

(3) by striking out "$200" and inserting in lieu thereof "$1,000".

SEC. 20. (a) Section 20(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 20(b) of the Resolution is amended—

(1) by striking out "$344,000" and inserting in lieu thereof "$1,918,904"; and

(2) by striking out "$3,300" and inserting in lieu thereof "$20,000".

SEC. 21. (a) Section 21(a) of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

(b) Section 21(b) of the Resolution is amended—

(1) by striking out "$139,400" and inserting in lieu thereof "$764,032"; and

(2) by striking out "$300" and inserting in lieu thereof "$1,000".

SEC. 22. Section 22 of the Resolution is amended by striking out "April 30, 1985" and inserting in lieu thereof "February 28, 1986".

SEC. 23. Senate Resolution 354, Ninety-eighth Congress, agreed to March 2, 1984, is amended by adding at the end thereof the following new section:

AUTHORITY FOR EMPLOYMENT OF CERTAIN PREVIOUSLY DISPLACED PERSONNEL

"SEC. 22. Notwithstanding any provision of the preceding sections of this resolution, the authority contained in such section insofar as it pertains to the funding of, and payment for, employment of personnel. Shall be extended from February 28, 1985, through July 15, 1985, in the case of an individual who is certified, by the chairman of the Committee on Rules and Administration, to the Secretary of the Senate as being an employee who was displaced, as a committee employee, by reason of the committee reorganizations which took place at the beginning of the first session of the Ninety-ninth Congress, and who otherwise meets such criteria for employment under this section as is prescribed by the Committee on Rules and Administration; except that no individual shall be paid under authority of this section for any period exceeding sixty days.".

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution, as amended, was agreed to.

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

The motion to lay on the table was agreed to.

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

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

SOUTHEAST ASIA 10 YEARS LATER

Mr. SIMPSON. Mr. President, this week, we have passed one of those milestones that is intended to illuminate the pathway ahead by causing us to cast a long look backward. Ten years after the end of the Vietnam war, we are doing some stocktaking.

And what do we find? We find this country united in a way seldom seen in those difficult days of the war. We see a rebirth of patriotism and pride in this country. Our economy remains a most dynamic and powerful force in the world. We also see a younger generation better educated than ever before and seemingly confident, competitive, and ready to lead this Nation on into the next century.

In Vietnam, we also see a country that is celebrating—in a parade of images so avidly covered by camera crews from the major networks. One almost thinks back to the days of the Iranian hostages, when one could never be certain if the demonstrations would have really been there if the cameras had not.

In Vietnam, 10 years have given us the chance to learn a good bit more of what we were fighting against, and about. After the war, the government in the north was so fearful of its own people that they summarily killed off tens of thousands who had been active in the South Vietnamese Government. "Purges," they were called. You will recall that is not quite the way we did it after our U.S. Civil Wars. Defeated soldiers in that war could go home, to family and friends, and brothers and sisters, or they were free to move west—to Wyoming and the Great Plains—where many indeed settled and opened up the American West.

In Vietnam, the defeated—more than a million of them—were placed in concentration camps. Perhaps 10,000, maybe more, are still there: They cannot be trusted, we are told, cannot even be released as refugees. Yet 1½ million did come out as refugees. They came by boat, they walked across Cambodia, they paid enormous bribes to be allowed to "exit"—any way they could find, because they knew just what to expect from their government. Appalling, is it not? They are still fleeing, at every single chance they get. Some government!

The people of Cambodia could not be trusted either. First, under the Khmer Rouge, who we supported and supplied by the Vietnamese, between 1 and 3 million Cambodians were eliminated—out of a population of some 7 million. That is called genocide. Then the Vietnamese decided to take over that country in 1979. The Cambodians knew just what to expect, too: They took off. They fled to Thailand in the hundreds of thousands, and they are still coming. Some come largely for the food that is available from the U.N. border relief operation, because, sadly enough Cambodia can no longer feed itself.

We began in Vietnam trying to save some human beings from something that, in the long run, we could not save them from—in part because we lost the courage of our convictions. But the Vietnamese people, North and South, knew—or they soon learned—just what we were trying to save them from. For as soon as the war was over, they tried to save themselves as well—by boat, by foot, by any means available to them. We helped them greatly in that effort, by leading all of the governments and citizens of the world in resettling them and finding new homes and new lives for those who, while certainly being victims of the war, would have been even greater victims of "the peace."

It is so important to remember that—while visions of Vietnamese celebrations parade and flicker across our television screens—we have much less to be "ashamed of" than some might have us believe. The hundreds of thousands of Southeast Asian refugees have taught us that the way a compas-

sionate and noble nation earns the allegiance of its citizens is not by "re-education," but through trust and hope and opportunity and participation in government.

Might that not be why so many have chosen to leave the land of "the victors" in the earnest hope of finding a fresh start and a new life of freedom in the land of "the losers?"

SENATOR BYRD'S AWARD

Mr. SIMPSON. Mr. President, as we have taken a great introspective look at that conflict in Vietnam in some of the great celebrations of this week, one particularly appropriate and quite moving was the one in which the minority leader was honored by the Paralyzed Veterans of America and the Vietnam Veterans Institute and was presented with a most extraordinary oil portrait which was beautifully done. It is my pleasure to have been invited to participate in that ceremony honoring the Democratic leader. It was a very great treat and a very great privilege to do that. It was indeed one of the nicest ceremonies I have attended in my time here.

Mr. BYRD. Mr. President, will the distinguished majority whip yield?

Mr. SIMPSON. Yes, I will.

Mr. BYRD. I thank him for yielding.

I thank him very much for his exceedingly kind words with respect to the award by the Paralyzed Veterans of America and the Vietnam Veterans Institute. I also am grateful for his presence on that day. I know the representatives of those two organizations were very grateful for the presence of the distinguished majority whip and the distinguished majority leader, the distinguished President pro tempore, and other distinguished Senators, including the distinguished minority whip and my own colleague, Senator ROCKEFELLER.

Also, I would like to include in that list SONNY MONTGOMERY, a Representative in the other body, who, I believe, won the immediately previous award a year ago.

In any event, many thanks to the distinguished majority whip.

TIME REMAINING ON BUDGET RESOLUTION

Mr. BYRD. Mr. President, I wonder if the majority whip would inquire of the Chair as to how much time remains on the budget resolution before we go out?

Mr. SIMPSON. Mr. President, in accordance with that request, we would be pleased to have the time yet remaining on the resolution.

The PRESIDING OFFICER. The majority controls 8 hours and 18 minutes. The minority controls 12 hours exactly.

Mr. BYRD. Mr. President, I thank the distinguished majority whip. I also thank the Chair.

ORDERS FOR MONDAY, MAY 6, 1985

ORDER FOR RECESS UNTIL 12 NOON ON MONDAY, MAY 6, 1985

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 12 noon on Monday, May 6, 1985.

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

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, I further ask unanimous consent that after the recognition of the two leaders under the standing order, there be a special order in favor of the Senator from Wisconsin [Mr. PROXMIRE] for not to exceed 15 minutes.

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

ORDER FOR ROUTINE MORNING BUSINESS

Mr. DOLE. Following the special order, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m. with statements therein limited to 5 minutes each.

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

PROGRAM

Mr. DOLE. Mr. President, I also indicate to my colleagues that following the routine morning business, the Senate will resume consideration of Senate Concurrent Resolution 32, the budget resolution. It would be my intention that no rollcall votes on amendments would occur prior to the hour of 4 p.m. on Monday. There is always the possibility that there may be some procedural vote but no vote on substantive amendments. If we agree or conclude debate on amendments, we might be able to sequence the votes starting on those amendments at about 4 o'clock if the yeas and nays are ordered on those amendments.

I also indicate that it is a good likelihood, in view of limited schedules on Tuesday and Wednesday evenings, that we would be in late in the evening on Monday.

Is that satisfactory with the distinguished minority leader?

Mr. BYRD. Yes. It is. I thank the distinguished majority leader.

RECESS UNTIL MONDAY, MAY 6, 1985

Mr. SIMPSON. Mr. President, after concurring with the minority leader and in accordance with the previous order, I ask unanimous consent that the Senate stand in recess until Monday, May 6, 1985 at 12 o'clock.

There being no objection, the Senate, at 2:04 p.m. recessed until Monday, May 6, 1985, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 3, 1985:

MISSISSIPPI RIVER COMMISSION

Brig. Gen. Thomas Allen Sands, [redacted], U.S. Army, to be a member and president of the Mississippi River Commission, and Brig. Gen. Robert Joseph Dacey, [redacted], U.S. Army, to be a member of the Mississippi River Commission, under the provisions of section 2 of an act of Congress, approved June 28, 1879 (21 Stat. 37) (33 U.S.C. 642).

ENVIRONMENTAL PROTECTION AGENCY

A. James Barnes, of the District of Columbia, to be Deputy Administrator of the Environmental Protection Agency.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Kenneth F. Ripple, of Indiana, to be U.S. circuit judge for the seventh circuit.

John P. Moore, of Colorado, to be U.S. circuit judge for the 10th circuit.

Joseph H. Rodriguez, of New Jersey, to be U.S. district judge for the district of New Jersey.

George F. Gunn, Jr., of Missouri, to be U.S. district judge for the eastern district of Missouri.

Sam B. Hall, Jr., of Texas, to be U.S. district judge for the eastern district of Texas.

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

Lt. Gen. Richard K. Saxer, [redacted] FR, U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

Lt. Gen. Herman O. Thomson, [redacted] FR, U.S. Air Force.

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

Lt. Gen. Jack I. Gregory, [redacted] FR, U.S. Air Force.

The following-named officer, under the provision 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

Lt. Gen. John L. Pickitt, [redacted] FR, U.S. Air Force.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962.

To be general

Gen. Bernard W. Rogers, [redacted] (age 63), U.S. 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

Lt. Gen. William E. Odom, [redacted] U.S. Army.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned 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. Dale A. Vesser, [redacted] U.S. Army.

IN THE MARINE CORPS

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by The President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. D'Wayne Gray, [redacted] U.S. Marine Corps.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 5064 to be Director of Budget and Reports in the Department of the Navy.

Rear Adm. William D. Smith, [redacted]/1120, U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. Crawford A. Easterling, [redacted]/1310, U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. William J. Cowhill, [redacted]/1120, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by The President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Powell F. Carter, Jr., [redacted]/1120, U.S. Navy.

The following-named commodores of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral in the line and staff corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

UNRESTRICTED LINE OFFICERS

Richard Edward Young.
Tammy Haggard Etheridge.
LeRoy Collins, Jr.
Frederick Peter Biserschenk, Jr.

UNRESTRICTED LINE OFFICERS (TAR)

Tommie Fred Rinard.

MEDICAL CORPS OFFICER

James Albert Austin.

DENTAL CORPS OFFICER

Haruto Wilfred Yamanouchi.

SUPPLY CORPS OFFICER

Donald Gene St. Angelo.

CIVIL ENGINEER CORPS OFFICER

Charles Richard Smith.

The following-named officer, under the provision of title 10, United States Code, section 5142, to be Chief of Chaplains, U.S. Navy:

Commodore John R. McNamara, Chaplain Corps, [redacted]/4100, U.S. Navy.

IN THE AIR FORCE

Air Force nominations beginning Maj. Richard G. Broberg, and ending Maj. John T. Aumiller, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 4, 1985.

Air Force nominations beginning James S. Majors, and ending John E. Troyer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

Air Force nominations beginning David M. Abbate, and ending Edward W. Zwanziger, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

Air Force nominations beginning David M. Abbate, and ending Roger D. Wetherington, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

Air Force nominations beginning Alan A. Abangan, and ending Thomas M. Zuccaro, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

IN THE ARMY

Army nominations beginning Floyd Z. Light, Jr., and ending William M. Wight, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

Army nominations beginning Derric L. Abrecht, and ending David L. Zylka, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

IN THE MARINE CORPS

Marine Corps nominations beginning Granville R. Amos, and ending Anthony C. Zinni, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

Marine Corps nominations beginning James R. Abelee, and ending Richard H. Zegar, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 22, 1985.

Marine Corps nominations beginning Michael J. Piirto, and ending Christopher D. Heid, 9086, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 22, 1985.

IN THE NAVY

Navy nominations beginning Mark S. Ammons, and ending Harry P. Clause, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

Navy nominations beginning Christopher A. Aiello, and ending Donald E. Burbach, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 17, 1985.

Navy nominations beginning William M. Bartleman II, and ending Craig B. Dever, which nominations were received by the Senate on April 19, 1985, and appeared in the CONGRESSIONAL RECORD of April 22, 1985.

Navy nominations beginning Cmdr. Donald E. Williams, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of April 22, 1985.